

Town of Robbinston

Land Use and Development Code

Amended: March 1995

Town
Hall

LAND USE AND DEVELOPMENT CODE

Clare D. Merrill

Part I: ZONING ORDINANCE

Section 1. Authority: This Part I is enacted pursuant to Article VIII-A of the Constitution of the State of Maine, (Municipal Home Rule); Revised Statutes, 1964, Title 30, Section 4962, as amended (Zoning Ordinances); and R. S., 1964, Title 12, Sections 4811-4814, (Mandatory Zoning and Subdivision Control).

Section 2. Purpose: The purpose of this ordinance is to regulate and guide future land use, based on such factors as present land use, the types and quality of soils and water bodies, and the ability of the town and other public agencies to provide necessary facilities and services.

Section 3. Application: This ordinance applies throughout the Town. Uses of land existing or for which approval has been requested, at the time these regulations came into effect, and which are otherwise lawful, are not affected. If such used are discontinued for more than 12 consecutive months or are substantially destroyed or expanded, they may not be re-established except in accordance with the provisions of this Ordinance.

Section 4. Land Use Permit:

A. No person may establish, expand substantially, re-establish or rebuild a land use not in existence on the date this Code came into effect without first having obtained a land use permit granted by the Planning Board. The granting of a land use permit by the Planning Board does not relieve the person from the obligation to obtain other permits that may be needed under other State and local laws.)

A substantial expansion shall include, without being limited to; an increase of more than 50% in:

- i) the volume of sanitary waste;
- ii) the total floor area of a building; or
- iii) the total value of structures and other improvements.

B. The applicant shall apply for a permit in writing to the Planning Board including:

- i) a map or other means of showing the size, location, topography and soil characteristics of the property;

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ii) the nature and extent of all alterations of the land, construction or other use or development proposed (whether or not to be carried out immediately); and

iii) steps to be taken in regard to erosion control, conservation of shoreland trees and vegetation, preservation of points of public access to public bodies of water and the protection of the natural beauty or present appearance of shoreland areas.

Section 5. Land Use Districts:

A. Protection Districts

Purpose: To achieve the most appropriate uses in area comprising significant natural, recreation, economic, historical or visual resources of the town and to restrict, at this time, the use of areas which are severely limited for development by reason of soil type, slope, location with respect to public roads, inadequate water supply, or deficiencies in other resources and public services and facilities.

Designation: The following areas are located within Protection Districts: All land areas within 250 feet of any natural pond or lake with a water surface of 10 acres or more, artificially increased pond or lake with a water surface of 30 acres or more, (any part of) a stream or river capable of floating watercraft, and any salt water body. Such distance shall be measured along a line following the surface of land.

B. Uses permitted within Protection Districts: The Planning Board shall issue permits for the following uses if it finds that such uses will not unduly burden or otherwise harm or destroy the resources or area so used:

I) Public, primitive and wilderness recreational uses;

II) resource protection and management practices carried out by a duly authorized state or local agency with the prior approval of the Planning Board;

III) agricultural practices of the home garden or small commercial farm type on tracts of five acres or less but excluding dairying, livestock and poultry raising except for home use or limited sale:

IV) residential uses and related commercial activities:

V) home-related retail, professional, service and

aquacultural harvesting and marine product landing, processing and distribution, provided that no such establishment employs more than three persons not residing in the home to which such use is related.

VI) other uses may be permitted as a conditional use, in the manner provided for in Section 12.

B. Management Districts.

Purpose: To protect and conserve those areas suited for the large scale (alt: commercial) production of agricultural, aquacultural, and forest products and to limit development of areas otherwise suited for varied use, in accordance with the ability of the town and others to provide public facilities and services.

The following areas are included within Management Districts:

All land inland of areas included in a Resource Protection District but excluding any land within 500 feet of the center of all public roads maintained year round.

Uses Permitted Within Management Districts:

The following, and only the following uses, are permitted as a matter of right in Management Districts:

I) all uses permitted in Protection Districts:

II) forest management and commercial harvesting, but not processing, of forest products, forest nurseries, and tree farms;

III) agricultural management and commercial harvesting but not processing, of agricultural products, including but not limited to: dairying, livestock and poultry raising; bee keeping; grazing and pasturage; stable and paddocks; fruits and vegetables, berries and cereal grain raising; and, horticultural and ornamental plant raising;

IV) aquacultural management and commercial harvesting of aquacultural products including but not limited to mussels, oysters and marine worms but excluding the landing and processing of other marine products unless permitted as a conditional use.

V) dwellings, provided that the applicant for a land use permit shall agree in writing, binding also on any successors in interest, to assume responsibility for the provision of roads and road maintenance, snow removal, school transportation, fire protection and other services and facilities which the Planning Board might reasonably require to protect the health and safety of the occupants of such areas and of the town:

VI) erection of accessory structures or buildings and carrying out of accessory uses as may be necessary for the conduct of uses permitted within Management Districts.

VII) other uses may be permitted as a conditional use, in the manner provided for in Section 12.

C. General Districts:

Purpose: To encourage such other residential, recreational, commercial, industrial development and land uses which are consistent with the health safety and general welfare of the inhabitants of the town and which may be suitable for and compatible with such areas and to discourage inconsistent, unsuitable and incompatible development and land use.

The following areas are included with General Districts:

I) all land areas within the town which lie within five hundred feet of the center of a public road and which are not included in a Protection District.

Uses Permitted within General Districts:

The following uses are permitted as a matter of right in a General District:

I) all uses permitted in a Protection or a Management District;

II) other land use may be permitted as conditional uses, in a manner provided for in Section 12.

6. Auto Graveyards; Junkyards:

A. No automobile graveyard or junkyard shall be established, operated, or maintained, or permitted by the owner of any land to be established, without first obtaining a non-transferable permit from the Selectmen of the Town in accordance with R.S., 1964, Title 30 Sections 2451--2460, as amended. Navigable waters shall be considered as public roads and shall be subject to the most restrictive provisions provided in said sections of Title 30.

B. Any places where one or more old, discarded worn out or junked motor vehicles as defined in R.S., 1964, Title 29, Section 1, Sub-section 7, or parts thereof, as amended are gathered together, kept or deposited or allowed to accumulate, in such manner or in such location or situation either within or without

the limits of any highway or navigable water, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

7. Signs and Outdoor Lighting:

A. Off premises signs: billboards and signs relating to goods and services not rendered on the premises or to a place of residence are prohibited. Provided that, the Planning board may identify one or more locations for the erection of a standard upon which, and subject to their approval, unlighted signs of uniform or harmonious size, design or lettering may be attached. Notwithstanding this provision, temporary signs relating to a civic function or an event of general interest may be displayed for a period not to exceed fifteen days.

