



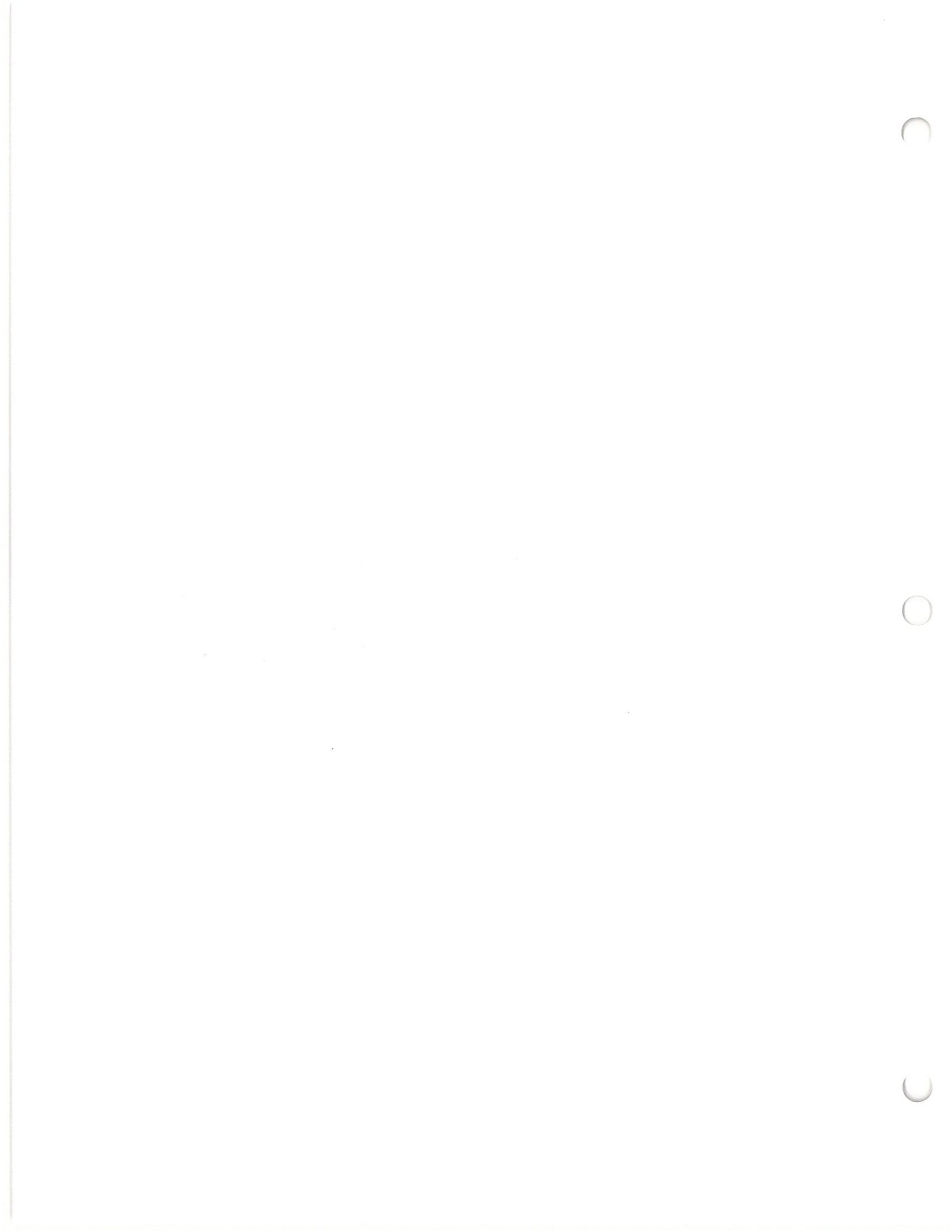
Winthrop Planning Board Meeting Agenda
7 PM Wednesday, May 8, 2024
17 Highland Ave. and via Zoom
<https://us06web.zoom.us/j/82479790392>
Meeting ID: 824 7979 0392

1. Call to Order
2. Roll Call
3. Acceptance of minutes from
 - February 14, 2024
 - April 10, 2024
 - April 17, 2023
 - April 24, 2024
4. Review of Zoning Map with Joel Greenwood from Kennebec Valley Council of Governments. Include discussion of inclusion of the Groundwater Protection Overlay District.
5. Case #24-009: 206 Memorial Drive, Conditional Use Permit request to remove and replace a garage including a 30% expansion of the nonconforming structure in the Shoreland District. Steve & Stacy Shuman, Map 042 Lot 003
6. Other Business

