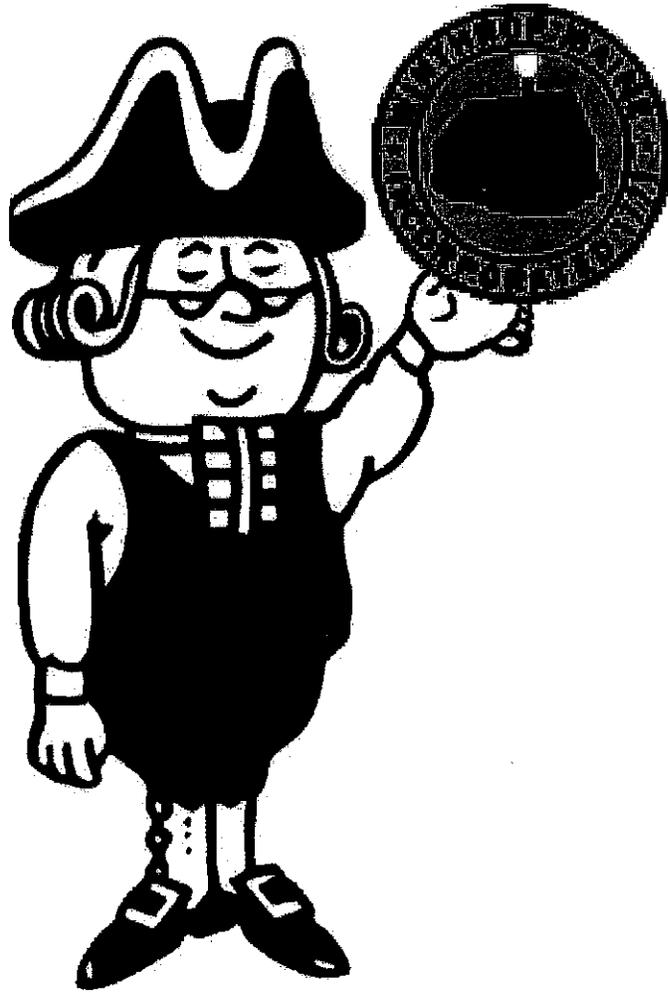


# *Town of Wintthrop*



## *Zoning Ordinance*

*Printed: November 2015*

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# Article 1 - General

## 1.1. Title and Authority

This Ordinance is adopted pursuant to Home Rule powers as provided for in Article VIII, Part Second, Subsection 2 of the Maine Constitution and in Title 30-A, M.R.S.A., Section 3001 et. seq. and pursuant to zoning powers provided for in Title 30-A, M.R.S.A., Section 4352 et. seq. and shall be known and may be cited as the "Zoning Ordinance of the Town of Winthrop, Maine", and will be referred to herein as "This Ordinance".

## 1.2. Comprehensive Plan and Community Policy

This Ordinance is adopted pursuant to and consistent with the Winthrop, Maine, Comprehensive Plan, for the following purposes:

- A. To promote, protect and facilitate the health, safety, and general welfare of the residents of the Town;
- B. To prevent overcrowding, blight, traffic congestion, and such nuisance conditions as may be caused by waste discharge, noise, glare, fumes, smoke, dust, odors or auto, truck or rail traffic;
- C. To prevent and control water pollution, to protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, to protect freshwater wetlands and to conserve shore cover, visual and actual points of access to lakes, ponds and streams;
- D. To protect the historical and architectural integrity of the existing village development and to ensure that future development is compatible in both character and use;
- E. To provide for residential development in locations compatible with existing development and in a manner appropriate to the economical provision of community services and utilities;
- F. To provide for a variety of commercial and industrial uses in a manner appropriate to their location and the economical provision of essential

community services and utilities so as to avoid the blight, congestion, and inconvenience caused by inappropriate and poorly located development of commercial and industrial facilities;

G. To encourage open space uses and to conserve natural beauty;

H. To control building sites, placement of structures and land uses, to protect buildings and lands from flooding and accelerated erosion, to anticipate and respond to the impacts of development in shoreland areas.

### **1.3. Basic Structures**

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

### **1.4. Validity and Severability**

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

### **1.5. Conflict with Other Ordinances**

#### **1.5.1. Repeal of Prior Ordinances**

The 1972 Zoning Ordinance of Winthrop, as amended May 2, 1979; the State Minimum Shoreland Zoning Ordinance, imposed August 7, 1975; and the Winthrop Mobile Home Ordinance, amended March 1971, are repealed, and incorporated herein, as amended.

#### **1.5.2. Conflict with Other Ordinances**

Where the provisions of this Ordinance conflict with other ordinances or regulations, the more restrictive provisions shall be applied.

## **1.6. Amendment**

### **1.6.1. Initiation of Amendment**

An amendment to this Ordinance may be initiated by:

- (1) The Planning Board provided four (4) of the Board members have so voted;
- (2) Request of the Town Council to the Planning Board, or
- (3) Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election.

### **1.6.2. Adoption of Amendment**

An amendment to this Ordinance may be adopted by a majority vote of the Town Council. Any amendment affecting the shoreland areas shall not be effective unless approved by the Commissioner of the Department of Environmental Protection (DEP). If the Commissioner fails to act on any amendment within forty-five (45) days of the receipt of the amendment, the amendment is automatically approved.

Any application for a permit submitted within the forty-five day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

### **1.6.3. Public Hearing**

The Planning Board and the Town Council shall hold a public hearing on the proposed amendment prior to a vote by the Town Council. Notice of the hearing shall be posted at least 14 days in advance in the Town Office, and shall be published at least 7 days in advance in a newspaper of general circulation in the area. Property owners affected by the proposed amendment shall be notified as required by State Law. [see 30-A M.R.S.A. 4352,9]

### **1.6.4. Repetitive Petitions**

No proposed changes in this Ordinance which have been unfavorably acted upon by the Town Council shall be considered on its merits by the Town Council within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended by the vote of at least five members of the entire Planning Board.

### **1.7. Effective Date**

The effective date of this Ordinance is June 4, 1981. Amendments to this Ordinance required pursuant to Mandatory Shoreland Zoning shall become effective after approval by the Department of Environmental Protection.

### **1.8. Availability**

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at a reasonable cost.

## **Article 2 - Non-Conforming Uses, Buildings and Lots**

### **2.1. Continuance of Non-conforming Uses and Buildings**

The use of land, building, or structure, lawful at the time of adoption or subsequent amendment of this Ordinance, shall be allowed to continue although such use does not conform to the provisions of this Ordinance, provided that any such use or building shall otherwise be in compliance with any other applicable laws or regulations.

### **2.2. Non-Conforming Uses**

#### **2.2.1. Expansion of Non-Conforming Uses**

No non-conforming use may be extended or expanded in any building or structure or on the lot where it is located without a Conditional Use Permit from the Planning Board. Expansions of non-conforming uses in the Resource Protection Zoning District are prohibited, except in cases dealing with residential structures. In order to protect the town's lakes and ponds, expansion of non-conforming uses in the Public Water supply and Shoreland Zoning Districts must result in no increase of phosphorus export from the property. However, non-conforming residential uses may be expanded with Planning Board approval within existing residential structures or expansions of residential structures as permitted in Section 2.3 below. The maximum allowable expansion of a non-conforming use in any other Zoning District shall not exceed 35 percent of the existing gross floor area of such use at the time of adoption of this subsection, and any such expansion shall comply with the criteria for Conditional Use approval.

#### **2.2.2. Change in Non-Conforming Use**

No non-conforming use shall be changed or converted to another non-conforming use of greater impact. Within the Resource Protection, Public Water Supply, and Shoreland Zoning Districts no non-conforming use shall be changed or converted to another non-conforming use without Planning Board approval. The intent of the Planning Board approval is to prevent increased threat to water quality.

#### **2.2.3. Discontinuance of Non-Conforming Uses**

A non-conforming use which is discontinued for a period of one (1) year may not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.

#### **2.2.4. Change to Conforming Use**

Whenever a non-conforming use is superseded by a permitted use, the use of the

property shall thereafter conform to the provisions of this Ordinance.

### **2.2.5. Registration of Non-Conforming Uses**

The Codes Enforcement Officer shall identify and maintain an inventory of non-conforming uses. To lawfully expand a non-conforming use, the owner thereof must produce clear and convincing evidence to the Codes Enforcement Officer that the non-conforming condition existed prior to August 11, 1988.

## **2.3. Non-Conforming Structures**

### **2.3.1. Expansion of Non-Conforming Structures**

A non-conforming building or structure may be extended or expanded provided that such extension or enlargement shall comply with all applicable use and dimensional requirements for the Zoning District in which the building or structure is located and the limitations listed below. Expansion of any building or structure which contains a non-conforming use is deemed to constitute an expansion of non-conforming use and shall be regulated by the requirements of Section 2.2.

Limitations in the Resource Protection, Public Water Supply, and Shoreland Zoning Districts:

- a. If any portion of a structure is less than the required shoreline or freshwater wetland setback, that portion of the structure shall not be expanded by 30 percent or more of either floor area or volume over the lifetime of the structure.
- b. Construction or expansion of a foundation beneath the existing structure shall not be considered part of the 30 percent expansion provided: that the new foundation meets the setback requirement to the greatest practical extent as determined by the Planning Board (using the same criteria as in section 2.3.2 below), that the completed foundation does not extend beyond the exterior dimensions of the structure and that the foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the present base of the structure.
- c. No structure which is less than the required setback from the normal high-water line of a water body, stream, or freshwater wetland shall be expanded toward the water body, stream, or wetland. No structure shall be allowed to expand to the side if such expansion will result in a wider structure that does not meet the required setback.

### **2.3.2. Relocation of Non-Conforming Structures**

A non-conforming structure in the Resource Protection, Public Water Supply, or Shoreland Zoning District may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the subsurface sewage disposal system to be used meets the requirements of the Maine Subsurface Wastewater Disposal Rules. In determining whether the relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size and shape of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and potential locations for a replacement septic system, and the type and amount of vegetation to be removed to accomplish the relocation.

### **2.3.3. Reconstruction or Replacement**

A non-conforming structure which is located less than the required setback from a water body, stream, or freshwater wetland and is removed, damaged, or destroyed by more than 50 percent of the market value of the structure prior to the incident may be reconstructed or replaced provided that a permit is obtained within one year of the date of said incident and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board using the criteria in paragraph 2.3.2. above, and considering the physical condition and type of foundation present. If the amount of damage is 50 percent or less, the structure may be reconstructed in place with a building permit from the Codes Enforcement Officer. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

### **2.3.4. Change in Use**

The use of a non-conforming structure may not be changed to another use unless the new use will have no greater impact on the environment, or on the property or adjacent properties.

## **2.4. Non-Conforming Lots of Record**

**2.4.1.** A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the lot size or frontage requirements, or both, of the Zoning District in which it is located, may be built upon provided that

such lot shall be in separate ownership and not contiguous with any lot in the same ownership, and provided that all other provisions of this Ordinance shall be met.

**2.4.2.** If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if any of the lots do not meet dimensional requirements of the Ordinance, and if one or more of the lots are vacant or contain no principal structure, the lands involved shall be considered to be a single parcel for the purpose of this Ordinance and no portion of said parcel shall be built upon which does not meet dimensional requirements of this Ordinance: nor shall any division of the parcel be made which creates any dimension or area less than the requirements of this Ordinance. In shoreland areas, this provision shall not apply if the lot is served by public sewer or can accommodate a subsurface wastewater disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and :

- a. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of subparagraph a are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

**2.4.3.** Lots of record which are situated in subdivisions approved by the Winthrop Planning Board on or after August 6, 1969, under standards applicable at the time of approval of those subdivisions shall not be affected by the requirements of paragraphs 2.4.1. and 2.4.2. above, provided that minimum State requirements for subsurface wastewater disposal shall be met and provided that all other provisions of this Ordinance shall be met.

## **2.5. Transfer of Ownership**

Ownership of land and structures and uses which remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming subject to the provisions of this Ordinance.

## **2.6 Re-establishing High-Impact Commercial Uses**

The reestablishment of a high-impact commercial use would be allowed within an existing structure, if said structure has not been subject to major modifications that have considerably changed said high-impact commercial use. Partition walls are not by themselves considered major modifications. [adopted 7/7/97, effective 8/5/97]

## **Article 3 - Zoning Districts**

### **3.0. Establishment of Zoning Districts**

#### **3.0.1. District Purposes and Criteria**

To implement the provisions of this Ordinance, the Town of Winthrop is divided into Zoning Districts, located and bounded as shown on the Official Zoning Map, entitled "Zoning Map of Winthrop, Maine", dated and filed by the Town Clerk and Chairperson of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment.