B. On premises signs: Not more than 2 signs, totaling not more than six square feet, relating to goods or services rendered on the premises or identifying a place of residence, or for the sale, rental, or lease of the premises may be erected either by attachment of a building or free standing. No such sign shall be displayed at a height exceeding ten feet.

C. Signs shall be illuminated only by external, non-flashing white or yellow lights. Such lights shall be shielded and of such intensity as to preclude either danger of marine or vehicular traffic or annoyance of the occupants of surrounding property. Neon signs and lighting and plastic or signs of similar material and lighted from within are prohibited.

D. No person shall place or maintain upon or in view of any public way or navigable water any light so that its beams or rays are directed at any portion of said public way or navigable water when the light is of such brilliance or so positioned as to blind, dazzle or otherwise impair the vision of the operator of any motor vehicle or boat upon such public way or navigable water.

8. Mobile Homes:

The health, safety and welfare of the people of Robbinston depends upon the ability of the Town to plan its development. It is in the interest of the people of Robbinston to maintain the rural character of their Town while at the same time providing for the Town's orderly growth and development in a manner consistent with the ability of the Town and other public agencies to provide necessary facilities and services. For these reasons, mobile homes shall be located on lots of the same size as those required for conventional homes and no person shall be granted a permit for establishment of a mobile home park in any district.

"Mobile Home" shall mean a structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning and electrical systems contained therein.

"Mobile home park" means any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two or more mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes.

9. Off-Road Parking and Loading: In the construction or establishment of all new buildings and land uses, there shall be provided parking and loading space on the property adequate for the safety and convenience of the users of such property and the public. When any existing buildings or uses are enlarged or otherwise substantially altered, provisions shall then be made for sufficient off-road parking and loading.

10. Entrances and Exits for Motor Vehicles: All new structures and land uses shall provide safe, convenient entrance and exit from the property. The Planning Board shall determine whether the entrance and exit may be combined or shall be separated, as well as the number and location of each. Their determination shall be based on the number and frequency of vehicular movement to and from the property, as well as the size and condition of the adjacent public way, traffic volume, and visibility.

All driveways and roads shall have a setback of 10 feet from property lines, unless otherwise approved by the planning board.

11. Natural Resource Extraction:

A. Drilling for or excavating natural resources on land or under water is subject to state law, in addition, burrow pits for sand, fill for gravel less than five acres in size and not regulated by State Highway Commission and the drilling for or excavating of natural resources on sites five acres in size or less shall be subject to the following regulations.

B. No person shall drill for or excavate natural resources, including but not limited to sand, gravel, fill, minerals, ores, fossil fuels or patten sites of five acres or less without a permit. Any person intending to conduct such activities shall apply in writing to the Planning Board. Such application shall include a statement of the Proposed activities and a description of the measures to be taken.

1) To avoid undue erosion of land and siltation or sedimentation of surface waters;

II) To avoid interference with existing or natural drainageways;

III) To prevent lateral movement or other subsidence of public ways or public or private property adjacent of the area;

VI) To screen the site from view from any public way and adjacent property;

V) to provide for the entrance and exit of vehicles to and from the site;

VI) To provide for the avoidance of spillage in or drainage on the public way at such entrance/exit.

VII) To prevent disturbance to adjacent and nearby property owners by reason of dust, smoke or noise; and,

VIII) To return the land to as near its natural state as is practicable by grading, filling, draining and/or planting.

C. In reviewing such applications, the Planning Board, after consultation with the Soil and Water Conservation District Staff, may attach such conditions in accordance with the foregoing as it deems necessary or reasonable. In no event shall any person:

I) Excavate below the grade level of an adjacent public road within one hundred fifty feet of the center line of such way, unless the slope of such areas is maintained thirty degrees, or less:

II) Excavate below the grade level of adjacent private or public property within one hundred feet of the property line, unless permission of the owner of such adjacent property is given in writing and filed at the Office of the Town Clerk. In the case of Town owned property, the Planning Board shall give or withhold permission in accordance with the advice of the Soil and Water Conservation District staff.

12. Conditional Uses:

Application to establish, as Conditional Uses, land uses other than those permitted as a matter of right in the land use district in which the land is located shall be subject to review as follows:

A. The applicant shall apply in writing to the Planning Board on the form provided or shall furnish at least the following information:

i. a map or other means of showing the size, location, topography and soil characteristics of the property; and

ii. the nature and extent of all alterations of the land, construction or other use or development proposed, whether or not to be carried out immediately.

B. The applicant shall prove that the proposal is in compliance with the following impact standards which shall be the minimum requirements for approval of the permit.

i. Water: There is sufficient water available for the reasonably foreseeable needs of the proposed building or buildings.

ii. Water Pollution: The proposal will not result in undue water pollution, considering: the elevation of the land above sea level and its relation to the flood plains, the nature of soils and subsoils and, if necessary, their ability to adequately support waste disposal and/or any other State of Maine, Department of Environmental Protection approved licensed discharge; the slope of the land and its effect on effluent; the aquifers and aquifer recharge areas; and the availability of streams for disposal of surface run-off.

iii. Sewage Disposal: There will be adequate provision for sewage disposal. For buildings requiring septic systems, a report by a licensed Soils Evaluator must be submitted showing septic system design. If a closed vault, a plumbing permit is necessary.

iv. Air Pollution: The proposal will not result in undue air pollution.

v. Soil Erosion: The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water.

vi. Noise: Proposal will not result in undue noise pollution. If it is likely that the proposal will result in noise in excess of that which is normal for the area, it shall be designed and landscaped to minimize noise interference with neighboring uses. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable beyond the property lines due to intermittence, beat frequency, shrillness, or volume. The following uses and activities shall be exempt from the noise level regulations: 1) noises created by construction and temporary maintenance activities between 6:30 a.m. and 8:00 p.m., 2) the noises of safety signals, warning

devices, and emergency pressure relief valves and any other emergency activity, 3) traffic noise on public roads and railroads.

vii. Surface Water Drainage: Adequate provision is made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality or streets or roads. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize off-site discharge.

viii. Exterior Lighting: There will be no flashing lights or strong light shining beyond the lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way.