Discussion of the following:

- Mineral Extraction Ordinance clarification
- Amending Zoning Ordinance to incorporate Groundwater Protection Ordinance elements.
- Repealing Groundwater Protection Ordinance
- Winthrop Planning Board By-Laws.
- Zoning Ordinance re-organization status
 - Village side yard setback
 - Definitions from other ordinances incorporated.
- Table of Uses

7. Adjournment





Winthrop Planning Board Meeting Minutes
7 PM Wednesday, February 14, 2024
17 Highland Ave. and via Zoom

This meeting can be watched online at: <https://www.youtube.com/watch?v=gWmVfjgWJ2k>

1. Call to Order & Roll Call

Present: Edward Vigneault, Aaron Chase, Donald Mattice, Gregory Stewart, Bettie Harris-Howard

Absent: James King, Jaime Wolf, Richard Dory

2. Discussion and recommendation of Mineral Extraction Ordinance for Town Council consideration

Motion: Edward Vigneault made a motion to continue the item to the March 13, 2024, Planning Board meeting. The motion was seconded by Aaron Chase.

Vote: Yea – unanimous. Motion carried.

3. Case 24-01: 95 Woodlawn Lane, Consideration of a request for a Conditional Use Permit to expand a legally non-conforming cottage in the Shoreland Zone, Richard Jones & Susan Bond Map 025 Lot 005

William Thayer was present on behalf of the owner and gave a presentation. Haley Blanco, Architect and the two owners were also present.

The Architect Halley Blanco went over building details. She attended remotely and shared her screen via zoom.

Bill Monagle, Executive Director of the Cobossee Watershed District was present and noted his concerns were related to erosion control.

Public Input: No one from the public spoke.

Board discussion included basement, depth of deepest portion of the basement to high groundwater level, restrictions within the 25' setback pertaining to height, letter of map amendment for the foundation, calculation of 30% expansion, drains to lake, and plunge pool.

Motion: Mr. Stewart made a motion to table the item and indicated additional information was needed regarding height, drainage, tree removal and replanting plan, reconsider daylight drains, provide a schematic of the plan/detail, and increase the plan to protect from erosion during construction (plunge pools etc.). The motion was seconded by Ed Vignault.

Vote: Yea – unanimous. Motion carried.

4. Case 24-02: 54 Sunset Pass Lane, Consideration of a request for a Conditional Use Permit to expand a legally non-conforming house in the Shoreland Zone, Joanne Bronson, Map 049 Lot 005

Lexi White was present acting as agent. She gave the Board a presentation of the proposed project. Jocelyn Dickson was present via Zoom.

Public Input: No one from the public spoke.

Motion: A motion was made by Greg Stewart to approve the application with the condition that the silt fence be extended. The motion was seconded by Mr. Vignault.

Vote: Yea – unanimous. Motion carried.

5. Case 24-03: 2215 US Route 202, Consideration of a request for a Conditional Use Permit to establish a restaurant in an existing commercial building in the Limited Commercial Zone, Thomas J Quinn Jr, Map 009 Lot 059

Kelly and Thomas Quinn were present. Kelly gave an overview of the proposal.

Bill Monagle was present and asked about surface materials.

Public Input: No one spoke during the public -input period.

Motion: Greg Stewart made a motion to approve the application with the condition that that all ordinance criteria must be met before a building permit is issued. The motion was seconded by Brent McCarthy

Vote: Yea – unanimous. Motion carried.

6. The meeting adjourned at 9:20pm.

Respectfully submitted,

Dawn Emerson
Town Planner



Winthrop Planning Board Meeting Agenda
7 PM Wednesday, April 10, 2024
17 Highland Ave. and via Zoom

This meeting can be watched online at: <https://www.youtube.com/watch?v=gWmVfjgWJ2k>

1. Call to Order & Roll Call

Acting Chair Ed Vignault called the meeting to order at 7:04PM.

Present: Jim King (Zoom), Jaime Wolf (Zoom), Don Mattice, Aaron Chase, Rick Dorey, Ed Vignault

Absent: Bettie Harris Howard, Greg Stewart, Brent McCarthy

2. Acceptance of minutes from 3.27.24

Motion: A motion was made by Rick Dorey and seconded by Don Mattice to approve the minutes from 3.27.24 with the note that Greg Stewart's name needs to be changed as it is spelled incorrectly in the minutes.

It was also noted that minutes should indicate members of the Board and the public who attend the meeting via Zoom vs in person.