#### **3.0.2. Interpretation of Zoning District Boundaries**

Where uncertainty exists with respect to the boundaries of the various Zoning Districts as shown on the Zoning Map, the following rules shall apply:

- 3.0.2.1.** Boundaries indicated as approximately following the centerline of streets, highways, right-of-ways, or alleys shall be construed to follow such centerline;
- 3.0.2.2.** Boundaries indicated as approximately following well-established lot lines shall be construed as following such lot lines;
- 3.0.2.3.** Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
- 3.0.2.4.** Boundaries indicated as following railroad lines shall be construed to follow such lines;
- 3.0.2.5.** Boundaries indicated as following shorelines of surface waters or wetlands shall be construed to follow such shorelines, and in the event of natural change in the shoreline, shall be construed as moving with the actual shoreline; the upland edge of a wetland shall be defined by the current National Wetlands Inventory maps (available from the Maine Geological Survey) and verified on the ground by the Codes Enforcement Office; boundaries indicated as approximately following the centerline of streams, ponds, lakes, or other bodies of water shall be construed to follow such centerlines;
- 3.0.2.6.** Boundaries indicated as being parallel to or extensions of features indicated in subsections 3.0.2.1. through 3.0.2.5. shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and
- 3.0.2.7.** Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 3.0.2.1. through 3.0.2.6., the Zoning Board of Appeals shall interpret the Zoning District boundaries.

#### **3.0.3. Division of Lots by Zoning District Boundaries**

Where a Zoning District boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to approval by the Planning Board in accordance with the criteria for Conditional Use Permits.

#### **3.0.4. Prohibited Uses**

Any land use not specified in subsections 3.1. through 3.12. shall be considered a prohibited use.

### **3.1. Resource Protection Zoning District**

The Resource Protection Zoning District includes land areas least suited for and least able to sustain development, due to physical site conditions involving topography, soil types, drainage, or proximity to surface waters. Development of these areas is apt to adversely affect water quality, productive habitat, biological systems, or scenic and natural values. Such areas include, but are not limited to wetlands, swamps, marshes, bogs, areas of sustained slopes greater than 20%, significant wildlife habitat, natural sites, and aesthetic features.

- A.** The following uses are permitted by right:
  - 1. Open space uses
  - 2. Signs
  
- B.** The following uses require a Codes Enforcement Officer permit:
  - 1. Earth-moving less than 10 cubic yards
  - 2. Temporary piers and docks
  - 3. Individual, private campsites
  - 4. Uses similar to these uses
  
- C.** The following uses require a Conditional Use Permit from the Planning Board:
  - 1. Timber harvesting or clearing of land
  - 2. Earth-moving greater than 10 cubic yards
  - 3. Permanent piers and docks, breakwaters, causeways, and bridges
  - 4. Accessory structures
  - 5. Home occupations
  - 6. Essential services
  - 7. Uses similar to these uses
  - 8. Adaptive reuse of an existing building, subject to the requirements of Section 4.3.10. [effective 8/11/99]
  
- D.** [reserved]
  
- E.** The dimensional requirements of the Zoning District are as follows:
  - 1a. Minimum lot size (sewered) 60,000 sq. ft.
  - 1b. Minimum lot size (non-sewered) 80,000 sq. ft.
  - 2. Minimum road frontage 150 feet
  - 3. Minimum shore frontage 200 feet
  - 4. Minimum shoreline setback 100 feet
  - 5. Minimum road setback 50 feet
  - 6. Minimum sideline setback 20 feet
  - 7. Minimum rearline setback 20 feet
  - 8. Maximum building height 35 feet
  - 9. Maximum impervious area 20 percent
  - 10. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

### 3.2. Public Water Supply Zoning District

The Public Water Supply Zoning District surrounds ponds which serve as primary water supplies to Augusta and Winthrop. The use of Carlton and Narrows Ponds as water supplies, and the fact that these ponds have a low capacity for assimilating pollutants necessitates additional protective measures around them. Since runoff from agricultural and development activity is apt to cause water quality problems, more stringent controls on such activities are applied to land areas within 1,000 horizontal feet of the shorelines of these ponds and the stream linking them.

**A. The following uses are permitted by right:**

1. Open space uses
2. Earth-moving less than 10 cubic yards
3. Signs

**B. The following require a Codes Enforcement Officer permit:**

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Earth-moving 10 to 25 cubic yards
4. Timber harvesting or clearing of land
5. Temporary piers and docks
6. Individual, private campsites
7. Accessory structures
8. Uses similar to these uses

**C. The following uses require a Conditional Use Permit from the Planning Board:**

1. Agriculture or livestock keeping
2. Earth-moving greater than 25 cubic yards
3. Mineral extraction
4. Recreational facilities
5. Permanent piers and docks, breakwaters, causeways, and bridges
6. Essential services
7. Home occupations
8. Uses similar to these uses

**D. [reserved]**

**E.. The dimensional requirements of the Zoning District are as follows:**

- |  |                |
|--|----------------|
| 1a. Minimum lot size (sewered)   | 60,000 sq. ft. |
| 1b. Minimum lot size (non-sewered)   | 80,000 sq. ft. |
| 2. Minimum road frontage   | 150 feet       |
| 3. Minimum shore frontage  | 200 feet       |
| 4. Minimum shoreline setback   | 100 feet       |
| 5. Minimum road setback  | 40 feet        |
| 6. Minimum sideline setback  | 20 feet        |
| 7. Minimum rearline setback  | 20 feet        |
| 8. Maximum building height   | 35 feet        |
| 9. Maximum impervious area   | 20 percent     |
| 10. Setbacks from the public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] |                |

### 3.3. Shoreland Zoning District

The Shoreland Zoning District covers land areas within 250 feet of major lakes and ponds of Winthrop, and provides for limited seasonal and year-round residential and recreational development. Development in shoreland areas, due to their proximity to surface waters, requires closer scrutiny than development situated further away in order to protect the water resources of Winthrop.

**A. The following uses are permitted by right:**

1. Open space uses
2. Earth-moving less than 10 cubic yards
3. Signs

**B. The following require a Codes Enforcement Officer permit:**

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Earth-moving 10 to 25 cubic yards
4. Timber harvesting or clearing of land
5. Temporary piers and docks
6. Accessory structures
7. Individual, private campsites
8. Uses similar to these uses

**C. The following uses require a Conditional Use Permit from the Planning Board:**

1. Agriculture or livestock keeping
2. Earth-moving greater than 25 cubic yards
3. Mineral extraction
4. Recreational facilities
5. Campgrounds
6. Multi-family dwelling
7. Marina or boat yard
8. Public Buildings
9. Permanent piers and docks, breakwaters, causeways, and bridges
10. Home occupations
11. Essential services
12. Uses similar to these uses

**D. [reserved]**

**E. The dimensional requirements of the Zoning District are as follows:**

- |  |                |
|--|----------------|
| 1a. Minimum lot size (sewered)   | 40,000 sq. ft. |
| 1b. Minimum lot size (non-sewered)   | 80,000 sq. ft. |
| 2. Minimum road frontage   | 100 feet       |
| 3. Minimum shore frontage  | 200 feet       |
| 4. Minimum shoreline setback   | 100 feet       |
| 5. Minimum road setback  | 40 feet        |
| 6. Minimum sideline setback  | 20 feet        |
| 7. Minimum rearline setback  | 20 feet        |
| 8. Maximum building height   | 35 feet        |
| 9. Maximum impervious area   | 20 percent     |
| 10. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] |                |

### 3.4. Wetland Protection Zoning District

The Wetland Protection Zoning District includes areas within 250 feet of freshwater wetlands. It provides for limited residential and recreational development while protecting water quality, natural habitat, and scenic values as required by the State of Maine Mandatory Shoreland Zoning Act.

- A. The following uses are permitted by right:
  - 1. Open-space uses
  - 2. Earth-moving less than 10 cubic yards
  - 3. Signs
  
- B. The following require a Codes Enforcement Officer permit:
  - 1. Single-family dwelling, including mobile home
  - 2. Two-family dwelling
  - 3. Earth-moving 10 to 25 cubic yards
  - 4. Timber harvesting or clearing of land
  - 5. Temporary piers and docks
  - 6. Accessory structures
  - 7. Individual, private campsites
  - 8. Uses similar to these uses
  
- C. The following uses require a Conditional Use Permit from the Planning Board:
  - 1. Agriculture or livestock keeping
  - 2. Earth-moving greater than 25 cubic yards
  - 3. Mineral extraction
  - 4. Recreational facilities
  - 5. Campgrounds
  - 6. Multi-family dwelling
  - 7. Marina or boat yard
  - 8. Public Buildings
  - 9. Permanent piers and docks, breakwaters, causeways, and bridges
  - 10. Home occupations
  - 11. Essential services
  - 12. Uses similar to these uses
  
- D. [reserved]
  
- E. The dimensional requirements of the Zoning District are as follows:
  - 1a. Minimum lot size 80,000 sq. ft.
  - 1b. Minimum lot size (sewered) 40,000 sq. ft.
  - 2. Minimum road frontage 100 feet
  - 3. Minimum shore frontage 200 feet
  - 4a. Minimum shoreline setback 100 feet
  - 4b. Minimum wetland setback 75 feet
  - 5. Minimum road setback 40 feet
  - 6. Minimum sideline setback 20 feet
  - 7. Minimum rearline setback 20 feet
  - 8. Maximum building height 35 feet
  - 9. Maximum impervious area 20 percent
  - 10. Setbacks from the public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

### **3.5. Stream Protection Zoning District**

The Stream Protection Zoning District includes land areas within 75 feet of a stream. Development of these areas is prohibited in order to provide an undisturbed buffer between developments and these important waterways, as required by the State of Maine Mandatory Shoreland Zoning Act.

- A.** The following uses are permitted by right:
  - 1. Open-space uses
  - 2. Signs
  - 3. Agriculture or livestock keeping
  
- B.** The following uses require a Codes Enforcement Officer permit:
  - 1. Earth-moving less than 10 cubic yards
  - 2. Timber harvesting or clearing of land
  - 3. Temporary piers and docks
  - 4. Individual, private campsites
  - 5. Uses similar to these uses
  
- C.** The following uses require a Conditional Use Permit from the Planning Board:
  - 1. Earth-moving greater than 10 cubic yards
  - 2. Permanent piers and docks, breakwaters, causeways, and bridges
  - 3. Recreational facilities
  - 4. Accessory structures
  - 5. Home occupations
  - 6. Essential services
  - 7. Uses similar to these uses
  
- D.** [reserved]
  
- E.** The dimensional requirements of the Zoning District are as follows:
  - 1a. Minimum lot size (sewered) 40,000 sq. ft.
  - 1b. Minimum lot size (non-sewered) 80,000 sq. ft.
  - 2. Minimum road frontage 150 feet
  - 3. Minimum stream frontage 200 feet
  - 4. Minimum stream setback 75 feet
  - 5. Minimum road setback 40 feet
  - 6. Minimum sideline setback 20 feet
  - 7. Minimum rearline setback 20 feet
  - 8. Maximum building height 35 feet
  - 9. Maximum impervious area 20 percent
  - 10. Setbacks from the public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

### 3.6. Rural Zoning District

The Rural Zoning District includes land presently characterized by low density development, forests, abandoned fields, and farms. The Zoning District seeks to protect the existing open space, forestry, agricultural and residential uses and to restrict commercial and industrial activity.

- A. The following uses are permitted by right:
  - 1. Open-space uses
  - 2. Earth-moving less than 10 cubic yards
  - 3. Signs
  - 4. Agriculture or livestock keeping
  - 5. Cemeteries
  
- B. The following require a Codes Enforcement Officer permit:
  - 1. Single-family dwelling, including mobile home
  - 2. Two-family dwelling
  - 3. Low impact commercial uses and structures
  - 4. Earth-moving greater than 10 cubic yards
  - 5. Timber harvesting or clearing of land
  - 6. Accessory structures
  - 7. Home occupations
  - 8. Uses similar to these uses
  
- C. The following uses require a Conditional Use Permit from the Planning Board:
  - 1. Mineral extraction
  - 2. Recreational facilities
  - 3. Campgrounds
  - 4. Multi-family dwelling
  - 5. Medium-impact commercial uses
  - 6. Automobile graveyards and/or junkyards
  - 7. Public Buildings
  - 8. Waste processing or disposal facilities
  - 9. Mobile home parks
  - 10. Intensive agriculture
  - 11. Uses similar to these uses
  
- D. [reserved]
  
- E. The dimensional requirements of the Zoning District are as follows:
  - 1. Minimum lot size 80,000 sq. ft.
  - 2. Minimum road frontage 150 feet
  - 3. Minimum road setback 40 feet
  - 4. Minimum sideline setback 20 feet
  - 5. Minimum rearline setback 20 feet
  - 6. Maximum building height 65 feet
  - 7. Maximum impervious area: 20 %, up to 20,000 sq.ft.\*
  - 8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

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\* Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

### **3.7. Limited Residential Zoning District**

The Limited Residential Zoning District includes areas currently developed primarily as residential neighborhoods and areas experiencing residential subdivision and construction in recent years. The District extends to land suited to such development due to physical site characteristics and proximity to town services, such as water and sewer, schools, fire protection, and other services. It provides areas limited primarily to single family housing.