ix. Preserve and Enhance Landscape: The landscape will be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil retaining existing vegetation during construction in order to minimize the impact of the proposed use on neighboring land uses.

x. Road Access: The building will be placed on the lot which is either on a town or private road, or has deeded access. Lots in town or private roads shall have a minimum of 100 feet road frontage.

xi. Setback and Height: In residential areas, all buildings shall have frontyard set-backs of 40 feet and side-yard set-backs of 15 feet, and no building shall exceed 35 feet in height.

xii. Vehicular Access: The proposed site layout will provide for safe access and egress from public and private roads. Provision shall also be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

xiii. Parking: Off-street parking will be provided in accordance with the Planning Board's standards.

c. In determining whether the foregoing tests have been met, the Planning Board shall consider:

i. any elements of, or a completed or adopted, comprehensive plan.

ii. recommendations of the conservation commission, if any.

iii. the plans, policies and practices of regional and State agencies and commissions having jurisdiction over some or all of such matters, whether such jurisdiction is regulatory or advisory.

iv. whether or not the applicant has adequate financial and technical capacity to meet the above standards.

Section 13. Enforcement:

A. No person shall be granted any permit required by Parts II and III of this Code without first having obtained a land use permit in accordance with this Part I.

B. No person shall commence or continue any land use activity for which a permit is required by Parts II and III, without first having obtained a land use permit.

C. Any person in violation of B. above, shall take steps as may be required by the Planning Board to prevent or minimize harmful or adverse effects of such unauthorized activity to persons, the land, or a water body.

Section 14. Penalties:

Any person who commences or continues any land use activity without first obtaining a land use permit in accordance with this Part I shall be punished by a fine of not more than \$100.00 for each such activity. Each day that any such activity is carried on shall constitute a separate offense. Each day following notice from the Planning Board on which measures to minimize or prevent harmful or adverse effects are not taken or are not continued with reasonable diligence shall constitute a separate offense.

Section 15. Suits and Remedies:

A. The town through its Selectmen or Planning Board or any seven of its registered voters or taxpayers may institute proceedings to enjoin the violation of this Part I.

B. Upon notice by the Planning Board that measures required to be taken pursuant to this ordinance, have not been taken or have not been continued with reasonable diligence, the Selectmen shall cause said measures to be taken and shall assess and collect the reasonable costs for such measures in the same manner as in the assessment and collection of a tax on real property.

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LAND USE AND DEVELOPMENT CODES

PART II. SHORELAND ORDINANCE

1. AUTHORITY
2. PURPOSE
3. COVERAGE AND APPLICATION
4. DEVELOPMENT PERMIT
5. APPLICATION FOR SHORELAND ZONING PERMIT
6. LAND USE STANDARDS
7. WHARVES, PIERS, DOCKS AND FLOATS
8. TREE CUTTING AND VEGETATIVE COVER
9. AGRICULTURAL PRACTICES
10. SANITARY STANDARDS
11. SOLID WASTE DISPOSAL
12. OTHER WASTE DISPOSAL

SHORELAND ZONING

Part II: Shoreland Ordinance

1. Authority: The provisions of this Part II are enacted pursuant to the several constitutional and statutory provisions of the State of Maine including Title 12 Sections 4811-14.

2. Coverage and Application: The regulations contained in this Part II apply throughout the protection district established by Section 5 of Part I. When it is determined that a particular use or development is permitted as a matter of right or may be permitted as a conditional use, the establishment or re-establishment or expansion of such land use is, in addition, subject to these regulations.

3. Development permit:

A. No person may begin or continue to carry out any of the activities for which a permit is required by this ordinance until a permit is issued.

B. No permit may be issued in connection with the erection, structural alteration, expansion relocation, or conversion of a building or structure, the use of occupancy of which required the installation or expansion of sewage disposal facilities, unless the Plumbing Inspector shall have issued a permit for said installation or expansion.

4. Application for Permit to Conduct Land Use Activities:

A. Application for a permit to conduct a development activity governed by one or more provisions of this ordinance shall be made in writing to the Planning Board in accordance with Part I (Zoning Ordinance).

5. Land Use Standards

A. Soil Suitability: No permit shall be issued for a building requiring subsurface sewage disposal unless a satisfactory soil suitability report is submitted to the board.

The report shall be based upon an 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 may be required by the Plumbing inspector.

B. Minimum Lot Size: The provisions of R.S., 1964, Title 12, Sections 4801 and 4801-B, as amended, shall apply in the Town provided that after the effective date of this Code, the minimum requirements shall be ~~40,000~~^{20,000} square feet per single family house lot, with 100 feet frontage on all brooks, streams, rivers, lakes and tidal waters.

The Plumbing Inspector or the Planning Board may require a larger lot size under circumstances essential to maintain the health and safety of person and the sanitary condition of a water body or the property of another.

C. Set-Back of Structures:

All buildings and structures except those requiring direct access to the water for their use or operation shall be set back at least seventy-five feet from the normal high water mark. Such distances shall be measured from the high water mark along the surface of the ground in the shortest line connection a point on the shore with the shoreward side of the site of the proposed structure.

Structures intended for human habitation may be permitted in areas subject to flooding or storm flowage within a one hundred year period or in areas designated by an authorized State or Federal agency as flood plain.

D. Erosion Prevention:

Excavating, filling, grading, lagooning, dredging, building and other development which, in the opinion of those experts referred to in A., above, would result in substantial, unavoidable erosion which would alter existing patterns of natural water flow, or which would result in substantial detriment to surface waters by reason of erosion, sedimentation, impairment of water quality or of fish and aquatic life are prohibited.

Removal of beach materials, including sand and gravel, disruption of natural vegetation or removal of sand from dunes and the removal of shoreline buffer strips protecting fragile natural zones immediately behind the shoreline are prohibited.

The following activities must be approved by the Planning Board, in writing, before being carried out within 250 feet of a natural drainageway, fresh, or tidal water body. a permit shall be granted only if such activities can be carried out without causing the results prohibited above:

I) Filling of more than 500 square feet of any area where ground water is at or near the surface a substantial part of the year;

II) Excavating, filling, or grading on all slopes of 20% or more:

III) Excavating, filling or grading of more than 1,000 square feet on slopes of 12% to 20%;

IV) Excavating, filling or grading of more than 2,000 square feet on slopes 12% or less: and,

V) Excavation, filling, grading, building, or other development where:

- a) Natural erosion cuts back cliffs and bluffs:
- b) dune erosion or migration would be stimulated:
- c) Disruption of beach or shoreline buffer would result in storm damage.