Vote: Yea – Unanimous. Motion carried.

3. Case 24-02: 54 Sunset Pass Lane, Consideration of a request for a Conditional Use Permit to expand a legally non-conforming house in the Shoreland Zone, Joanne Bronson, Map 049 Lot 005

Joanne Bronson and Jocelyn Dickson (Zoom) were present as the applicant and agent and gave an overview of the updated project plans.

Public Comment: No one spoke during the public comment period.

Motion: Mr. Dorey moved to approve the application. Mr. Mattice seconded the motion.

Vote: Yea – Unanimous. Motion carried.

4. Case #24-008: 41 Mace Ave, Consideration of a request for a Conditional Use Permit to replace a carport with a garage including a 30% expansion of the nonconforming structure in the Shoreland District. Steve Holway, Map 052 Lot 036

Patrick Hansford is the Architect for the project and was present on behalf of the applicant. Mr. Holway was present via Zoom.

Public Comment: No one spoke during the public comment period.

Motion: Mr. Mattice moved to approve the application. Mr. Dorey seconded the motion.

Vote: Yea – Unanimous. Motion carried.

5. Other Business:

Election of Officers:

Motion: Mr. Mattice nominated Rick Dorey as Planning Board Chair. The motion was seconded by Jaimee Wolf.

Vote: All in favor with Mr. Dorey abstaining. Motion carried.

Motion: Mr. Chase nominated Bettie Harris-Howard as Vice Chair. The motion was seconded by Mr. Dorey.

Vote: Yea – Unanimous. Motion carried.

Motion: Mr. Mattice nominated Jaime Wolf as Board Secretary. The motion was seconded by Rick Dorey.

Vote: Yea – Unanimous. Motion carried.

The following items were discussed. No actions were taken.

- Discussion of Policies and Procedures
- Discussion of zoning re-organization work
- Application of fill threshold in SOD ordinance
- Discussion of findings, determination of completeness & application forms

The meeting adjourned at 8:40PM.

Respectfully submitted,

Dawn Emerson
Town Planner



Winthrop Planning Board Minutes
April 17, 2024 , 7 PM Wednesday
17 Highland Ave.

1. Call to Order & Roll Call

The meeting was called to order at 7PM by Chair Bettie Harris-Howard.

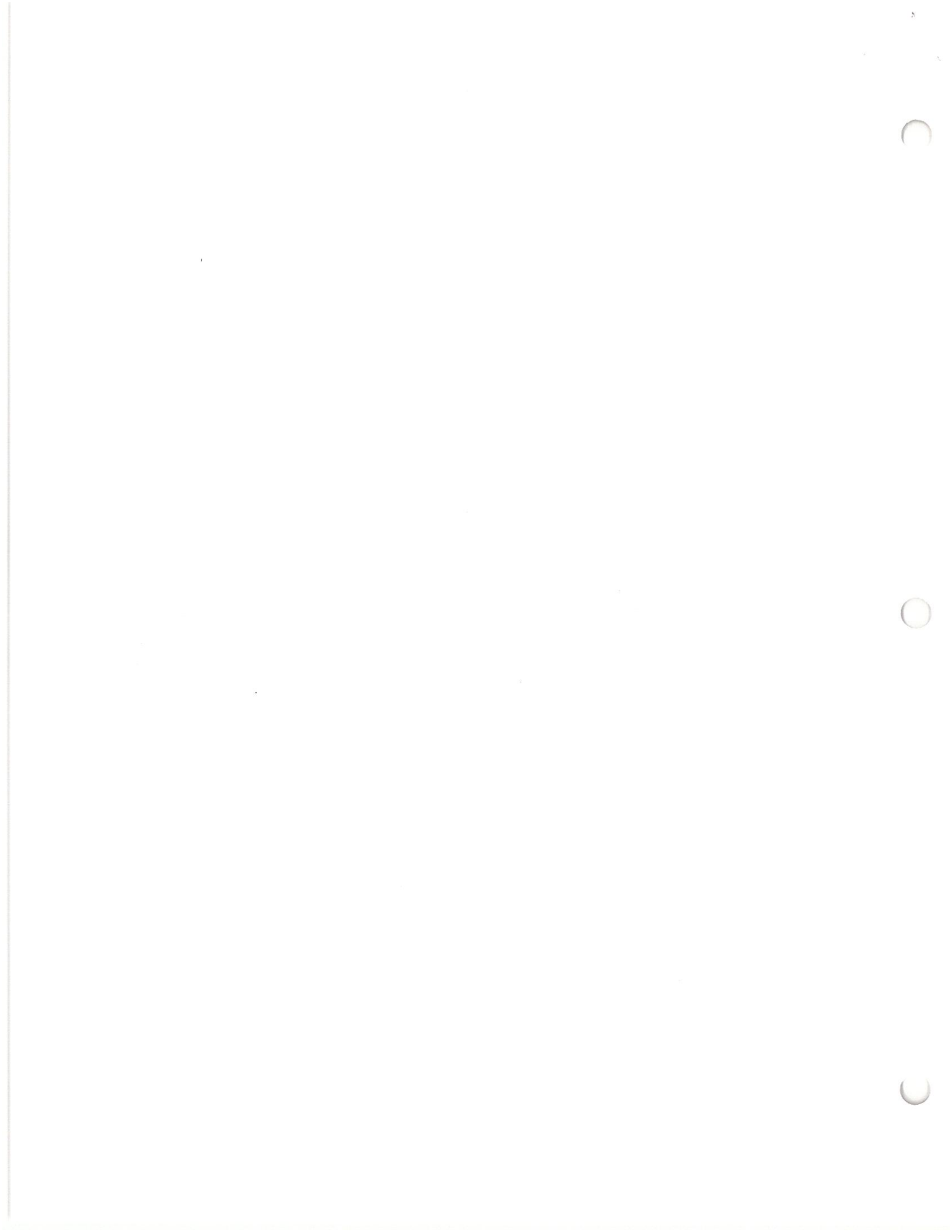
2. Present: Bettie Harris-Howard, Ed Vignault, Don Mattice, Rick Dorey, Aaron Chase, Greg Stuart, Jaime Wolf
Absent: Jim King