- A.** The following uses are permitted by right:
  - 1. Open-space uses
  - 2. Earth-moving less than 10 cubic yards
  - 3. Signs
  
- B.** The following require a Codes Enforcement Officer permit:
  - 1. Single-family dwelling
  - 2. Earth-moving 10 to 100 cubic yards, and for earth-moving greater than 100 cubic yards in conjunction with initial residential construction on lots in subdivisions that have Planning Board approval.
  - 3. Timber harvesting or clearing of land
  - 4. Accessory structures
  - 5. Home occupations
  - 6. Uses similar to these uses
  
- C.** The following uses require a Conditional Use Permit from the Planning Board:
  - 1. Earth-moving greater than 100 cubic yards
  - 2. Recreational facilities, such as parks and golf courses
  - 3. Uses similar to these uses
  
- D.** [reserved]
  
- E.** The dimensional requirements of the Zoning District are as follows:
  - 1a. Minimum lot size (sewered) 40,000 sq. ft.
  - 1b. Minimum lot size (non-sewered) 80,000 sq. ft.
  - 2. Minimum road frontage 125 feet
  - 3. Minimum road setback 35 feet
  - 4. Minimum sideline setback 20 feet
  - 5. Minimum rearline setback 20 feet
  - 6. Maximum building height 35 feet
  - 7. Maximum impervious area 15 percent\*
  - 8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

### 3.8. General Residential Zoning District

The General Residential Zoning District exhibits residential and limited public and commercial development. It extends to additional areas in order to provide locations suited to mixed residential and commercial development on a limited scale, compatible with existing development and close to town services and utilities.

**A. The following uses are permitted by right:**

1. Open-space uses
2. Earth-moving less than 10 cubic yards
3. Signs

**B. The following require a Codes Enforcement Officer permit:**

1. Single-family dwelling, including mobile home
2. Two-family dwelling
3. Earth-moving greater than 10 cubic yards
4. Accessory structures
5. Timber harvesting or clearing of land
6. Home occupations
7. Uses similar to these uses

**C. The following uses require a Conditional Use Permit from the Planning Board:**

1. Agriculture or livestock keeping
2. Recreational facilities, such as parks and golf courses
3. Campgrounds
4. Multi-family dwelling
5. Public Buildings
6. Cemeteries
7. Low impact commercial uses
8. Mobile home parks
9. Uses similar to these uses

**D. [reserved]**

**E. The dimensional requirements of the Zoning District are as follows:**

- |  |                   |
|--|-------------------|
| 1a. Minimum lot size (sewered)   | 30,000 sq. ft.    |
| 1b. Minimum lot size (no sewer, public water)  | 40,000 sq. ft.    |
| 1c. Minimum lot size (no sewer, private water)   | 80,000 sq. ft.    |
| 2. Minimum road frontage   | 100 feet          |
| 5. Minimum road setback  | 35 feet           |
| 6. Minimum sideline setback  | 10 feet           |
| 7. Minimum rearline setback  | 20 feet           |
| 8. Maximum building height   | 35 feet           |
| 9. Maximum impervious area   | 25 % <sup>*</sup> |
| 10. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] |                   |

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<sup>\*</sup> Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

### 3.9. Village Zoning District

The Village Zoning District includes the most highly developed areas in the Town. Development is more dense than in other areas and covers a broad mix of land uses including commercial, recreational, public and residential. This zoning district seeks to maintain the existing character and land use mix.

- A. The following uses are permitted by right:
  - 1. Open-space uses
  - 2. Earth-moving less than 10 cubic yards
  - 3. Signs
  
- B. The following require a Codes Enforcement Officer permit:
  - 1. Single-family dwelling, and multi-family dwelling\*
  - 2. Low and medium impact commercial use
  - 3. Earth-moving greater than 10 cubic yards
  - 4. Accessory structures
  - 5. Home occupations
  - 6. Recreational facilities, such as parks
  
- C. The following uses require a Conditional Use Permit from the Planning Board:
  - 1. High impact use when allowed by Section 2.6.
  - 2. Light manufacturing in conjunction with retail sales of the products created
  - 3. Reestablishment of Industrial use subject to Section 2.6.
  - 4. Public Buildings
  
- D. [reserved]
  
- E. The dimensional requirements of the Zoning District are as follows:

	<b>Main Street from Route 133 to Greenwood Ave</b>	<b>All Other Areas</b>
1. Minimum lot size (sewered)	N/A	3,500 sq. ft.***
2. Minimum road frontage	20 feet	50 feet***
3a. Minimum shore frontage (residential or recreational uses)	100 feet	200 feet
3b. Minimum shore frontage (other uses)	100 feet	300 feet
4. Minimum shoreline setback	25 feet	25 feet
5. Minimum road setback	N/A	20 feet
6. Minimum sideline setback	10 feet*	10 feet
7. Minimum rearline setback	10 feet	20 feet
8. Maximum building height	65 feet	65 feet
9. Maximum impervious area	100 percent	50 percent**
10. Setbacks from public or private ways shall be measured from the edge of the right-of-way.		

\*No side yard shall be required where a principal building shares or is to share a common wall (of material that would offer fire protection equal to or better than masonry construction) with a building on an adjacent lot, provided that there is emergency vehicle access to the rear of the building by public road or by right of way in common at least ten feet in width.

\*\*Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

\*\*\*Dimensions less than this may be waived on conditional review by the Planning Board.

### 3.10. Limited Commercial Zoning District

The Limited Commercial Zoning District establishes areas that are intended to allow both light commercial and residential uses. These areas may be located so as to provide a buffer zone between incompatible uses such as residential and intensive commercial or industrial uses, while still allowing some commercial uses to occur.

- A. The following uses are permitted by right:
  - 1. Open-space uses
  - 2. Earth-moving less than 10 cubic yards
  - 3. Signs \* (see Article 4.1.5.)
  
- B. The following require a Codes Enforcement Officer permit:
  - 1. Single-family dwelling (excluding Type 1 manufactured housing)
  - 2. Two-family dwelling
  - 3. Home occupations
  - 4. Earth-moving greater than 10 cubic yards
  - 5. Accessory structures
  
- C. The following uses require a conditional Use Permit from the Planning Board:
  - 1. Multi-family dwellings
  - 2. Low and medium-impact commercial uses
  - 3. Low intensity agriculture
  - 4. Timber harvesting or clearing of land
  - 5. Public facilities
  
- D.
  - 1. Entities such as storage facilities and golf courses, etc., with potentially detrimental products, such as chemicals, pesticides, fuels, etc. will not be allowed.
  - 2. As approved by the Planning Board, appropriate buffers will be maintained and/or created between adjacent uses.
  
- E. The dimensional requirements of the Zoning District are as follows:
  - 1. Minimum lot size 80,000 sq. ft.
  - 2. Minimum road frontage 150 feet
  - 3. Minimum road setback 50 feet
  - 4. Minimum sideline setback 20 feet
  - 5. Minimum rearline setback 20 feet
  - 6. Maximum impervious area 20 percent
  - 7. Setbacks to parking areas, structures, and other impervious areas from public or private ways, shall be measured from the edge of the right-of-way.

### **3.11. General Commercial Zoning District**

The General Commercial Zoning District establishes areas in Winthrop intended for high impact commercial uses, which may not be compatible with other land uses, such as residential or recreational activities. It is located so as to provide an area suited to such development due to site conditions, such as soils, slopes, proximity to highway access and public water and sewer services.

- A. The following uses are permitted by right:
  - 1. Open-space uses
  - 2. Earth-moving less than 10 cubic yards
  - 3. Signs
  - 4. Agriculture or livestock keeping
  
- B. The following require a Codes Enforcement Officer permit:
  - 1. Low impact commercial uses and structures
  - 2. Earth-moving greater than 10 cubic yards
  - 3. Timber harvesting or clearing of land
  - 4. Accessory structures
  - 5. Home occupations
  - 6. Uses similar to these uses
  
- C. The following uses require a Conditional Use Permit from the Planning Board:
  - 1. Recreational facilities, such as parks and golf courses
  - 2. Public Buildings
  - 3. Medium-impact commercial uses
  - 4. High-impact commercial uses
  - 5. Intensive agriculture
  - 6. Uses similar to these uses
  
- D. The following uses require a Conditional Use Permit from the Planning Board:
  - 1. Existing residential uses/accessory residential uses: Existing residential units will be considered legal nonconforming uses within this zone. It is noted that the intent of this zoning district is to promote commercial and industrial uses.

New residential uses will only be allowed based on the following criteria:

- 1. New residential units will be structurally attached to commercial/industrial buildings.
- 2. The residential portion of the developed structure(s) will be 49% or less than the total building area. Commercial/industrial use to occupy at least 51% of the building in either square footage or volume.
- 3. The discontinuance or vacancy of the commercial/industrial area may not be converted to residential use beyond allowed limits.
- 4. The residential portion of these mixed-use structures will not be exempt from phosphorus control planning and other measures necessary to protect water quality. [effective 10/13/99]

E. The dimensional requirements of the Zoning District are as follows:

1. Minimum lot size 40,000 sq. ft.
2. Minimum road frontage 150 feet
3. Minimum road setback 20 feet
4. Minimum sideline setback 20 feet
5. Minimum rearline setback 20 feet
6. Maximum building height 65 feet
7. Maximum impervious area 40 percent \*
8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95]

### **3.12. Industrial Zoning District**

The Industrial Zoning District establishes an area in Winthrop intended for intensive commercial or industrial enterprises which may not be compatible with other land uses, such as residential, recreational, or agricultural activities. It is located so as to provide an area suited to development, due to site conditions such as soils, slopes, proximity to highway and railway access and public water and sewer services.

**A. The following uses are permitted by right:**

1. Open-space uses
2. Earth-moving less than 10 cubic yards
3. Signs
4. Agriculture or livestock keeping

**B. The following require a Codes Enforcement Officer permit:**

1. Earth-moving greater than 10 cubic yards
2. Timber harvesting or clearing of land
3. Accessory structures
4. Home occupations
5. Uses similar to these uses

**C. The following uses require a Conditional Use Permit from the Planning Board:**

1. Recreational facilities, such as parks and golf courses
2. Public Buildings
3. Low, medium, and high impact commercial uses
4. Industrial uses
5. Automobile graveyards and/or junkyards
6. Waste processing or disposal facilities
7. Intensive agriculture
8. Uses similar to these uses

**D. [reserved]**

**E. The dimensional requirements of the Zoning District are as follows:**

- |   |                |
|---|----------------|
| 1a. Minimum lot size  | 40,000 sq. ft. |
| 2. Minimum road frontage  | 150 feet       |
| 3. Minimum road setback   | 20 feet        |
| 4. Minimum sideline setback   | 20 feet        |
| 5. Minimum rearline setback   | 20 feet        |
| 6. Maximum building height  | 65 feet        |
| 7. Maximum impervious area  | 40 percent *   |
| 8. Setbacks from public or private ways shall be measured from the edge of the right-of-way. [effective 7/5/95] |                |

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\* Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

### 3.13. Dimensional Requirements

Lots in all districts shall meet or exceed the following minimum requirements:

Zoning District	Min. Lot Size		Min. Frontage		Minimum Setback				Maximum	
	With Sewer	Without Sewer	Road	Shore	Road Street	Side Yard	Rear Yard	Shore line	Building Height	Impervious Area
Resource Protection	60,000	80,000	150'	200'	50'	20'	20'	100'	35'	20%
Public Water	60,000	80,000	150'	200'	40'	20'	20'	100'	35'	20%
Shoreland	40,000	80,000	100'	200'	40'	20'	20'	100'	35'	20%
Wetland Protection	40,000	80,000	100'	200'	40'	20'	20'	75' 100'	35'	20%
Stream Protection	40,000	80,000	150'	200'	40'	20'	20'	75'	35'	20%
Rural	80,000	80,000	150'		40'	20'	20'		65'	20%*
Limited Residential	40,000	80,000	125'		35'	20'	20'		35'	15%*
General Residential	30,000	40,000 80,000	100'		35'	10'	20'		35'	25%*
Village	Refer	to	W.Z.O.	Section	3.9	for	details			
Limited Commercial	80,000	80,000	150'		50'	20'	20'		35'	20%
General Commercial	40,000	40,000	150'		20'	20'	20'		65'	40%*
Industrial	40,000	40,000	150'		20'	20'	20'		65'	40%*
Village Commercial	3,500		50'	200 300	20'	10**	20'	25'	65'	50%*

Setbacks from public or private ways shall be measured from the edge of the right-of-way.

\*Impervious area in excess of this standard shall require a Conditional Use Permit from the Planning Board.

## **Article 4 - Performance Standards**

### **4.0. General Requirements**

The following requirements shall apply to all districts;

#### **4.0.1. Principal Building**

If more than one principal building is constructed on a single lot, all dimensional requirements shall be met separately for each such principal building, not withstanding other provisions of this Ordinance. **[setback exemptions for accessory structures were repealed effective 4/3/91]**

#### **4.0.2. Required Yard Spaces Shall Serve Only One Lot**

No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

#### **4.0.3. Visibility at Corner Lots**

All corner lots shall be kept free of visual obstructions for a distance of twenty-five (25) feet measured along the intersecting street lines.

#### **4.0.4. Building Height**

Features of buildings and structures, such as chimneys, towers, ventilators, and spires may exceed the district's maximum building height, but shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance. Chimneys on residential structures shall be exempt from the requirements of this paragraph.

#### **4.0.5. Steep Slopes**

Whenever slopes exceed twenty (20) percent in a Resource Protection, Public Water Supply, Shoreline, Wetland Protection, or Stream Protection Zoning District, and such slopes extend over a minimum land area of two (2) contiguous acres, then the total land area with steep slopes shall be designated as a Resource Protection Zoning District. In all other Zoning Districts, all proposed land use activities within such areas are considered Conditional Uses and may be allowed only upon authorization of a Conditional Use Permit by the Planning Board.