E. Natural Surface Drainageways: The alteration of natural drainageways is prohibited unless the Planning Board finds that such alterations will not adversely affect runoff, the recharging of ground water, storage of ground water, or wildlife habitat and will not create sedimentation.

F. Protection of Coastal Wetlands: The removal of fill, dredging or other alteration of any coastal wetland in the Town, or the draining or deposition of sanitary sewage into or on a coastal wetland is prohibited unless a valid permit shall have been issued.

G. Great Ponds: No person shall construct or maintain any causeway, bridge, marina, wharf, or other permanent structure or deposit fill, in, on, over, or abutting any great pond or dredge in a great pond without first having obtained the approval of the Maine Department of Environmental Protection.

H. Bulldozing of Rivers, Streams, or Brooks: No one shall bulldoze, cause to be bulldozed, fill, or dredge between the banks of a river, stream or brook capable of floating watercraft without first obtaining the approval of the Commissioner of Inland Fisheries and Game.

I. Artificial Water Bodies: The construction or dredging of an artificial, canal, ditch, lagoon, pond, lake or similar waterway which is within 250 feet of the high water mark of any body of water where the purpose is the ultimate connection with a body of water shall be approved in writing by the Planning Board prior to the announcement of such work.

openings between chain pilings shall be in each 10 feet of shoreline.

19. Wharves, Piers, Docks and Floats:

The construction, placement, or maintenance of any pier and wharf, pier, dock or float, in, on, over or abutting tidal waters and certain lakes and rivers must be approved by the U.S. Army Corps of Engineers. The following standards shall apply in addition to those of the said Corp of Engineers:

- a) The type and slope of the soils shall be suitable for such use;
- b) Such structures shall be located so as not to interfere with navigation and navigational aids, developed beach areas, and other uses within the area;
- c) They shall be located so as not adversely to affect fisheries habitat;
- d) They shall be located as to be protected from potentially damaging prevailing or periodic climatic and oceanographic conditions;
- e) Dimensions shall be consistent with existing conditions use, and the character of the area, and,
- f) Individually owned non-commercial facilities must be of temporary construction or attachment capable of disconnection and seasonal remove.

2. The Planning Board, in addition to the foregoing, shall limit the number and size of structures of the extent practicable by requiring that in the subdivision of land, applicants provide for common facilities or locations for such facilities to serve the lots to be conveyed or developed.

K. Tree Cutting and Vegetative Cover:

A. Shoreland Vegetation: Natural vegetation shall be preserved within 250 feet of the high water mark of any surface water in accordance with the following;

I) No one shall remove more than thirty percent of the trees over four inches diameter, measured at a point not less than four and one-half feet above the ground; Any such cutting shall be accomplished in such a manner as to return a well distributed stand of tree foliage and so as not to result in clear cut areas exceeding 3,000 square feet, and,

II) In a strip extending fifty feet inland and parallel to such high water mark, no one shall clear an open or

openings greater than thirty feet wide in each 100 feet of shoreline.

B. Shore Cover: the cutting and clearing for in (I) and (II), above, shall in any event leave sufficient ground cover and root systems to prevent or control erosion and run off and shall leave sufficient foliage and other vegetation cover to screen cars, dwellings, and accessory structures as seen from the water.

C. Exceptions:

I) Cutting and clearing for construction and landscaping or land used for agricultural purposes and the cultivation of crops other than forest products, when approved by the Planning Board and a professional forester, may be conducted notwithstanding A., above, and said areas shall not be included in computing the maximum area provided for in said sub-section;

II) Cutting and clearing in connection with the removal of dead or dying trees or the removal of trees affected by fire, excessive wind, insect or disease epidemics are permitted; and,

III) Selective cutting which removes more than thirty percent of the trees specified in A., above, may be carried out in the conduct of commercial forestry if a State forester so recommends or if a private forester with the approval of the Forestry Department so recommends.

D. Woods Harvesting Practices Adjacent to Public Roads: Woods harvesting practices within one-hundred feet of the right of way limits of any numbered highway generally used by the public are regulated by R.S., Title 12, Section 519, as amended.

L. Agricultural Practices:

A. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land" published by the University of Maine and the Maine Soil & Water Conservation Commission, dated December, 1971 and as this may be amended or superseded.

B. Where soil is tilled an untilled filter strip of natural vegetation shall be retained between the tilled ground and the normal high water mark of all water bodies. The width of such strip shall vary according to the average slope of land and the normal high water mark as follows:

Average
Slope of Land Between
Tilled Land and Normal
High Water Mark
(Percent)

Width of Strip Between
Tilled Land and Normal
High Water Mark (Feet
along Surface of the
Ground)

0

5

10

15

50

70

90

110

M. Solid Waste Disposal Areas:

1. No boundary of any private solid waste disposal facility or area shall lie closer than three hundred feet of any brook, stream, river, lake or tidal water, nor may any such facility or area be established or maintained without a permit from the Planning Board applied for in writing and stating therein the size of the area, the estimated period during which it will be used, the kinds of material to be deposited and the methods to be used to prevent or minimize disease and pollution of the air, ground or water.

2. No animal or human excreta, treated or untreated, nor any pesticide or other toxic may be deposited in such areas.

3. The Planning Board shall issue a permit with or without conditions and requirements if, and to the extent that, such site can be operated in accordance with the information submitted. In making such determination, the Planning Board shall consult with such other officials and experts as necessary.

N. Other Waste Disposal:

1. The disposal of pesticides and pesticide containers shall be made in accordance with regulations promulgated by the State Pesticides Control Board or its successor.

2. Animal waste and manure shall be deposited and/or treated according to regulation now or hereafter promulgated by the State of Maine or in accordance with any plan or program which may hereafter be adopted by the Planning Board should such necessity arise.

3. Oil, or materials containing significant quantities of oil shall not be intentionally placed or deposited directly into or on banks of any river or stream permanent or temporary, lake, pond, or tidal waters or on the ice thereof where such material may fall or otherwise find its way into said watercourse or tidal waters, or shall such material be intentionally placed or

deposited directly in pits, wells or on ground surfaces in such a manner that oil will percolate, seep or otherwise find access into ground waters or into wells used for the production of water, which intentional acts are prohibited by R.S., 1964, Title 17, Section 2794, as amended.