3. The following items were discussed. No actions were taken.

- Planning Board Policies and Procedures
- Public meeting guidelines
- CUP process overview document
- Determination of completeness
- Level of Planning Board or Staff review for fill in the SOD
- 2023 Zoning Re-Organization
- Zoning Map status
- MRSA 4401.4 Multi-family as site plan vs subdivision
- LD 772 Retro-active ordinance/pending status
- LD 337 Mobile home on single family lot

Respectfully submitted,

Dawn Emerson
Town Planner





**Winthrop Planning Board Meeting Minutes
7PM Wednesday, April 24, 2024
17 Highland Ave. and via Zoom**

DRAFT

Item #1 Call to Order:

Mr. Dorey called the meeting to order at 7:00 P.M.

Item #2 Roll Call:

Present: Brent McCarthy, Jaime Wolf, Don Mattice, Rick Dorey, Greg Stewart, Aaron Chase

Absent: Bettie Harris Howard, Jim King, Andy Council Liaison

Mr. Dorey appointed Brent McCarthy as a full voting member for the duration of the meeting.

Item #3 Minutes:

No minutes were available to approve.

Case #24-009: 206 Memorial Drive, Conditional Use Permit request to remove and replace a garage including a 30% expansion of the nonconforming structure in the Shoreland District. Steve & Stacy Shuman, Map 042 Lot 003

Motion: Greg Stewart made a motion to deem the application complete. The motion was seconded by Don Mattice

Vote: Yea – Unanimous. Motion carried.

Bill Williams was present representing the applicant. He gave the Board an overview of the project.

Mr. Stewart noted the finished floor elevation is not shown in relation to the flood elevation. It must be a minimum of 1' above. The applicant was advised that information would need to be submitted before the Board could make a final decision.

Motion: Greg Stewart made a motion to continue the item to the May 8, 2024 Planning Board meeting. The finished floor elevation should be shown at least one foot above flood elevation and plans modified if necessary. The motion was seconded by Don Mattice.

Vote: Yea – Unanimous. Motion carried.

Item #5: Case #24-011: Encore Renewable Energy, Carlton Pond Road, Sketch Plan Discussion of a proposed 2.00 MW (AC) Solar Array, Limited Commercial District, Map 009 Lots 063A & 065.

Jeff Reed of Sevee and Maher was present on behalf of the applicant and gave an overview of the project.

Ralph Mima of Encore Redevelopment was present as the applicant. He reviewed his history of involvement in this type of development.

Board questions included soils and wetlands ability to support to replanting, viewshed study should be done with and without a buffer to determine where in town the project will be visible, cost estimate for surety for decommissioning should be conservative, potential impact from lightening strikes/weather, toxicity of panels, impact on the ground, battery storage, height of panels, herbicide, shallow well impacts.