**4.0.6.** Land below the normal high water line of a water body or upland edge of a wetland and land within the right-of-way of roads serving more than two (2) lots shall not be included toward calculating minimum lot size.

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

**4.0.8.** The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for the Zoning District.

**4.0.9.** The shoreline setback requirements shall not apply to functionally water-dependent uses nor to structures which require direct access to the water as an operational necessity, such as docks.

**4.0.10.** Stairways, ramps, or similar structures providing access to a water body or wetland over steep slopes or unstable soils may be permitted by the Codes Enforcement Officer provided: that the structure does not exceed four (4) feet in width, that the structure does not extend below or over the normal high water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection), and that no other reasonable access exists on the property.

#### **4.1. Performance Standards for All Activities**

The following standards shall apply to all activities in all districts:

##### **4.1.1. Erosion Control**

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

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

**4.1.1.2.** The duration of exposure of the disturbed area shall be kept to a practical minimum. Exposed areas shall be temporarily stabilized within one week from the time it was last actively worked by application of mulch, sod, seed, riprap, or other effective measures. Exposed areas shall be permanently stabilized within nine months of the initial date of exposure.

**4.1.1.3.** Until a disturbed area is permanently stabilized, sediment in run-off water shall be trapped on-site by the use of staked hay bale barriers or silt fence, or other acceptable methods as determined by the Codes Enforcement Officer.

**4.1.1.4.** The top of a cut or bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Codes Enforcement Officer or waived by the abutter in a document recorded in the Registry of Deeds.

**4.1.1.5.** Natural and man-made drainage ways and outlets shall be protected from erosion due to water flowing through them. Eroded areas shall be stabilized as specified by the Codes Enforcement Officer.

#### **4.1.2. Nuisance Conditions**

Noise, vibration, dust, smoke, odors, heat, glare, radiation, and waste disposal resulting from any use shall be kept to a practical minimum in order to avoid nuisance conditions.

#### **4.1.3. Off-Street Parking and Loading Requirements [adopted 3/3/97]**

The following standards shall apply to all new or expanded uses and structures:

**4.1.3.1.** Off-street parking shall be considered as an accessory use when required or provided to serve conforming uses located in any zoning district. Such parking for all uses shall be located on the same lot as the principal building or use of premises or within three hundred (300) feet measured along lines of public access. Such parking areas shall be held under the same ownership or easement as uses served and evidence of such ownership shall be required. However, establishments occupying or intending to occupy existing structures on Main Street, from the intersection of Main Street and Western Avenue to the intersection of Main Street and Greenwood Avenue, in the Village District may be exempted from this requirement when the establishment's lot does not contain sufficient area or is not within three hundred (300) feet of sufficient parking area. No off-street parking facility shall have more than two (2) entrances and exits on the same street, each of which shall be less than twenty-six (26) feet in width.

No parking space shall be placed within any required shoreline, side or rear setbacks. The shoreline setback for parking areas serving public boat launch facilities may be reduced to fifty (50) feet [except in the Village District where the setback is twenty-five (25) feet] if the Planning Board finds that no reasonable alternative exists.

**4.1.3.2.** Where several uses occupy a single structure or lot, the total parking shall be the sum of the needs of the individual uses.

**4.1.3.3.** In the event a particular building or use does not fit exactly into any of the categories listed in this section, the Codes Enforcement Officer shall apply the requirements of the category which he/she deems to be most closely analogous

**4.1.3.4.** Parking spaces shall be available for the parking of vehicles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use (unless stated in the provisions below), and shall not be used for sale, repair or servicing of any vehicle.

**4.1.3.5.** Off-street parking in compliance with the following minimum requirements shall be provided and maintained for new construction, expansion of existing uses or structures, and changes of use. In case of expansion of an existing use or structure which is already lawfully non-conforming as to parking, additional parking must be provided for the expansion only and shall be in addition to the existing parking spaces which shall be retained. If a structure is demolished and a new structure with a different use is constructed, or a use ceases for a period of one year, the property shall meet the current parking requirements of the ordinance.

Dwellings	2 parking spaces per dwelling unit
Motels, Tourist Homes, Rooming Houses, Hotels, Bed & Breakfast Inns	1 parking space for each guest room; 1 parking space for each employee based on the expected average employee occupancy and, in addition, adequate parking based on the standards supplied in this section shall be provided for restaurants, meeting rooms, auditoriums and other activities which are accessory to the principal use.
Nursery School & Day Care Center	1 parking space for each adult volunteer or employee plus 2 parking spaces for child delivery and pickup
Schools	1 parking space for each adult employee plus 25 parking spaces for each 100 students or major fraction thereof of total enrollment

Nursing Homes	1 parking space per 3 beds plus 1 for each employee based on the expected average employee occupancy
Public Assembly-Indoor, Private Assembly, Religious Institutions, Commercial Recreation - Indoor	1 parking space for each 3 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats
Marina	Minimum of 30 parking spaces of which 25% will accommodate vehicles with trailers attached
Retail Trade, Hardware, Supermarket, Commercial Sales & Service	1 parking space for each 150 square feet, or major fraction thereof, of GFA (gross floor area) plus 1 parking space for each 1.2 employees
Bowling Alley plus	5 parking spaces for each bowling lane,  1 per employee
Restaurants: Standard	1 parking space for every 80 square feet of GFA with a minimum of 10 spaces plus 1 per employee
Restaurants: Fast Food & Drive Thru	1 space for every 70 square feet of GFA with a minimum of 10 spaces plus 1 per employee plus queuing spaces, if used, per Section 4.1.3.10.
Other Eating Establishments	With a maximum of 2000 square feet. of GFA a minimum of 10 spaces plus 1 per employee plus queuing spaces, if used, per Section 4.1.3.10.
Offices, Professional & Public Buildings, Banks, and Commercial use establishments	1 parking space for each 300 square feet or major fraction thereof of GFA. In no case will there be less than 1 parking space for every 1.5 employees
Commercial Recreation: Outdoor	Spaces equal in number to one-third of the maximum design capacity in persons

Golf Driving Range	1.5 parking spaces for each tee plus one for each employee
Outdoor Game & Athletic Courts	4 parking spaces for each court
Public Utilities, Manufacturing/ Processing Warehouse & Storage Facilities, Construction Services, Truck Terminal space	1 parking space for each 1.2 employees based on the highest expected average occupancy or 1 space for 1000 square feet. of GFA whichever is greater, plus one for each vehicle used in conduct of the enterprise
Miniature Golf Courses	3 parking spaces per hole, or 2 for each hole plus the requirements for all accessory uses, whichever is greater plus 1 per employee
Auto Service Station or Repair Garage	2 parking spaces for each enclosed bay and 1 space for each day shift employee
Medical, Chiropractic, Physical Therapy, Dental Clinic Veterinarian Hospital	3 parking spaces per examination or treatment room plus one space per employee
Gas Dispensing Facilities	2 spaces per gas pump plus one space per employee
Convenience Store	1 space per 200 square feet of GFA for the first 1000 square feet and 3 spaces per additional 500 square feet plus one space per employee
Handicapped Accessible Spaces	Any establishment which caters to or offers goods, facilities or services to the general public shall provide handicapped accessible spaces as defined in Section 4.1.3.6.d.(3)

4.1.3.6. PARKING DIMENSIONS

Standard stall dimensions 9' x 18.5'. Vehicle /trailer stall dimensions 9' x 37'.

Parking angle in degrees 9' Stall	Parallel stall width	Aisle to wall	Aisle to interlock	Aisle width	
				One-way	Two-way
30 Degree	18.0	17.0	13.2	12.0	26.0
45 Degree	12.7	19.4	16.3	12.0	26.0
60 Degree	10.4	20.5	18.3	16.0	26.0
90 Degree	9.0	18.5	18.5	26.0	26.0

a) Aisle and stall dimensions shall be measured as shown in the diagram and tables above. Dimensions specified for one-way aisles apply only when diagonal parking is provided from each side of the aisle and all such aisles are designated as "One Way" with adequate signage and marking to direct the traffic movement.

b) Angled interlock parking shall only be used when a sufficient physical barrier is provided to prevent vehicular contact across the interlock.

c) Handicapped-accessible requirements

1) Handicapped-accessible spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. Curb ramps to the accessible route shall be provided at the end of all access aisles and will be constructed consistent with all state and federal laws and regulations.

2) Handicapped-accessible spaces shall contain the minimum required dimensions plus five (5) foot wide striped access aisle. Two accessible spaces may share a common access aisle. A "Wheelchair Van" space shall be a minimum of sixteen (16) feet wide and provide ninety-eight (98) inches of vertical clearance. Access aisles shall be cross-hatched.

3) Four (4) percent of the total required parking spaces, with a minimum of one space, shall be handicapped-accessible. At least one of these spaces shall be van-accessible. Each space shall be marked with the International

Symbol of Accessibility. In addition, "Wheelchair Van" signs shall be located at van spaces. All signs shall be located so they cannot be obscured by a vehicle parked in the space.

4) Instead of the designs specified in Subsection (3) above, the "Universal" Parking Space Design may be substituted for all required handicapped-accessible parking spaces. The Universal Parking Space design shall have a minimum length of eighteen and one-half (18.5) feet and a minimum width of eleven (11) feet with a common five (5) foot access aisle. Each space shall be marked with only the International Symbol of Accessibility.

**d. Certificate of Legal Non-Conformance**

1) The purpose of this section is to specify the conditions which will permit existing facilities, according to the requirements of this Ordinance, to achieve legal non-conformance with the parking requirements of this Ordinance in order to conform to the parking requirements for handicapped accessibility of federal, state and local laws.

2) If an existing facility decreases its existing parking spaces by a single parking space or up to four (4) percent of its existing required total number of parking spaces by either restriping and/or resigning only, the modification shall not be subject to site plan review, and upon application to the Codes Enforcement Officer, the owner of the facility shall be issued a Certificate of Legal Non-Conformance with respect to the requirements for number of parking spaces contained in Section 4.1.3.5. of this Ordinance.

3) If an existing facility decreases its existing parking spaces by a single parking space or up to four (4) percent of its existing required number of parking spaces by modifications, other than restriping and/or resigning, that require and receive site plan approval, upon application to the Codes Enforcement Officer, the owner of the facility shall be issued a Certificate of Legal Non-Conformance with respect to the requirements for number of parking spaces contained in Section 4.1.3.5. of this Ordinance.

4.1.3.7. Subject to site plan approval, the owner of any off-street parking, who provides for handicapped accessible parking in accordance with the requirements of the Maine Human Rights Act, 5 M.R.S.A. s/s 4551, et seq., shall provide proof of agreement, with the Winthrop Police Department, for the enforcement of handicapped parking restrictions in accordance with Article 17, Section 21, "An Ordinance Relating to Traffic and Parking Control" of the Winthrop Town Ordinances.

**4.1.3.8.** Where off-street parking is required or provided, the following construction requirements shall apply and a scaled plan for such must be submitted to the Code Enforcement Officer at the time of application.

a) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided, design thereof shall be approved by the Code Enforcement Officer, where applicable.

b) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a sub-grade consisting of gravel or equivalent materials, well-compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.

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

d) Where artificial lighting is provided, it shall be shaded or screened so that no light source or unreasonable glare shall be directly visible from outside the area and its access driveways.

e) The owner shall provide forty (40) square feet for each patron parking space planned. This forty (40) square feet shall be used to provide curbed and paved divider strips between parking aisles in order to provide safe pedestrian access between rows of parking vehicles, proper traffic flow, lighting and landscaping. Where feasible, such divider strips shall be oriented at right angles to the main entrance of the principal building used in order to provide for maximum pedestrian convenience and safety.

**4.1.3.9.** Except in the Village Zoning District, parking areas with provision for five (5) or more vehicles and serving any non-retail commercial and industrial use shall be located, when practicable, in areas not visible from any public way.

**4.1.3.10.** Stacking or Queuing Space Standards for Drive-Thru Businesses:

Banks or other commercial uses: Minimum of eight spaces for the first drive thru window and two spaces for each additional window.

Drive Thru Restaurant: Eleven spaces for the drive-up window, with a minimum of five of these spaces designated for the ordering station.

Stacking or Queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with access to parking stalls.

#### **4.1.4. Sanitary Provisions**

The installation of all water supply systems and private sewage disposal systems in all Zoning Districts shall conform to the provisions of the Maine State Internal Plumbing Rules and Subsurface Wastewater Disposal Rules.

#### **4.1.5. Signs**

All signs shall comply with State Law. The following additional provisions shall apply to all on-premise signs in all Zoning Districts where permitted.