4. No person shall place, deposit or discharge, directly or indirectly into the inland waters or tidal waters of the Town, or on the ice thereof, or on the banks thereof in such a manner that the same may fall or be washed into such waters, any of the following, except as otherwise provided by law:

a) Any slabs, edging, sawdust, shavings, chips, bark or other forest products refuse;

b) Any scrap metal, junk, paper, garbage, septic tank sludge, rubbish, old automobiles or similar refuse.

O. Enforcement:

1. No person may obtain a permit required by this Part II without first having obtained a land use permit as provided or the Part I and a subdivision approval as provided in Part III. Provided, that in reviewing an application for a permit pursuant of this Part II, the Planning Board may certify that no other such permit is required by the provisions of said Parts I and III.

2. No person shall commence or continue any land use activity for which a permit is required by this Part II or by Parts I and III, without first having obtained a permit thereof. Any person who violates this provision shall, in addition to any penalty or court enjoined action, take all steps as may be required by the Planning Board to prevent or minimize harmful or adverse effects to persons, the land, or a water body.

P. Penalties: Any person who commences or continues any land use activity without first having obtained a permit for such activity in accordance with this Part II shall be punished by a fine of not more than \$100 (one hundred dollars) for each such activity. Each day that any such activity is carried on shall constitute a separate offence. Each day, following notice by the Planning Board, that measures to minimize or prevent harmful or adverse effects are not begun or continued with reasonable diligence shall constitute a separate offense.

Q. Suits: the Town through its Selectmen or Planning Board or any seven of its voters or taxpayers may institute proceedings to enjoin the violation of this Part II.

TOWN OF ROBBINSTON
LAND USE AND DEVELOPMENT CODES

PART III. SUBDIVISION ORDINANCE

1. Authority

Title 30, Section 4956(2)B of the Maine Revised Statutes Annotated requires that the Planning Board review each subdivision in the Town, and provides for the adoption of regulations governing subdivisions.

2. General Procedure

Any person proposing to subdivide land in the Town shall submit a subdivision application to the Board.

A person who is uncertain as to whether or not these regulations apply to a particular proposed subdivision should meet with the Board and obtain a ruling from them.

3. Preliminary Plan Requirements

A. General

If it is determined that the proposed development is a subdivision, a preliminary plan must be submitted to the Planning Board. A preliminary plan is less than a final plan and less costly to prepare.

Before taking action on a preliminary plan, the Board shall view the site or delegate one or more of its members to do so, shall consider the proposed subdivision in the light of the long-range development objectives of the Town, and may hold an informal discussion with the subdivider or his agents and all parties whose interests may be affected by the proposed subdivision.

The Board shall take action on the preliminary plan within 60 days after the date of the application and shall notify the applicant of that action, in writing, within 5 days.

Approval of a preliminary plan does not constitute a final acceptance of the subdivision but is an expression of general concurrence with the proposed layout. Such approval shall be considered to be

conditioned on the incorporation of such revisions or modifications to the preliminary plan as the Board may request. The Board may disapprove the initial application in its entirety, but shall state its reasons for doing so in its records.

Proposed revisions of the preliminary plan, other than those specifically requested by the Board, shall be submitted to the Board for their consideration and approval or disapproval. If the Board finds that the proposed revisions substantially change the character of the proposed subdivision, the Board shall require re-submission of the subdivision preliminary plan. If the Board finds the proposed revision does not substantially alter the character of the proposed subdivision, the Board may approve the proposed revision and consider it as part of the approved preliminary plan. The Board shall take action on any revision submitted to it within 30 days.

B. Specific

All preliminary subdivision plan submissions shall be clearly identified with the name of the proposed subdivision, name of the owner and subdivider, an arrow indicating north, scale, and area of the proposed subdivision to nearest tenth of an acre. The materials indicated below are the general requirements for submissions. However, in cases in which special problems are involved, the Board may require submission of additional material or greater detail than specified here. All plans shall conform to the design requirements in Section 5. Improvements that may be required shall be subject to the provisions of Section 6.

1. Key Map: At a scale of approximately one inch equals four hundred feet, showing the location of the proposed subdivision in relation to existing roads and identifying all owners of land abutting the proposed subdivision. If the owner of the proposed subdivision owns other land abutting the proposed subdivision, a general street plan for the unsubmitted part shall be shown on the Key Map.
2. Preliminary Plan: At a scale of one inch equals 100 or less feet, showing: proposed lot lines with approximate area of each lot in square feet and lot numbers, street

location and names, water courses, location of monuments, land intended to be offered to the Town, planting and other features that will assist the Board in evaluating the general layout of the proposed subdivision.

3. Existing Conditions: At the same scale as the preliminary plan, showing contour lines at 20 foot intervals for slopes averaging 10% or greater and at 5 foot intervals for land of lesser slope; and also showing existing lot lines, rock formations, wooded areas, streams or natural drainage courses, or other natural scenic features of the land.
4. Street Profiles: Showing the proposed centerline profile of all proposed streets and existing grade of the land at a horizontal scale of one inch equals fifty feet and vertical scale of one inch equals five feet.
5. Utility Plan: At the same scale as the preliminary plan showing the proposed location of water and sewer lines, storm drains, manholes, catch basins and special structures-if private water supply and/or sewage disposal is not intended.
6. Deed Restrictions: A statement indicating the general intent of any deed restriction or protective covenants intended to apply to the land being subdivided.

4. Final Plan Requirements

A. General

The subdivider, within six months after approval of the preliminary layout, may submit a final subdivision plan to the Board. The subdivider shall incorporate all the necessary revisions and modifications to the preliminary plan into the final plan in accordance with the conditions of approval of the preliminary plan.

Any application that does not comply with submission specifications, or for which the Board rules that additional information is necessary to make a sound judgment shall be considered an incomplete application. The Board may rule that the application is incomplete at the next meeting following the date of initial

submission or within 15 days, whichever is longer, and shall notify the applicant within 5 days of such ruling.

B. Specific

1. The following maps, certified by a registered engineer as to the accuracy of details shown thereon, shall be submitted.

a. Final Plan (four copies one of which is reproducible): At a scale of one inch equals 100 feet or less, showing proposed property lines and the area of each lot, with accurate dimensions, street lines and names, location of monuments, topography, and the location of any land to be offered to the Town.

b. Utility Plan (three copies): At the same scale as the final plan locating utilities with accurate dimensions and accompanied by centerline profiles of any utilities.

c. Street Profiles (three copies): Showing the centerline profile of all streets within the subdivision.