Public Input: Ben Spencer was present via zoom and asked that the applicant provide a copy of the update plan presented to the Board this evening.

Mark Stevens of 52 Pine Knoll Road was present and asked about lighting, location of transformer pad, fault clearing and speed.

Anita Lagasse, 6 Kennet Lane asked about the effect on wildlife.

No decisions regarding a sketch plan are made and the project may come back to the Board with a formal application in the future.

Item #6: Case 23-010: Winada Drive Holdings, LLC, Winada Drive, Industrial Zone, request for a subdivision amendment to merge Map 002 Lots 6J, 6K, and 6I.

The item was removed from the agenda due to missing information.

Item #7: Other Business

The Board discussed the status of the Zoning Map. It is anticipated that Joel Greenwood of KVCOG will be at the next Planning Board meeting to review the map. It was determined that the map will be posted online for 2 weeks after the Board reviews it before it is recommended to the Council for formal recognition of the official zoning map.

Item #8: Adjournment

The meeting was adjourned at 8:30P.M.

Respectfully submitted,

Dawn Emerson
Winthrop Town Planner

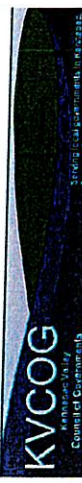
Winthrop Comprehensive Plan 2010 Water Resources

-  Streams
-  Rivers, Lakes and Ponds
-  Wetlands
-  Watershed Boundaries
-  Aquifers

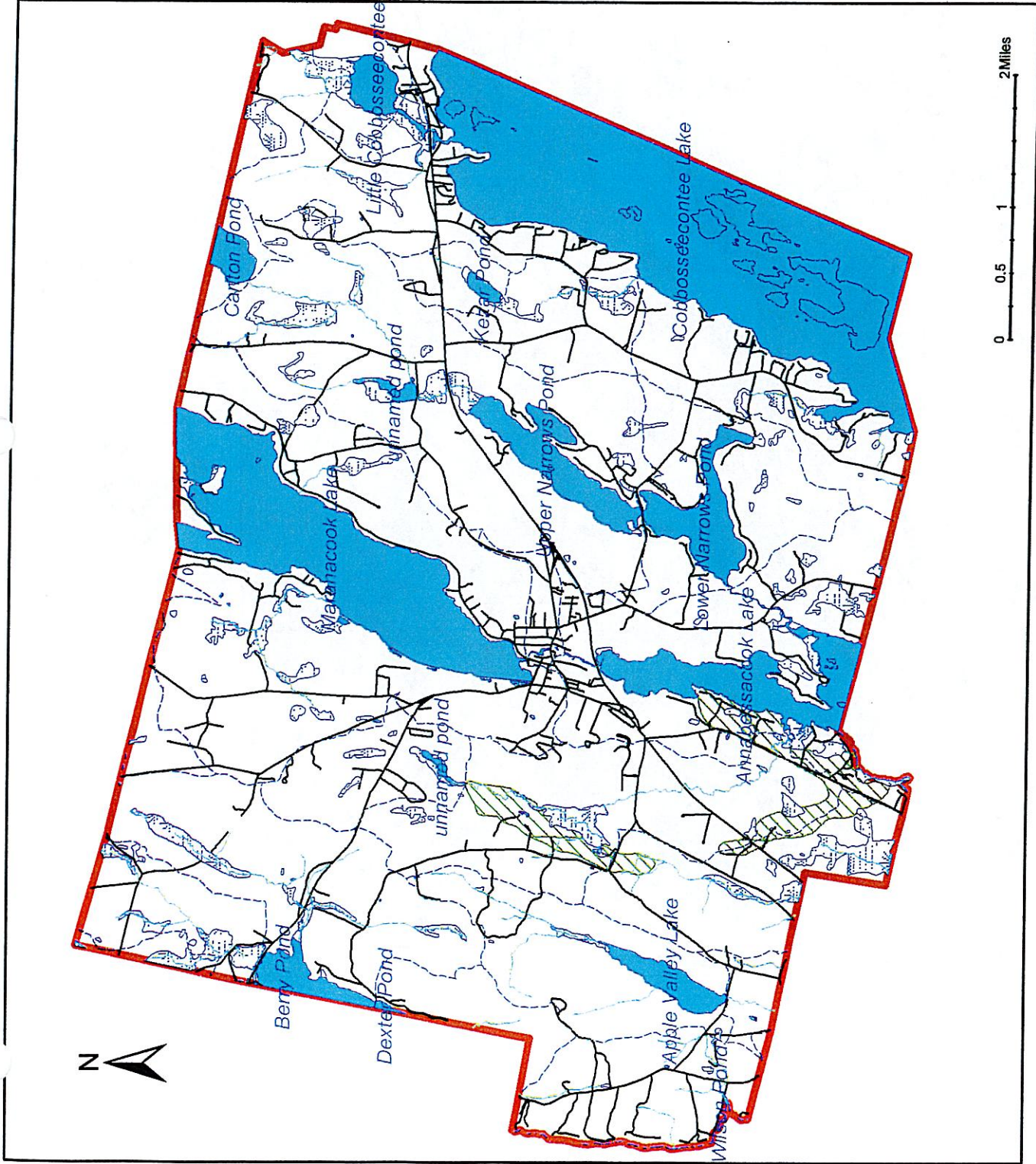
Note: All identified aquifers are Type 1, yielding 10-50 gallons per minute.