##### **4.1.5.1. Location, Illumination and Size**

- 1) No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording the sign 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.
- 2) No sign shall be located within three (3) feet of a street line or other lot line.
- 3) Flashing, moving or animated signs are prohibited, except as provided in this subsection. Notwithstanding the provisions of Title 23 M.R.S.A. § 1914(11-A)(B)(1), changeable signs, as defined in Title 23 M.R.S.A. § 1914, are permitted only with the approval of the code enforcement officer and such signs shall meet the following requirements in addition to the dimensional requirements set forth in this ordinance. The display on each side of a changeable sign may be changed no more than once every ten (10) seconds.
- 4) No sign shall exceed twenty (20) feet in height.
- 5) Signs in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, Stream Protection, and Limited Residential Zoning Districts shall not exceed two signs per premises at no more than six (6) square feet in area, each. Signs in the Rural and General Residential Zoning Districts shall not exceed three (3) signs totaling sixty (60) square feet, and no one (1) sign shall be larger than twenty (20) square feet. Signs in the remaining Zoning Districts shall not exceed three (3) signs totaling two hundred (200) square feet, and no one sign shall be larger than one hundred (100) square feet.

##### **4.1.5.2. Types of Signs**

- 1) Public traffic and directional signs and signs designating public or semipublic activities shall be permitted. Signs relating to public safety shall be permitted without restriction.
- 2) Residential 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.

3) Residential users may display a single sign not over eight (8) square feet in area relating to the sale, rental, or lease of the premises. In the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, and Stream Protection Zoning Districts, such sign shall not exceed three (3) square feet in area, except for temporary "house for sale" signs.

4) Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet.

5) Signs relating to goods and services sold on premises shall be permitted, provided such signs shall not exceed two (2) signs per use.

6) Signs relating to goods and services not rendered on the premises are prohibited in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, Stream Protection, and Limited Residential Zoning Districts.

#### **4.1.6. Stormwater Run-off**

All new construction and development shall be designed to minimize stormwater run-off from the site in excess of the natural pre-development conditions. Surface water run-off shall be minimized and detained on-site if possible or practicable. Where possible, existing natural controls, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce run-off and encourage infiltration of stormwater. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by the project. The natural state of watercourses, swales, floodways, or right-of-ways shall be maintained as necessary to ensure proper functioning.

#### **4.1.7. Water Quality Protection**

No activity shall locate, store, deposit, 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, seep, percolate, or wash into surface or ground waters or cause nuisances (such as objectionable shore deposits) or unsightliness, or be harmful to human, animal, plant, or aquatic life.

Commercial or industrial development and other similar intensive land uses may be required to provide a phosphorus control plan according to the current edition of the Department of Environmental Protection's manual, "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development".

## **4.2. Specific Activities**

The following standards shall apply to specific activities in all Zoning Districts:

### **4.2.1. Agriculture**

**4.2.1.1.** All spreading or disposal of manure shall be accomplished in conformance with the "Maine Guidelines for Manure and Manure Sludge Disposal on Land" published by the University of Maine and the Maine Soil and Water conservation Commission in July 1972 or subsequent revisions thereof. Agricultural practices not in conformance with these guidelines may be allowed by Conditional Use Permit.

**4.2.1.2.** There shall be no tilling of soil within one hundred (100) feet of the normal high water mark of any lake, pond, or stream, nor within twenty-five (25) feet of any tributary stream or wetland.

**4.2.1.3.** Manure shall not be stored or stockpiled within one hundred (100) feet of any lake, pond, or stream, nor within seventy-five (75) feet of any tributary stream or wetland. Within five (5) years of the effective date of this Ordinance, all manure storage areas within the Resource Protection, Public Water Supply, Shoreland, Wetland Protection, or Stream Protection Zoning 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 above within the five (5) year period. [amended 8/3/92]

**4.2.1.4.** 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 Resource Protection, Public Water Supply, Shoreland, Wetland Protection, or Stream Protection Zoning Districts shall require a Soil and Water Conservation Plan, prepared with the assistance of the Kennebec County Soil and Water Conservation District to be filed with the Planning Board. Noncompliance with the Soil and Water Conservation Plan shall be a violation of this Ordinance.

**4.2.1.5.** Newly established livestock grazing areas shall not be permitted within one hundred (100) feet of the normal high water mark of any lake, pond, or stream, nor within twenty-five (25) feet of any tributary stream or wetland. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback, may continue provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

#### **4.2.2. Campgrounds and Individual Private Campsites**

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

**4.2.2.1.** Campgrounds without water-carried sewage facilities shall not be permitted.

**4.2.2.2.** Each recreational vehicle, tent or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways, in recreational vehicles and tenting areas containing approved water-carried sewage facilities. Land supporting typical wetland vegetation (such as cattails and rushes) and land below the normal high water mark of a water body shall not be included in calculating the minimum area.

**4.2.2.3.** All recreational vehicle, tent or shelter sites shall meet the setback requirements for structures contained in this Ordinance.

**4.2.2.4.** All campgrounds shall provide protection from the visual effects of the campground by establishing and maintaining along exterior lot lines a continuous landscaped area not less than twenty (20) feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective six foot high visual barrier.

Individual private campsites shall conform to the following:

**4.2.2.5.** Individual private campsites in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection and Stream Protection Zoning Districts shall be limited to only one campsite on any nonconforming lot of record, or one camp site per thirty thousand (30,000) square feet.

**4.2.2.6.** Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached.

**4.2.2.7.** The clearing of vegetation for the siting of a recreational vehicle, tent or shelter site in the Resource Protection Zoning District shall be limited to one thousand (1000) square feet.

**4.2.2.8.** A written sewage disposal plan describing the proposed method and location of sewage disposal shall be submitted and approved by the Local Plumbing Inspector. Where disposal will be off-site, written authorization from the receiving facility or landowner is required. All wastewater, including gray

water, shall be discharged into an approved wastewater system as defined by State Rules.

**4.2.2.9.** When a recreational vehicle, tent or shelter site is placed on-site for more than 120 days per calendar year, all requirements for residential dwelling units shall be met, including installation of subsurface wastewater disposal system in compliance with the Maine Subsurface Wastewater Disposal Rules.

### **4.2.3. Mineral Extraction**

**4.2.3.1.** Extraction operations (including sand and gravel pits) shall not be permitted within 75 feet of any property line or traveled way. (Also see: 30-A MRSA 3105 for minimum State standards for gravel pits).

**4.2.3.2.** Unless authorized under the Natural Resources Protection Act and/or Site Location of Development Act, no part of any extraction operation (including drainage and runoff controls) shall be permitted within one hundred (100) feet of the normal high water mark of any lake or pond, nor within seventy-five (75) feet of stream, tributary stream or freshwater wetland.

**4.2.3.3.** Extraction operations shall be deemed completed when less than one hundred (100) cubic yards of materials are removed within any consecutive twelve (12) month period. Within twelve (12) months of completion of operations, the operator shall stabilize the site as follows:

- 1) All debris, stumps, etc. shall be either removed and properly disposed of or buried onsite. Only materials generated onsite may be buried onsite.
- 2) The area shall be graded to a slope of two (2) horizontal to one (1) vertical or flatter.
- 3) Topsoil or loam shall be retained onsite to cover disturbed areas, and shall be seeded and/or planted with native vegetation. Additional topsoil or loam shall be brought onsite if necessary to completely stabilize all disturbed areas.
- 4) In the Public Water Supply, Shoreland, and Wetland Protection Zoning Districts, the applicant shall file a reclamation plan with the Planning Board which shall describe in detail what steps will be taken to stabilize the site.

**4.2.3.4.** Whenever ponds are left within the pit, a slope of four (4) horizontal to one (1) vertical or flatter, shall extend into the water at least sixteen (16) feet to insure that the pond will not be a hazard to the public.

#### **4.2.4. Home Occupations**

**4.2.4.1.** There shall be no exterior display, nor exterior storage of materials and no other visible indication of the home occupation or variation from the residential character of the principal building except for exterior signs as allowed.

**4.2.4.2.** Exterior signs shall not exceed four square feet in area and shall not exceed one sign per premise where allowed.

**4.2.4.3.** No traffic shall be generated in substantially greater volumes than normally expected in the neighborhood.

**4.2.4.4.** Off-street parking spaces in addition to those already required for a resident shall be provided for each non-resident employee and for the maximum number of customers at any one time.

**4.2.4.5.** No offensive nuisance, waste discharge, noise, vibration, smoke, dust, odors, heat, glare and/or radiation shall be generated.

**4.2.4.6.** Home occupations in the Resource Protection, Public Water Supply, Shoreland, Wetland Protection and Limited Residential Zoning Districts shall not involve non-resident employees nor display more than one exterior sign.

**4.2.4.7.** Home occupations in the General Residential, Rural, Village, Limited Commercial, General Commercial, and Industrial Zoning Districts may involve no more than 2 non-resident employees.

#### **4.2.5. Livestock and Poultry Keeping**

**4.2.5.1.** Farm buildings, sheds, feedlots, and fenced pens used intensively for the keeping of livestock (such as horses, cattle, sheep, poultry, goats and pigs) shall be located fifty (50) feet away from property lines, except where a property line abuts a public way, and one hundred (100) feet away from any existing abutting residences. Adverse conditions resulting from livestock keeping shall be handled under Section 4.1.2. Nuisance Conditions.

#### **4.2.6. Mobile Homes**

##### **4.2.6.1. Individual Mobile Homes**

All mobile homes shall be placed on a permanent masonry foundation or shall be enclosed by permanent skirting. Evidence of payment of state sales tax shall be submitted for any new manufactured housing prior to issuance of a Building Permit.

##### **4.2.6.2. Mobile Home Parks**

- 1) Mobile home parks shall be licensed by the State Manufactured Housing Board.**
- 2) Mobile home parks shall be subject to the Subdivision Ordinance for the Town of Winthrop and the State Subdivision Law.**
- 3) The park shall be served by public sewer and the minimum lot size shall be sixty-five hundred (6,500) square feet, notwithstanding the dimensional requirements for Zoning Districts under Article 3 of this Ordinance.**
- 4) The minimum road frontage for each lot within the mobile home park shall be fifty (50) feet; the minimum road setback for each mobile home within the mobile home park shall be twenty (20) feet.**
- 5) The minimum sideline and rearline setbacks for each mobile home within the mobile home park shall be ten (10) feet.**
- 6) A fifty (50) foot wide buffer strip, including individual lot setbacks shall be required along any mobile home park boundary abutting residential use if the per-acre density of the homes within the park is at least two times greater than:
  - a) the density of residential development on immediately adjacent parcels of land, or**
  - b) if adjacent land is undeveloped, the maximum density allowed in that Zoning District.****

The first twenty-five (25) feet of the buffer strip, measured in from the exterior boundary of the mobile home park, shall consist of a continuous landscaped area containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof which forms a visual barrier along exterior lot lines, except that driveways shall be kept open to provide visibility for vehicles entering and leaving. No structures, streets or utilities shall be located in the buffer strip, except where it is necessary for utilities to cross.

7) Public roads within the mobile home park shall be in accordance with the "Ordinance for the Construction, Reconstruction, Laying Out and Acceptance of Streets, Roads Ways or parts thereof, in the Town of Winthrop." Private roads shall meet the standards in the Subdivision Ordinance for the Town of Winthrop except where those standards are more restrictive than Title 30 MRSA Section 4358, Regulation of Manufactured Housing.

#### **4.2.7. Multi-family Dwelling Units**

##### **4.2.7.1. Two-Family Dwelling Units**

Lots for two-family units shall meet all of the dimensional requirements for single-family dwelling units.

##### **4.2.7.2. Multi-Family Dwelling Units**

Multi-family (3 or more) dwelling units shall meet the following criteria:

- 1) The minimum lot size required for a multi-family dwelling served by a subsurface wastewater disposal system or served by public sewer and located in the Shoreland, Public Water Supply and Resource Protection Zoning Districts shall be the product of the number of dwelling units on the lot times the minimum lot size required for single-family dwellings.
- 2) In all other Zoning Districts, the minimum lot size shall be the minimum lot size required for single-family dwelling and five thousand (5,000) square feet for each additional dwelling unit beyond the first unit.
- 3) For multi-family buildings existing prior to June 4, 1981 and located in the Village Zoning District with access to public water and sewer, the minimum lot size shall be ten thousand (10,000) square feet for the first unit and fifteen hundred (1,500) square feet for each additional unit, provided that there is no expansion of the existing structure.
- 4) The minimum shoreline frontage required for a multi-family dwelling in the Shoreland, Public Water Supply, and Resource Protection Zoning Districts shall be three hundred (300) feet and additional twenty-five (25) feet for each dwelling unit beyond the third unit; each multi-family dwelling shall meet the greater of the following setback requirements: fifty (50) feet from the side lot lines or one hundred (100) feet from any adjacent dwelling. Lots for multi-family dwelling units shall meet all other dimensional requirements.

5) Common shorefront recreational facilities such as beaches, docks, boat ramps, or picnic areas, shall be a minimum of seventy-five (75) feet from side lot lines. All multi-family development shall be visually screened from abutting lots by trees, evergreen shrubs, fences, or other materials as may be required by the Planning Board.

6) All multi-family dwellings or development located in the Shoreland, Public Water Supply, or Resource Protection Zoning Districts or which involve any type of common shoreland access, shall be limited to impervious area of no more than ten (10) percent of the lot area, unless all stormwater runoff is infiltrated on-site.

7) All multi-family dwellings shall be connected to a common water supply and distribution system.

8) All multi-family dwellings shall be connected to a public sewer system if, available, or to one or more common subsurface wastewater disposal systems designed in compliance with State Subsurface Wastewater Disposal Rules. An area of suitable soils shall be identified and reserved for a future replacement system.