2. In addition, the following information must be submitted:

a. Deed Restrictions (one copy): Exact wording of any deed restrictions or protective covenants relating to land within the subdivision.

b. Any offers of cession of land to be offered to the Town for public use.

5. Design Requirements

A. General

The layout of the proposed subdivision shall conform to all applicable local and state requirements controlling land development. Roads shall be constructed to town standards.

B. Specific

1. Street Layout

- a. All streets shall have a right-of-way of 50 feet and a paved width of 22 feet centered on the right-of-way.
- b. Dead end streets will not be allowed. Cul-de-sacs will be permitted but of no greater length than 500 feet and must have a turn-round with a right-of-way radius of at least 45 feet and a paved radius of 35 feet.
- c. Streets shall be arranged to provide for extensions or connection to future streets necessary to develop abutting land in future subdivisions.
- d. The grade of all streets must be at least 1% but less than 9%.
- e. Street Intersections shall be as nearly as possible at right angles.

2. Lot Design

- a. All lots shall have at least 50 feet frontage on an existing or proposed street.
- b. Whenever possible, side lots lines shall be at right angles to street lines.
- c. Lots other than corner lots with frontage on two streets will not be allowed.

3. Public Recreation Land: In any subdivision containing 10 acres or more, whether undertaken at once or in several successive stages, at least 5% of the total area shall be offered to the Town for public purposes.

4. Landscaping and Planting: Landscaping and preservation of natural and scenic features

will be encouraged wherever possible to enhance the environment of the subdivision and the Town.

6. Improvement Requirements

- A. In the notice of approval of the preliminary plan, the Board shall specify those required improvements for which the subdivider shall be responsible as a condition of subdivision plan approval. Such improvements shall include monuments, street construction, water, sewer, and other utility mains, piping, construction of other facilities, and may include; land set aside for a street widening or neighborhood playground, curbs, street signs, sidewalks, and landscaping or planting. All improvements shall be to state or Town standards.
- B. Before final subdivision plan is approved by the Board, the subdivider must either complete all required improvements in accordance with these regulations or submit a performance bond in an amount and form specified by the Board. The performance bond shall be based on the estimated cost of completing the required improvements.

7. Plan Processing

A. Plan Review Criteria

State law requires the Planning Board to consider the following criteria when evaluating a subdivision.

1. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluent; the availability of streams for disposal of effluent; and the applicable state and local health and water resource regulations.
2. Has sufficient water available for the reasonably foreseeable needs of the subdivision (from individual wells or other sources).
3. Will not cause unreasonable burden on an existing water supply, if one is to be utilized.

4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
6. Will provide for adequate sewage waste disposal (by individual septic tanks or other means).
7. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.
8. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
9. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any.
10. The subdivider has adequate financial and technical capacity to meet the above state standards.
11. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river to tidal waters will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

In granting approval of a subdivision, the Planning Board may attach whatever terms and conditions they see fit to guarantee conformance with items 1 through 11 above.

Section 8: Enforcement, Variances, Amendments

A. Enforcement - (Excerpt from Maine RSA Title 30, Section 4956(4):

4. Enforcement. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and recorded in the proper registry of deeds, nor shall

such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to the following: A granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision plat or plan shall be recorded by any register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such occurrence. The Attorney General, the municipality, the planning board of any municipality or the appropriate municipal officers may institute proceedings to enjoin the violations of this section and if a violation is found by the court, the municipality, municipal planning board or the appropriate municipal officers may be allowed attorney fees.

- B. Variances: These regulations shall be considered the minimum requirements for the protection of the public health, safety and welfare of the Town. Any action taken by the Board under the terms of these regulations shall give primary consideration to the welfare of the entire community. However, if the subdivider or his agent clearly demonstrates that, because of peculiar conditions pertaining to his land, the literal enforcement on one or more of these regulations is impracticable or will exact undue hardship, the Board may permit such variances as may be reasonable and not contrary to the welfare and safety of the community.
- C. Amendments: These regulations may be amended, changed, altered, added to, or rescinded from time to time whenever this action is deemed necessary or advisable by the Board; but only following a public hearing on the proposed change.

Section 9: Fees:

a. The application for subdivision approval shall be accompanied by the following fee(s):

1. Application Fee: \$25.00
2. Review Fee, \$20.00 per lot, living unit or multiplex development.
3. Review Escrow Account, \$100.00 per lot (or living unit for multiplex developments) deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developers application as it deems necessary.

Part IV: Administration

1. Authority: Part IV is enacted pursuant, among others, to the following constitutional and statutory provisions: Article VIII-A, of the Constitution of the State of Maine, (Municipal Home Rule); Title 32, Section 3351, as amended, (Municipal Plumbing Ordinances); and Title 30, Sections 2411 and 4963, as amended, (Planning-Zoning-Development).

2. Purpose: This Part IV provides for the duties and responsibilities of local official not set forth in other laws or ordinances and necessary for the administration of this Code.

3. Definitions:

A. For the administration of this code, the use of all words in the singular shall include the plural where such meaning would give greater force and effect of the purposed, objectives and provisions of this code.

B. Following are definitions of certain words and terms used in this code.

I) "Accessory structure" includes any building or structure required for the safe and adequate conduct of a permitted land use.

II) "Building permit" the written decision, opinion, or notice signed by majority of the planning board or other necessary officials granting approval to conduct any activity subject to the provisions of Part II of this Code or related laws and ordinances, including any requirements imposed as a condition of approval.

III) "Home-related" means carried out in the home or in adjacent or adjoining structures or property all owned by the same person.

IV) "Land use" includes any activity; building or construction measure or land alteration; and, any building or other structure, whether on, under or above the surface of the ground and whether or not some or most of any of the foregoing shall extend below the mean or average high water. The term shall include both temporary and permanent land use.

V) "Land use permit" the written decision, opinion, or notice signed by a majority of the planning board stating either

that the proposed land use is permitted as a matter of right or has been permitted as a conditional use, subject of certain conditions stated therein, if any.

VI) "Official" any individual, officer, board, department, agency or office whether elected or appointed and the personnel of any of the foregoing.

VII) "Person" includes one or more persons, a partnership, corporation, trust or other legal entity, its employees, agents, or contractors or person acting under its request or direction.

VIII) "Public road" includes any road, street or way which has been accepted by the town or laid out by the State of Maine or the county commissioners or which has become a public way by continued use and which is maintained year round.

IX) "Subdivision approval" the written decision, opinion or notice signed by a majority of the planning board on the plat or plan of said subdivision and any accompanying statement or conditions imposed as a condition of approval.

C. All other words shall have the meaning given them by stature, the science, profession, or trade relating most nearly thereto, or in the absence of either, by ordinary usage.

4. Officials and Duties:

A. Planning Board. In addition to any other responsibilities which might be imposed in other parts of this Code by any other law or ordinance, the Planning Board shall:

I) Make any inspection necessary to carry out its responsibilities;

II) Provide consultation to other local, regional and State officials when requested and on its own initiative make recommendations to such officials regarding any matter within the purposes or provisions of this code;

III) Obtain technical assistance and advice from public agencies, firms and individuals. Where a fee or other cash expenditure not provided for in its approved budget unless the applicant whose permit request necessitates such technical assistance shall agree in writing to pay for such services;

IV) Establish and maintain a working relationship with State and federal agencies and officials of other municipalities and districts as necessary or appropriate to the administration and enforcement of this Code, and in particular, the Department of Environmental Protection; the Division of Health Engineering in

the Department of Health and Welfare; the Department of Sea and Shore Fisheries; and, the Department of Inland Fisheries and Game;

V) Devise or adopt forms and other materials to make more efficient and uniform the administration of this Code;

VI) Establish and make public the rules for holding and conducting public hearings within the provisions set forth in this Part IV;

VII) Record in writing or by other permanent means a summary of its deliberations regarding any permit required by this Code to be issued by the Planning Board and set forth as fully as is practicable its reasons for granting or denying an approval requested of it or in connection with which its consultation has been requested or its recommendation given;

VIII) Require, as it deems necessary for the protection of buyers, lessees, other grantees or the public, that in advertisements or other offers to convey, the subdivider, grantor, or agent inform said grantees or the public that the subdivision or lot is subject to this code and any specific terms and conditions imposed in the granting of any permit or approval under this Code; and,

IX) Submit a written report in detail to the Selectmen annually, before the first day of January, regarding its responsibilities under this Code and including an evaluation of the effectiveness of this Code and recommending any amendments to it.

B. Code Enforcement Officer:

I) Establishment: There is hereby created the position of town code enforcement officer.

II) Appointment: The Selectmen, within 30 days of the enactment of this Code and within 30 days of a vacancy, shall appoint one or more persons to serve a term of one year unless removed for cause by the Selectmen or unless a majority of the planning board so request.

III) Compensation: The code enforcement officer shall be compensated by appropriation or transfer of funds in the town budget. If the governing body fails or neglects to appropriate such funds, then such appropriation shall be considered to have been made and compensation shall be paid at an hourly rate in accordance with scales prevailing in the area for comparable responsibilities and skill.

IV) Inter-local agreement: The selectmen, upon the recommendation of the planning board, shall enter into a contract for the performance of the duties of a code enforcement officer with the regional planning commission, the board of county commissioners or any other inter-local agency capable of performing such services.

V) Duties and responsibilities: The code enforcement officer shall be responsible to the planning board in the performance of his duties. He shall review all applications required to be submitted under this Code and related laws and ordinances and shall make his findings and recommendations to the planning board who shall insure or deny such applications. He shall conduct such inspections, research and hearings as they may request. He shall notify the planning board of any apparent violations of this Code or orders or conditions of the planning board. He shall advise the planning board of the enactment, amendment, repeal, or promulgation of applicable state laws and regulations and interpretation related thereto.

C. Plumbing Inspector: In addition to any other responsibilities which might be imposed in other parts of this Code or by any other law or ordinance, the plumbing inspector shall;

I) Prepare a program for carrying out a comprehensive survey of sanitary waste disposal facilities existing in the Town, including the type, location, present condition and property owner of record. Such survey shall be carried out in consultation with the Planning Board and municipal officers. The Plumbing Inspector shall from time to time make recommendations of such officials regarding the repair or replacement of improper sanitary waste disposal systems; and,

II) Annually, before the first day of January, make a full report in detail to the Planning Board of all his activities during the preceding year regarding his administration of the State Plumbing Code, the provisions of this code and related laws or ordinances.

D. Board of Appeals:

I) Establishment. There is hereby established the Board of Appeals.

II) Organization. the Board shall consist of five members each to serve a term of three years, excepting in the case of the first appointees as provided below.

and related laws and ordinances and shall be in addition to provisions of a similar or related nature set forth in such other parts, laws or ordinances. Where any provisions conflict, that which requires the greater public notice and participation shall apply.

B. Application Forms. Within six months after the effective date of this Code, the Board or official responsible for the review of a particular application shall specify in writing the information required, or shall adopt forms, for making such applications.

C. Place of Notice. Within thirty days after the effective date of this Code, the Selectmen shall designate one or more places convenient to the public within the Town in or on which shall be posted copies of notices and reports required by this Code and related laws and ordinances, provided that such reports may instead be filed with the Town Clerk for public review. Each such notice or report shall remain posted or available for inspection for a period of not less than sixty days. the date of posting shall be written thereon.

D. Notice of application. Whenever a Board or official shall receive a written application for a permit required by this Code, or related laws and ordinances, a request to reconsider any decision, or when the Board of Appeals receives notice that an appeal is being taken; it shall post notice of the receipt thereof as provided above. Said notice shall clearly set forth the name and address of the applicant, the size and location of the land affected, the number of lots proposed of be created, and the land use or land use activity for which a permit has been requested.

E. Sufficiency of Application. An applicant may submit plans and other information for preliminary review by the appropriate board or official, but no decision may be made until the applicant has submitted information which the Board or official deems complete and sufficient for final review and decision.

F. Notice of Sufficiency. The Board or official may notify the applicant when it deems the information submitted to be adequate for review and decision. It may also request further information, including the applicant's approval for it to obtain technical assistance, payable by the applicant. Such assistance shall be obtained at the lowest cost practicable but need not be obtained through public bidding. The Board or official shall make all reasonable efforts to obtain such assistance from public agencies at minimum cost.

III) Appointments. The Selectmen shall within sixty days of the effective date of this Code appoint said five members and shall thereafter within thirty days appoint members to succeed a member whose term has expired or who is dismissed, resigns, or otherwise causes his position to become vacant. In appointing the original members, the Selectmen shall appoint two members to serve terms of one year; two members to serve terms of two years; and one member to serve a term of three years. Thereafter each appointment shall be for a term of three years or for the expiration of an unfilled term, as the case may be.