9) Any lot used for multi-family dwellings or development which is  
a) divided by the Shoreland, Public Water Supply or Resource Protection Zoning District and any other Zoning District  
or which  
b) involves any form of common shoreland access,  
shall fully meet the more restrictive requirements specified for Shoreland, Public Water Supply, and Resource Protection Zoning Districts in this section.

#### **4.2.8. Route 202 Development**

In accordance with the policies of Winthrop's Comprehensive Plan, all commercial and industrial development in the Industrial Zoning District along Route 202 shall meet the following standards:

1. Within new subdivisions, there shall be only one combined access point with ramps to allow merging of traffic on Route 202.
2. All development shall maintain a twenty-five (25) foot buffer along Route 202, except for the driveway or access point.

3. For existing lots of record, there shall be only one access point per lot or one common access between two lots with ramps to allow merging of traffic on Route 202.

4. Any applicant shall demonstrate through a traffic safety impact study that the entrance/exit to the development as well as the development itself will provide for safe circulation of vehicles and will not interfere with the primary role of Route 202 as a traffic carrier. All projects shall conform with Town traffic control standards.

### **4.3. Development in Shore Areas**

The following additional requirements shall apply to those areas of the Resource Protection, Public Water Supply, Shoreland and Wetland Protection Zoning Districts:

#### **4.3.1. Common Shoreland Access**

The use of any property for common shoreland access shall require a minimum shoreline frontage of three hundred (300) feet and an additional twenty-five (25) feet for each dwelling unit beyond the third unit using the common shoreland access. Any recreational facilities associated with common shoreland access, such as beaches, docks, boat ramps or picnic areas shall be a minimum of seventy-five (75) feet from side lot lines. All construction shall conform to all applicable state laws administered by the Department of Environmental Protection.

#### **4.3.2. Clearing**

1. Within a Resource Protection Zoning District abutting a lake or pond, there shall be no cutting of brush, trees or other 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 as approved by the Codes Enforcement Officer. Elsewhere in the Resource Protection Zone, clearing shall be limited to that necessary for permitted uses within the Zoning District.

2. Except as allowed in paragraph 1, above, and except to allow for the development of permitted uses, within the strip of land extending one hundred (100) feet inland from the normal high water line of a lake or pond and within seventy-five (75) feet of a wetland, stream or tributary stream, a buffer strip shall be preserved as follows:

a. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to freshwater wetland or tributary streams the width of the footpath shall not exceed ten (10) feet.

b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees is maintained. For the purposes of this section a "well distributed stand of trees" shall be defined as maintaining a score of twelve (12) or more points in any 25 foot by 25 foot square area, as determined by the following table:

Diameter of tree at 4 1/2 feet above ground	Points
2 - 4 inches	1
>4 - 12 inches	2
> 12 inches	4

Adjacent to a freshwater wetland or tributary stream, a "well distributed stand of trees" is defined as maintaining a minimum score of 8 per 25 foot square.

c. All existing vegetation and ground cover under three (3) feet in height shall be preserved, except to provide a footpath as described above.

d. Pruning of tree branches on no more than the bottom 1/3 of the tree is permitted.

e. Whenever the removal of a storm-damaged, diseased, unsafe or dead tree(s) results in the creation of a cleared opening, the opening shall be replanted with native tree species unless existing new tree growth is present.

3. At distances greater than one hundred (100) feet from any lake or pond and/or greater than seventy-five (75) feet from a freshwater wetland, stream or tributary stream, there shall be permitted selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter (measured at 4 1/2 feet above ground level) within any ten (10) year period, except to allow for the development of permitted uses. For the purposes of these standards, volume may be considered equivalent to basal area.

In no case shall cleared openings for development (including but not limited to principal and accessory structures, driveways, lawns and sewage disposal areas) exceed twenty-five (25) percent of the lot area, or ten thousand (10,000) square feet, whichever is greater, including land which has been previously developed.

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted under circumstances as described in the above paragraphs.

5. Fields which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.

#### **4.3.3. Piers, Docks and Other Shoreland Construction**

1. No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting on any great pond nor any fill deposited or dredging done therein without a permit from the Board of Environmental Protection and the Planning Board, or other appropriate agencies.

2. No causeway, marina, wharf, dock or other permanent or floating structure shall extend more than ten (10) percent of the width of any stream, measured at its normal high water elevation.

3. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area. It shall be constructed to prevent erosion and minimize adverse effects on fisheries and shall not interfere with existing beach areas.

4. No new structure shall be build 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 as an operational necessity.

5. 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 a residential dwelling(s).

#### **4.3.4. Road and Driveway Construction**

1. Roads and driveways shall be set back at least one hundred (100) feet from the normal high water line of a lake or pond and seventy-five (75) feet from tributary streams and freshwater wetlands unless no reasonable alternative exists as determined by the Planning Board. On slopes greater than twenty (20) percent, the setback shall be increased by ten (10) feet for each five (5) percent increase in slope over twenty (20) percent. The Planning Board may reduce the setback to no less than fifty (50) feet upon clear evidence from 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, installation of settling basins, ditch relief culverts and turnouts, and buffer strips. This paragraph shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer the shoreline due to operational necessity. Road crossings of watercourses shall be kept to the minimum number necessary.
2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection Zoning District except to provide access to permitted uses, or as approved by the Planning Board upon a finding that no reasonable alternative exists, in which case, the road and/or driveway shall be set back as far as practicable from the normal high water line of the water body, tributary stream or wetland.
4. Road banks shall be no steeper than a slope of two horizontal to one vertical, except where a road must be blasted through ledge, and shall be graded and stabilized in accordance with the performance standards for erosion control.
5. Road grades shall be no greater than twelve (12) percent except for short segments of less than two hundred (200) feet.
6. Bridges or culverts of adequate size and design shall be provided for all road crossings of watercourses which are to be used when surface waters are unfrozen. The requirements for a bridge or culvert may only be waived by obtaining a permit from the Planning Board.
7. In order to prevent water runoff from entering water bodies, roads shall be designed, constructed and maintained to empty onto an unscarified buffer strip that is at least fifty (50) feet plus two times the average slope wide and located between the outflow point of a ditch or culvert and the normal high water line of the water body, tributary stream or wetland. Where the road runoff discharges

onto the buffer, there shall be a diffuser, level spreader or riprap apron which will slow the water runoff and spread it out before it enters the buffer.

8. Ditch relief culverts, drainage dips and turnouts shall be installed to direct water runoff onto the buffer before the flow gains sufficient volume or head to cause erosion of the road or ditch.

a. The spacing of such measures shall be at intervals no greater than indicated in the table below:

Road 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 only be used in place of ditch relief culverts where the road grade is ten (10) percent or less.

c. On slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from the road centerline.

d. Ditch relief culverts shall be sufficiently sized and properly installed in order to function effectively, and their inlet and outlet ends shall be stabilized with appropriate materials.

9. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff controls shall be maintained on a regular basis to assure effective functioning.

#### 4.3.5. Timber Harvesting

1. Within the strip of land extending seventy-five (75) feet inland from the normal high water line in a Resource Protection Zoning District there shall be no timber harvesting, except to remove safety hazards as determined by the Codes Enforcement Officer.

2. Except for areas as described in paragraph 1. above, timber harvesting shall be limited to 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. In addition:

a. Within one hundred (100) feet, horizontal distance, of the normal high water line of a water body, and within seventy-five (75) feet of tributary streams and wetlands, there shall be no clearcut openings and a well distributed stand of vegetation, including ground cover, shall be maintained.

b. At distances greater than one hundred (100) feet of a water body and seventy-five (75) feet of a tributary stream and/or wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they 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.

c. A minimum of four (4) dead or dying trees per acre shall be left for wildlife to use for cavities, dens and food.

Timber harvesting operations exceeding forty (40) percent of the total volume 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.

3. No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water line of any pond, lake or stream. At distances greater than fifty (50) feet from the normal high water line of such waters and extending to the limits of the area covered by this Ordinance, all slash shall either be removed or be 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.

4. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters are frozen and the activity will not result in any ground disturbance.

5. 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. Such crossings shall be as straight as possible across the flow of water and at the narrowest point. (NOTE: A permit from the Department of Environmental Protection may be required for a stream crossing.)

6. Skid trail approaches to water crossings shall be located and designed to prevent water runoff from directly entering the water body or tributary stream. Water runoff shall be diverted off the trail into an unscarified strip of vegetation before the water crossing.

Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil, including skid trails within seventy-five (75) feet of the crossing shall be revegetated. However, the water runoff diversions shall remain in place.

7. Except for water crossings, skid trails, log yards and other sites where the operation of logging machinery 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 any lake, pond, stream or 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 a water body or wetland, provided that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from a water body or wetland.

8. Where possible, skid trails and logging roads shall be located across the slope, rather than following the slope. Where possible, the grade of skid trails should not exceed twenty-five (25) percent and of logging roads, should not exceed ten (10) percent, except for short distances. Where the grade exceeds the recommended amount above, erosion controls should be followed in accordance with the Maine Department of Conservation's "Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations Best Management Practices". [June, 1991]

#### **4.3.6. 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. 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 as well as recommendations for ways to counteract any existing soil limitations.

#### **4.3.7. Essential Services**

Where feasible, the installation of essential services shall be limited to existing public ways and service corridors. The installation of essential services is not permitted in a Resource Protection Zoning District except to provide service to a permitted use within the District or where the applicant demonstrates that no reasonable alternative exists, and in such circumstances, the services shall be located so as to minimize adverse impacts on surrounding uses and resources, including visual impacts.

#### **4.3.8. Archaeological Sites**

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, 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.

#### **4.3.9. Seasonal Conversions**

1. Seasonal conversions shall be prohibited in any Resource Protection Zoning District.
2. Within any Public Water Supply, Shoreland, Stream Protection or Wetland Protection Zoning District, seasonal conversions shall conform with all applicable requirements of State law and the Maine Subsurface Wastewater Disposal Rules.
3. A seasonal conversion shall be deemed to have been completed if the property owner has installed a subsurface wastewater disposal system in conformance with the approved design attached to the Seasonal Conversion Permit, or if the use of the residential structure is converted from seasonal to year-round use, as defined by State law.

#### **4.3.10. Adaptive Reuse of Special Purpose Buildings [effective 8/11/99]**

A commercial building constructed prior to August 11, 1988 and located in the Resource Protection Zone may be adapted to a use not otherwise allowed in the Resource Protection Zone ("adaptive reuse"), provided the following conditions are met:

1. The building was originally designed and constructed for a special or specific purpose.
2. The use for which the building was originally designed and constructed is no longer technically, economically or practically feasible.
3. The building is structurally sound.
4. The adaptive reuse will be accomplished with no enlargement or expansion of the building.
5. The adaptive reuse can comply with the applicable performance standards of this ordinance without the need for any expansion or enlargement of existing parking and driveway areas and without any increase in impervious surface.
6. The adaptive reuse is a low impact commercial use as defined in this ordinance.
7. Any new use will require a Conditional Use Permit from the Planning Board.

#### **4.4. Clustered Residential Development**

In approving any subdivision in any district, where single family dwellings are allowed, the Planning Board may allow lot sizes smaller than the minimum required by the Zoning District regulations provided that the following standards are met.

**4.4.1.** Clustered residential development shall be allowed provided that net residential density is not greater than would be allowed under traditional subdivision development. All Shoreland Zoning Districts may be counted toward the total lot size of the subdivision except areas zoned Resource Protection and property that is not zoned Resource Protection but meets the definition of Resource Protection as required by the State of Maine Mandatory Shoreland Zoning Act of 1990.

- 4.4.2.** All clustered residential development shall be connected to the Town of Winthrop's Municipal Sewer System.
- 4.4.3.** Minimum lot size shall be twenty thousand (20,000) square feet.
- 4.4.4.** Minimum road frontage per lot shall be one hundred (100) feet.
- 4.4.5.** All house lots in the actual clustered development must be located at least two hundred fifty (250) feet away from the seasonal high water mark of a great pond.
- 4.4.6. Dedicated open space land must be either:**
- a.** Encumbered by a conservation easement
  - b.** Conveyed to a non-profit conservation organization organized under Maine law; and/or
  - c.** Owned, in equal shares, by all lot owners in the development.

Its use shall be limited by easements or restrictive covenants to:

- a.** Conservation
- b.** Agriculture
- c.** Forestry
- d.** Non-intensive public outdoor recreational activities which do not require modifications or improvements to the land other than access points or trails, such as hiking, bird watching, nature study, cross-country skiing, snowmobiling and hunting.

The use of dedicated open spaces may be further restricted by Planning Board stipulations, restrictions imposed by the grantee of the conservation easement or fee interest in the dedicated open space, if appropriate, or by mutual consent of the common owners.

- 4.4.7.** All clustered residential developments must meet the Common Shoreland Access, as per Section 4.3.1. of this Ordinance.
- 4.4.8.** All other requirements of this Ordinance shall be met.

## **ARTICLE 5 - Administration**

### **5.1. Enforcement**

This Ordinance shall be enforced by the Codes Enforcement Officer appointed annually by the Town Manager.

### **5.2. Building or Use Permit**

**5.2.1.** After the enactment of this Ordinance, no building shall be erected, altered, enlarged, demolished or moved in the Town of Winthrop without a written permit granted by the Codes Enforcement Officer. However, no permit shall be required for repairs or improvements not involving structural changes when the reasonable cost thereof is less than one thousand (1,000) dollars, nor when the structure or use is specifically exempted from permits by State law. Where additions, alterations, or improvements involve structural changes, ingress, egress, or sanitary facilities, a permit is required regardless of the amount of cost thereof.

The Codes Enforcement Officer shall be notified of any change in uses of buildings or premises. No person shall engage in any activity, use of land or use of structure which requires a permit in the Zoning District where such would occur without first obtaining the permit. All applications for building or use permits shall be submitted to the Codes Enforcement Officer on the forms provided.

**5.2.2.** Within seven working days of the filing of an application for a Building or Use Permit, the Codes Enforcement Officer shall approve, approve with conditions, deny or refer to the Planning Board for Conditional Use Permit all such applications. The Codes Enforcement Officer's decision shall be in writing on a form designed for the purpose and communicated directly to the applicant. Failure of the Codes Enforcement Officer to issue a written decision on any application for a Building or Use Permit within seven days from the date of filing of such application shall constitute denial of such application. One copy of the Codes Enforcement Officer's decision shall be filed in the Town Office.

(NOTE: Winthrop Utilities District must certify compliance with its requirements prior to issuance of a building permit to property on public sewer.)

**5.2.3.** No Building or Use Permit for a building or use on any lot shall be issued except to the owner of record thereof, or his authorized agent until such person has proven that the proposed construction or alteration of a building for structure shall comply in all respects with the provisions of this Ordinance or with a decision

rendered by the Zoning Board of Appeals or the Planning Board. Any application for such permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on-site soils survey in accordance with the provisions of the Subsurface Wastewater Disposal Rules and Internal Plumbing Rules, the exact locations and size of all buildings or structures already on the lot, the location of new buildings and structures to be constructed, together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure or such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

**5.2.4.** Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Town Manager or the Codes Enforcement Officer. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee. If a person has a valid purchase agreement for the property, a letter of authorization is not necessary. A change in the ownership of the property shall not require the issuance of a new permit provided that the new owner complies with all aspects of the application and of the permit granted.

**5.2.5.** A Building or Use Permit issued by the Codes Enforcement Officer shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not fully completed within three (3) years.

**5.2.6.** The Codes Enforcement Officer shall have freedom of access at reasonable business hours for inspection of all parts of any building or structure regulated by this Ordinance.

**5.2.7.** No permit shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any applicable State law, which the Town is responsible for enforcing.

### **5.3. Plumbing Permit Required**

No Building Permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the Subsurface Wastewater Disposal Rules and Internal Plumbing Rules.

## **5.4. Fees**

**5.4.1.** Building or Use Permits shall be issued upon a payment of a five (5) dollar fee.

**5.4.2.** Plumbing and Subsurface Wastewater Disposal Permits shall be issued upon payment of fees according to the Maine State Internal Plumbing and Subsurface Wastewater Disposal Rules, except as follows:

**5.4.2.1.** The permit fee for plumbing shall (6) dollars per fixture.

**5.4.2.2.** The permit fee for a non-engineered subsurface wastewater disposal system shall be one hundred (100) dollars for a complete system and seventy-five (75) dollars for a separate disposal area.

**5.4.3.** Variance appeals and administrative appeals to the Appeals Board shall be accompanied by a fifty (50) dollar fee.

**5.4.4.** Conditional Use Applications to the Planning Board shall be accompanied by a fifty (50) dollar fee, except as specified in Section 5.4.5.

**5.4.5.** Applications for subdivisions or for multi-family dwellings submitted to the Planning Board shall be accompanied by a fee of one hundred (100) dollars per dwelling unit or per lot proposed in the preliminary, final or approved subdivision plan, whichever is greatest.

**5.4.6.** (reserved for site plan review fees)

**5.4.7.** The Codes Enforcement Officer shall charge a double fee for any application which is submitted after the proposed use or construction has been initiated.

**5.4.8.** Earth-moving Permits for routine applications not requiring Planning Board approval the fee is ten (10) dollars.

**5.4.9.** Timber-harvesting Permits: For routine applications not requiring Planning Board approval the fee is ten (10) dollars.

**5.4.10.** Letters of Certification: All written letters of certification such as floodplain determinations, waiver of occupancy permits, compliance with zoning standards to banks, title companies, attorneys, surveyors, real estate agents and property owners the fee is ten (10) dollars.

## **5.5. Enforcement Officer**

It shall be the duty of the Codes Enforcement Officer to enforce the provisions of this Ordinance. The Codes Enforcement Officer, on his or her own initiative or upon being notified in writing of a possible violation of this Ordinance, shall make or cause to be made, an investigation of the facts and an inspection of the premises where such violation may exist. Upon finding that any provision of this Ordinance is being violated, the Codes Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of such notice shall be submitted to the Town Office and be maintained as a permanent record.

The Codes Enforcement Officer shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings, structures, additions, or work done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. Unless approved by the Codes Enforcement Officer, any deviation from the plans, facts and information contained within a permit application, and/or noncompliance with the terms and conditions of any permit granted to the applicant shall be considered a violation.

The Codes Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation of permits, appeals, court actions, violations investigated and found, and fees collected.

## **5.6. Legal Action and Violations**

When any violation of any provision of this Ordinance shall be found to exist, as reported by the Codes Enforcement Officer, the Town Manager shall notify the Town Attorney, as designated by the Town Council, to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Winthrop.

## **5.7. Fines**

Any person, firm or corporation being the owner or having control or use of any building or premises, or a landowner's agent or a contractor, who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and on conviction shall be fined not less than one hundred (100) dollars or more than two thousand-five hundred (2,500) dollars. Each day such a violation is allowed to exist after notification shall constitute a separate offense.

## **5.8. Appeals and Conditional Use Permits**

### **5.8.1. General Procedure**

**5.8.1.1.** All appeals or applications for Conditional Use Permits shall be based upon a written decision of the Codes Enforcement Officer.

**5.8.1.2.** Administrative appeals and variance appeals shall be heard and decided upon by the Board of Appeals in accordance with the provisions of this Ordinance.

**5.8.1.3.** Applications for Conditional Use Permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.

**5.8.1.4.** Administrative appeals shall lie from the decision of the Codes Enforcement Officer to the Board of Appeals to the Superior Court according to State law. Any aggrieved party may take an appeal to Superior Court within forty-five (45) days from the date of the Board of Appeals decision.

**5.8.1.5.** Conditional Use Appeals shall lie from the decision of the Codes Enforcement Officer to the Planning Board and from the Planning Board to the Superior Court according to State law.

### **5.8.2. Zoning Board of Appeals**

#### **5.8.2.1. Establishment**

A Zoning Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.

### **5.8.2.2. Appointment and Composition**

- 1) The Zoning Board of Appeals shall be appointed by the Town Council and shall consist of five (5) members and not more than two associate members, all of whom shall be legal residents of the Town, serving staggered terms of at least three (3) and not more than five (5) years. The Board shall annually elect a Chair from its members and may appoint a recording secretary from outside the Board, who shall be compensated for the duties performed. The Secretary shall keep the minutes of the proceedings of the Zoning Board of Appeals which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall be at least three (3) members attending.**
- 2) Neither a municipal officer nor his/her spouse may serve as a member or associate member of the Zoning Board of Appeals.**
- 3) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.**
- 4) A member of the Board may be dismissed for cause by the Town Council upon written charges and after public hearing.**

### **5.8.2.3. Powers and Duties**

- 1) Administrative Appeals: The Zoning Board of Appeals shall hear and decide where it is alleged there is an error in any order, requirement, decision or determination by the Codes Enforcement Officer in the administration of this Ordinance. The action of the Codes Enforcement Officer may be modified or reversed by the Board by concurring vote of at least three (3) members.**
- 2) Variance Appeals: The Zoning Board of Appeals shall hear and decide requests for variances in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where a literal enforcement of this Ordinance would result in undue hardship. A financial hardship shall not constitute grounds for granting a variance. The term "undue hardship" shall mean:
  - a) That the property in question cannot yield a reasonable return unless a variance is granted;**
  - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;****

c) That the granting of the variance will not alter the essential character of the locality, adversely affect adjoining or nearby properties, nor endanger the public health, safety and welfare, and,

d) That the hardship is not the result of action taken by the applicant or a prior owner.

3) Notwithstanding these criteria, the Board may grant a variance to a property owner for the purpose of making that property accessible to a resident individual with a disability as defined by 5 M.R.S.A. 4553. The Board shall restrict the variance solely to the installation of equipment or structures necessary for access and egress. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or the time the person with the disability lives on the property, pursuant to 30-A M.R.S.A. 4353, subsection 4-A.

4) As used in this Ordinance, a variance is authorized only for height, area and size of structures or size of yards or open spaces,. A variance shall be required for any addition or expansion to an existing, nonconforming structure if any part of the work will cause further non-conformance with the dimensional requirements. Establishment or expansion of uses or structures otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Zoning Board of Appeals shall grant a variance only by concurring vote of at least three (3) members and in so doing, may prescribe conditions and safeguards as are appropriate under this Ordinance.

5) A copy of all variance requests within a shoreland area shall be submitted to the Department of Environmental Protection (DEP) at least twenty (20) days prior to action by the Zoning Board of Appeals. Approved variances within the shoreland areas must be submitted to the Department of Environmental Protection (DEP) within seven (7) days of the decision.

### **5.8.3. Conditional Use Permits**

#### **5.8.3.1. Authorization**

The Planning Board is hereby authorized to decide upon applications for Conditional Use Permits in accordance with State law and the provisions of this Ordinance.

#### **5.8.3.2. Powers and Duties**

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provisions for such Conditional Use is made in this Ordinance.

### **5.8.3.3. Factors Applicable to Conditional Uses**

The applicant shall have the burden of proving that the application is in compliance with the requirements of this Ordinance. The Planning Board shall approve or approve with conditions if it makes a positive finding on all of the following applicable criteria, based on the information presented, that:

1. The proposed use will maintain safe and healthful conditions.
2. The proposed use will be established and maintained in accordance with an approved erosion and sediment control plan.
3. Access to the site from existing or proposed roads is safe and adequate. The proposed use will not cause or aggravate undue traffic congestion.
4. The proposed use will have adequate water supplies to meet the demands of the proposed use and for fire protections purposes.
5. Adequate provision has been made for the disposal of all waste water and solid waste.
6. The proposed use will not cause water pollution and sedimentation.
7. The proposed use will provide for adequate management of stormwater runoff without adverse impact on the site, adjacent land, or water bodies.
8. The site design is in conformance with all flood hazard protection regulations, and any proposed construction or fill will not affect a water body's ability to store floodwater.
9. The proposed use will not have an adverse impact on spawning grounds, fish, aquatic life, bird and other wildlife habitat.
10. The proposed use will conserve shore cover, visual and physical points of access to lakes, ponds and streams and natural beauty.
11. The proposed use will not adversely affect the quantity or quality of ground water.
12. The proposed use will comply with all applicable performance standards in this Ordinance.
13. The proposed site design provides adequate buffers and on site landscaping to protect neighboring property from detrimental factors of the proposed development.
14. The proposed use will protect archaeological and historic resources as designated in the Comprehensive Plan.

#### **5.8.4. Appeal and Conditional Use Permit Procedures**

**5.8.4.1.** In all appeals cases, a person aggrieved by a decision of the Codes Enforcement Officer shall commence his/her appeal within thirty (30) days after a decision is made by the Codes Enforcement Officer. The appeal shall be filed with the Zoning Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the ground for the appeal. The burden of proof is the applicant 's responsibility.

In all Conditional Use applications, a person informed by the Codes Enforcement Officer that he/she requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose.

**5.8.4.2.** Following the filing of an appeal or application, and before taking action on any appeal or application the ZBA or Planning Board shall hold a public hearing on the appeal or application within thirty-five (35) days. The Codes Enforcement Officer shall notify the Planning Board, the Zoning Board of Appeals and the Town Manager at least seven (7) days in advance of the time and place of the hearing, and shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area.

**5.8.4.3.** In all appeals or applications, the Zoning Board of Appeals or Planning Board shall notify the appellant or applicant, the owners of all abutting property and the owners of all property within five hundred (500) feet of the property involved by regular mail at least ten (10) days in advance of the hearing, of the nature of the appeal or application and of the time and place of the public hearing. The Codes Enforcement Officer shall maintain a record of addressees.

**5.8.4.4.** The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owners to receive a notice of public hearing shall not necessitate another hearing or invalidate any action taken by the Zoning Board of Appeals or Planning Board.

**5.8.4.5.** At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

**5.8.4.6.** The Codes Enforcement Officer or a designated assistant shall attend all hearings and may present plans, photographs, or other material appropriate for an understanding of the application.

**5.8.4.7.** The appellant's or applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

**5.8.4.8.** Within seven (7) days of the public hearing, the Zoning Board of Appeals or Planning Board shall reach a decision on an appeal or application and shall inform, in writing, the appellant or applicant of its decision and its reason thereof. All decisions shall become a part of the record and shall include a statement of findings and conclusions.