VI) Officers. The Board shall elect annually a chairman and secretary from its membership.

V) Conflict of Duty or Interest. A selectman may not serve as a member. Any question of whether a particular issuer involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

VI) Dismissal. A member of the board may be dismissed for cause by the Selectmen before the expiration of his term.

VII) Procedure:

a. The chairman shall call meetings of the Board as required. The chairman shall also call meetings of the Board when requested to do so by a majority of the members or by the Selectmen. A quorum of the Board necessary to conduct an official bared meeting shall consist of three members. The chairman shall preside at all meetings of the Board and be official spokesman of the Board.

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

VIII. Jurisdiction. The Board of Appeals shall hear any appeal by any person affected directly or indirectly, by any decision, order, rule, or failure to act of any town official pursuant of the provisions of this Code and related laws.

5. Notice, Review and Appeal:

A. General. These provisions shall govern the review of applications for permits under Parts I, II and III of this code

G. Public Review. Within sixty days of the date on; which it notified the applicant that it has sufficient information, the Board or official shall set a date for public review of the application or appeal.

H. Notice of Public Review. At least fifteen days prior to such date, the Board or official shall notify the applicant in writing of the date, time and place and shall notify the residents of the Town by posting notices as set forth above.

I. Procedure at Public Review. The procedure at any public review shall be informal, provided that the board or official may specify in the notice of such meeting or at the opening thereof, that certain rules of procedure shall be in effect regarding a particular application or appeal.

J. Request for Procedure at Public Review. Any seven citizens or taxpayers may request that a particular procedure be followed. If the Board or official finds such procedure to be reasonable, or if the majority of the citizens and taxpayers in attendance so vote; such procedure shall be in effect for the public review of such application or appeal, provided that such procedure is otherwise lawful and not unduly restrictive of the public's right to participate in all matters under this Code.

K. Testimony. The applicant and any voter or taxpayer may testify and may be represented by legal counsel or expert witness. The official conducting such hearing shall determine whether a witness is sufficiently expert to testify in the capacity.

L. Cloture. At such time as a Board or official deems appropriate, the oral presentation of testimony on such application or appeal shall be declared closed, except that written statements may be submitted within the five days following such meeting. Thereafter the record shall be closed excepting as a Board or official deems necessary to make its decision.

M. Rebuttal. Every applicant, citizen, taxpayer, expert witness or legal counsel may submit rebuttal evidence and conduct such cross-examination as may be required for a full and true disclosure of the facts.

N. Decisions. Within the next thirty days, the Board or official shall decide upon such application or appeal. If it determines that insufficient evidence has been submitted, it may so notify the applicant, requesting in particular the information required or it shall deny the application.

O. Notice of Decision. Notice of a decision granting, denying or granting subject to terms and conditions as provided in Parts I, II, and III of this Code shall be attached to any other notice relating to the application in question and copy thereof mailed to the applicant.

P. Failure to Decide: If, after said thirty days, no decision has been issued by the Board or official, this shall constitute a denial of the application. Provided that within fifteen days thereafter it shall set forth its reasons in writing for failing to reach a decision or for denial.

Q. Request for Reconsideration: Within fifteen days of the posting of such decision or the setting forth of such reason, the applicant or any seven taxpayers or voters may request a reconsideration of such decision. The Board or official shall decide whether to reconsider its decision and shall notify the applicant, or other persons so requesting, of its decision. It shall post notice to that effect and the procedure shall be as in the case of an original application or appeal.

R. Appeal: Within fifteen days of the decision of the board or official to reconsider its decision, the applicant, any seven taxpayers or voters, may appeal to the board of Appeals either the decision on the application or the decision on the request to reconsider.

S. Record: The transcript of testimony, if any,, and exhibits, together with all papers and requests filed in a public review shall constitute the record. All decisions of a board or official shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all materials issues of fact, law or discretion presented and the appropriate order, approval or denial thereof.

6. Appeals: Board of Appeals: The Board of Appeals shall hear appeals as provided in 5 R above subject to the following provisions:

I) The Board may interpret provisions of the ordinance in question;

II) The Board may not reconsider the findings of facts made by the official in granting, denying or granting subject to terms and conditions the application, order or decision appealed from; and,

III) The Board may order additional information to be submitted or testimony given.

B. Superior court. An appeal may be taken by any person, whether or not said person was a participant in earlier proceedings, provided that such person can show a substantial direct or indirect interest in subject matter of the appeal. Appeals to the Superior Court shall be made in accordance with Rule 80-B. The hearing before Superior Court shall be a trial de novo without a jury.

7. Amendments: This Code and the parts and sections thereof, may be amended in the manner provided for by law. Any amendment proposed shall be reviewed by the Planning Board which shall obtain consultation as it seems appropriate or necessary.

8. Separability: In the event that any one or more provisions of this Code shall be declared unenforceable as a matter of law, all other parts, provisions and regulations shall be separable and enforceable.

9. Penalties: Any person who commences any land use activity without first obtaining a land use permit shall be punished by a fine of not more than \$100.00 for each activity. Each day following notice from the Planning board on which measures to minimize or prevent harmful or adverse effects are not taken or are not continued with reasonable diligence shall constitute a separate offense.

10. Enforcement: Any person in violation of this ordinance shall, upon receipt of notice from the Planning Board, take steps as may be required by the Board to prevent or minimize harmful or adverse effects of such unauthorized activity to persons, the land, or a body of water.

11. Suits and Remedies:

A. The Town through its Selectmen or Planning Board or any seven of its registered voters or taxpayers may institute proceedings to enjoin the violation of this ordinance.

B. Upon notice by the Planning board that measures required to be taken pursuant to 10 above, have not been taken or have not been continued with reasonable diligence, the Selectmen shall cause said measures to be taken and shall assess and collect the reasonable costs for such measures in the same manner as in the assessment and collection of a tax on real property.

12. Uniformity of Administration and Enforcement: All provisions and requirements of this code, related laws and ordinances shall be administered and enforced as uniformly and as fully as practicable. The failure to do so, other than failure arising from willful refusal or neglect on the part of any official, shall not constitute grounds for stopping such administration and enforcement in a particular case. Such officials are hereby granted reasonable discretion to administer and enforce these provisions, including the selection of priorities, imposition of terms and conditions and waiver of submission requirements.

13. Effective Date of Code: This Code shall be in full force and effective within thirty (30) days of its enactment by regular or a special town meeting.