**5.8.4.9.** Upon notification of the granting of an appeal by the Zoning Board of Appeals, the Codes Enforcement Officer shall immediately issue a Building Permit in accordance with the conditions of the approval.

**5.8.4.10.** A variance or Conditional Use Permit shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted or the Conditional Use authorized.

**5.8.5. Conditions Attached to Variance Appeals and Conditional Uses**

**5.8.5.1.** Upon consideration of a variance appeal or Conditional Use Application, the Zoning Board of Appeals or Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance.

**5.8.5.2.** In order to secure information upon which to base its determination, the Zoning Board of Appeals or Planning Board may require the applicant to furnish, in addition to the information required for a Building or Conditional Use Permit, the following information:

- 1) A plan of the area showing contours at intervals to be determined by the Zoning Board of Appeals or Planning Board and referenced to Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.
- 2) A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.
- 3) Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- 4) Plans of buildings, sewage disposal facilities and water supply systems.
- 5) Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance. In evaluating each appeal or application, the Zoning Board of Appeals or Planning Board may request the assistance of the Kennebec Valley Council of Governments, Kennebec County Soil and Water Conservation District, Cobbossee Watershed District, and any other State or Federal agency which can provide technical assistance. The Board may require that an applicant pay any site review fees required by such agencies prior to a decision on an application.

# ARTICLE 6

## Construction of Language and Definitions

### 6.1. Construction of Language

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

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

Terms not defined shall have the customary dictionary meaning.

### 6.2. Definitions

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

**Accessory Use of Structure** A use or structure of a nature customarily incidental and subordinate to those of the principal use or structure. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Adaptive Reuse** The development of a new use for an older commercial building originally designed for a special or specific purpose.

**Agriculture** The use of land for the cultivation of a wide range of crops, including row and cover crops, pasture, fruit and orchard produce, ornamental and green house products; for raising poultry and producing eggs; for livestock production including, but not limited to, cattle, horses, swine, sheep and goats; and for bee-keeping; on a commercial basis.

**Intensive Agriculture** Livestock production involving more than fifty (50) animal units, as defined by the U.S. Department of Agriculture.

**Aggrieved Person** A party to a proceeding or a person whose interests are damaged or

adversely affected by a decision, an action, or a failure to act of another person or governmental body.

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

**Automobile Graveyard** A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked motor vehicles.

**Billboard** A sign, structure or surface larger than six (6) square feet which is available for advertising purposes for goods or services rendered off the premises, excluding directional signs.

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

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

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

**Campground** Any premises established for overnight use for two or more parties for the purpose of temporary camping including, but not limited to, tents, recreational vehicles, or other shelters.

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

**Cluster Development** A development controlled by a single developer on any size parcel of land which contemplates an imaginative, more compact grouping of residential housing units. Cluster developments treat the developed area as an entirety to promote flexibility of design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of common open space, and the retention of the natural characteristics of the land.

**Codes Enforcement Officer** A person appointed to administer and enforce this Ordinance.

**Commercial Use** The use of lands, buildings or structures, other than a "home occupation", the intent and result of which activity is the production of income from the

buying and selling of goods and/or services, exclusive of the rental of residential

buildings and/or dwelling units. Specific types of commercial uses are defined as follows:

**Low Impact** A barber shop, beauty shop, hair styling salon, small appliance or television repair shop, professional offices (accounting, consulting, insurance, legal, medical, realty, or veterinary), nursing and convalescent homes, and similar uses.

**Medium Impact** Retail sales with less than twenty-five hundred (2500) square feet of gross floor area and open no more than twelve (12) hours per day (with no sale of gasoline), instructional facilities serving fewer than twenty (20) students at any one time, and similar uses.

**High Impact** Any commercial use not otherwise defined or specified in this Ordinance.

To further define specific commercial uses, the following table shall be used as guidance:

<b>Commercial Attributes</b>	<b>Low</b>	<b>Medium</b>	<b>High</b>
Hours of Operation	8 hours	8-12 hours	12 hours
Impact on Abutters	none	slight	significant
Number of Customers	0-5/hr	6-25/hr	25+/hr
Duration of Visit	short	medium	lengthy
Peak Traffic Times	daytime only	daytime or evening	daytime and evening
Building Compatibility with Neighborhood	similar	slightly different	highly different
Restaurant seating	Less than 20	20-75	More than 75

Any tower or similar structure not exempted by provisions of Section 4 of the Winthrop Wireless Telecommunications Facilities Ordinance, and excepting Stealth Towers, shall be considered a commercial use.

**Common Shoreland Access** The use of any shorefront property to provide a point of access for the occupants of three (3) or more dwelling units, whether accomplished through ownership, lease, easement, or any other arrangement.

**Conditional Use** A use permitted only after review and approval by the Planning

Board. A Conditional Use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purposes of this Ordinance. Such uses may be permitted if specific provision of such Conditional Use is made in this Ordinance.

**Conditional Use Permit** A permit authorized by the Planning Board for a Conditional Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this Ordinance.

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

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

**Cultural Features** Structures or features historically used by the community such as railroad tracks, churches, municipal buildings, etc.

**Development** Includes structures, parking areas, out buildings, and all other appurtenant facilities.

**Dimensional Requirements** spatial requirements for development, including but not limited to lot size, setbacks, and shore frontage.

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

**Driveway** A vehicular access less than five hundred (500) feet in length serving no more than two lots.

**Dwelling** A fixed structure, containing one or more dwelling units.

**Dwelling Units** A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall not include mobile homes, trailers, or recreational vehicles.

**Earth** Topsoil, sand, gravel, clay, peat, rock, or other minerals.

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

**Essential Services** Gas, electrical, or communication facilities; steam, fuel, electric power or water transmission or distribution systems; collection, supply, or disposal systems. Such systems may include towers, storage tanks, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Eutrophication** The process of nutrient enrichment of water bodies.

**Excavation** Any removal of earth or earth material from its original position.

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

**Expansion of a Use** The addition of months to the regular operating time of a use; or the use of more floor area or ground area devoted to a particular use.

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

**Fast Food/Drive Thru Restaurant** A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.

**Filling** Depositing or dumping any matter on or into the ground or water.

**Floor Area (Gross)** The sum, in square feet, of the horizontal areas of the floors enclosed by exterior walls (as measured from the interior faces of the exterior walls), plus the horizontal area of any unenclosed portions such as decks and porches.

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

**Foundation** The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts, or footwalls.

**Frontage - Road or Street** The horizontal distance between the intersections of the side lot lines with the front lot line.

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

**Functionally Water-Dependent Uses** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, fish storage, processing and marketing facilities, marinas, and industrial uses dependent on water-borne transportation or requiring large volumes of water and which cannot reasonably be located or operated at an inland site. The definition does not include private boathouses but could include a boathouse associated with a marina.

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

**Great Pond** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres, except where the latter is completely surrounded by land held by a single owner.

**Gross Floor Area (GFA)** The area in square feet of any applicable structure, utilized by the public, calculated by using the exterior dimensions thereof.

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

**High Water Elevation, Normal** Along lakes and ponds, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams, the highest elevation on the bank of a channel at which the water has left a definite mark. Specifically, normal high water elevations of major lakes and ponds in Winthrop is defined as follows in feet above Mean Sea Level, National Geodetic Vertical Datum:

Annabessacook Lake	170.2 feet
Berry Pond	241.5 feet
Cobbossee Lake	167.6 feet
Dexter Pond	241.5 feet
Little Cobbossee Lake	167.6 feet
Lower and Upper Narrows Ponds	172.5 feet
Maranacook Lake	212.0 feet
Wilson Pond	241.5 feet

**Home Occupation** A business, occupation, profession or trade which is conducted for gain or support entirely within a dwelling unit or structure accessory to a dwelling unit; which is carried on by a member of the family residing in the dwelling unit; which is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which does not change the essential residential character of the dwelling unit.

**Impervious area** Surface that is impermeable to water and prevents infiltration of water into the soil, including but not limited to roofs, pavement, and crushed rock or gravel, except those areas designed, maintained and functioning as permanent infiltration areas.

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

**Industrial** The assembling, fabrication, finishing, manufacture, packaging or processing of goods.

**Junkyard** A yard, field or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture; discarded, scrap and junked lumber; old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous and nonferrous material.

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

**Livestock Keeping** The keeping of animals such as poultry, rabbits, goats, sheep, cows, or horses for the use of the immediate household and not for commercial purposes. The term livestock keeping does not include cats, dogs or other household pets.

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

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

**Lot - back or rear** A lot not located with frontage on a road or shoreline. Such a lot shall have a width equal to the frontage requirements of the Zoning District.

**Lot - corner** A lot with at least two contiguous sides abutting upon a street.

**Lot - interior** Any lot other than a corner lot.

**Lot lines** The lines bounding a lot as defined below:

**Front lot line:** On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from each street. On a so-called back lot the front line will be the direction of entry.

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

**Side lot line:** Any lot line other than the front lot line or rear lot line.

**Lot width** The horizontal distance between the side lot lines, measured at the setback line.

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

**Lot, Shorefront** Any lot abutting a water body.

**Lot - Through** Any interior lot having frontages on two more or less parallel streets, or between a street and a water body, or between two water bodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and water bodies shall be considered frontage, and front yards shall be provided as required.

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

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

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

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

**Mobile Home Park** A parcel of land under unified ownership approved by the Town for the placement of three (3) or more mobile homes. A mobile home park is a subdivision as defined by the State Subdivision Law, and is subject to that law.

**Multi-Family Dwelling** A dwelling designed for occupancy by three (3) or more families, each living in its own separate quarters.

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

**Net Residential Density** The number of dwelling units per net residential acre.

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

**Open space use** A use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat. Examples include forest and wildlife management.

**Parking space** A minimum area of one hundred sixty-seven (167) square feet, exclusive of drivers, aisles or entrances, fully accessible for the storage or parking of vehicles.

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

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

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

**Planned Unit Development** A development controlled by a single developer on a tract ten acres or larger in size for residential, commercial, or industrial (or any combination of the preceding) purposes. PUD's treat the developed area as an entirety to promote flexibility of design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of common open space, and the retention of the natural characteristics of the land.

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

**Principal building** The building in which the primary use of the lot is conducted.

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

**Private water supply** A dug well, drilled well, point or spring used as a source of drinking water.

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

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

**Public water supply** A drinking water supply provided by the Winthrop Utilities District or Augusta Water District.

**Recreational facility** A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreation activities, excluding boat launching facilities.

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

**Restaurant** An establishment where meals are prepared and served to the public for consumption for compensation

**Riprap** Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two horizontal to one vertical or flatter.

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

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

1. In the case of electric service, the installation of wires and poles is located entirely upon the premises of the customer requesting service or upon a right-of-way, and the total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service, the extension (regardless of length) is accomplished only by the installation of wires to existing poles, or the extension is less than one thousand (1,000) feet when new poles or underground installation is needed.

**Setback** The minimum horizontal distance from a lot line or the normal high water line to the nearest part of a structure, road, parking space, or other regulated object or area. Setbacks from public or private ways shall be measured from the edge of the right-of-way.

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

**Standard Restaurant** A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the meal.

**Stealth Tower** Any structure which allows for use of a pre-existing building, steeple, silo, or other object of sufficient altitude for commercial wireless telecommunications, and which:

1. does not increase the height of the original structure.
2. blends visually to a very high degree with the original structure.

Examples are: a facility using a steeple, which has the appearance of being part of the steeple; a facility atop a building which has the appearance of a chimney, vent, or other traditional use, and which is no higher than the highest point of the original structure.

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

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

distinct from a stream as defined by this Ordinance.

**Structure** Anything constructed or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, except a boundary wall or fence. In addition, anything constructed or erected with a fixed location on or in the ground, including structures temporarily or permanently located such as decks and satellite dishes. Temporary tents and screen-houses, which do not disturb existing buffer strips shall not be regulated as structures.

**Subdivision** The division of a tract or parcel of land into three (3) or more lots, as defined by 30-A M.R.S.A. 4401.

**Substantially started** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

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

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

**Tower** Any structure the primary purpose of which is to provide sufficient height for a commercial purpose, such as, but not limited to, telecommunications.

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

**Upland edge** The boundary between upland and wetland.

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

**Variance** A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in undue hardship.

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

**Vegetation** All live trees (whether over or under four [4] inches in diameter, as measured at 4 1/2 feet above ground level), shrubs, ground cover and other plants.

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

**Water body** Any great pond, river or stream.

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

**Wetland** A freshwater wetland as defined by this Ordinance.

**Wetlands associated with great ponds and rivers** Freshwater wetlands contiguous with or adjacent to a great pond or river and which during normal high water are connected by surface water. Also included are freshwater wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river.

**Wetland - Forested** A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

**Wetland - Freshwater** Freshwater swamps, marshes, bogs and similar areas other than forested wetlands which are:

1. Ten (10) or more contiguous acres, or of less than ten (10) acres and adjacent to a surface water body (excluding any river or stream or tributary stream) such that the combined surfaces area is in excess of ten (10) acres.
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and under normal circumstances does support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

**Front yard** The area of land between the front lot line and the nearest part of the principal building.

**Rear yard** The area of land between the rear lot line and the nearest part of the

principal building.

**Side yard** The area of land between the side lot line and the nearest part of the principal building.