Prepared by the
Kennebec Valley Council of Governments
June 2010

FOR PLANNING PURPOSES ONLY



Agenda
Item
#4



Beginning with HABITAT
 An Approach to Creating and Managing Systems
 Based on Plan, Act, Monitor, and Adapt

**Primary Map 1
 Water Resources & Riparian Habitats
 Winthrop**

This map is non-regulatory and is intended for planning purposes only.



LEGEND

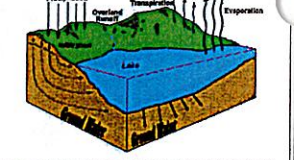
- The map depicts riparian areas associated with major surface water features on a regional scale. Riparian areas are the lands adjacent to streams or rivers, known to occur on the landscape and should not be used as a substitute for on the ground survey. The map should be used as a planning reference only and a reliance to identify the natural hydrologic connections between surface water features. Protecting riparian habitat protects water quality, riparian habitat connections, and achieves important economic resources including recreational and commercial fisheries.
- Selected Town or Area
 - Organized Township Boundary
 - Unorganized Township
 - Developed/Impervious Surfaces including buildings and roads
 - Drainage divides - These are the smallest hydrologic units mapped in Maine. They contain watershed boundaries for most ponds and rivers in Maine.
 - NW1 Wetlands - National Wetlands Inventory (NWI) uses aerial photographs to approximate wetland locations. NW1 uses a red color to represent a comprehensive inventory of wetland resources and typically indicates the presence of wetlands on the landscape. The presence of wetlands needs to be determined in the field prior to conducting activities that could result in wetland disturbance.
 - Riparian Habitats - Riparian zones using common regulatory areas including a 200-foot-wide strip around Great Ponds (210 acres), rivers, creeks, and wetlands (210 acres) and 25-foot-wide strip around streams. Riparian areas depicted on the map may already be affected by existing land uses.
 - Shaded Green Areas - The Maine Department of Marine Resources uses shaded green areas to represent riparian areas for riparian protection. These areas are shaded and hard clam resources in order to illustrate the relation of these resources to stream or pond areas and their conservation.
 - Wild Break Trout Priority Area - These habitat areas are priority conservation areas for riparian protection and are a recommended 100 ft (or other set) no-disturbance buffer around the watershed. These areas may be considered for riparian protection and stream connectivity enhancement.
 - Public Water Supply Wells
 - Watershed boundaries - Boundaries represent source water protection areas for surface water supply. These areas are proposed to be established based on the type of water supply system. These buffers range from 300 to 2,500 feet in radius.
 - Aquifers - Top of at least 10 gallons per minute

Regional View of Watersheds



A watershed includes all of the land that drains to a common waterbody. The areas within the watershed are limited only by the water, not land, roads, and political boundaries that flow through them. For the purpose of mapping hydrological units, watersheds are grouped into larger drainages or divided into smaller ones depending on the map's scale. On maps that are larger in scale, watersheds are shown in yellow lines, are the smallest hydrological units and generally contain the smallest number of subwatersheds. These units are grouped into subwatersheds (SU172) and are represented on the inset map above by the yellow-brown outlines. 1 inch = 5 miles

Relationship of Ground Water and Surface Water



Precipitation at the source of all water. Surface water and ground water are related. Ground water can come from a local source. Ground water and surface water are part of the hydrologic cycle. Precipitation that falls from the atmosphere as rain or snow reaches the land surface and infiltrates into the ground, and other surface bodies of water directly through overland runoff. Surface water also seeps into the ground through infiltration and eventually reaches the ground water or through evaporation, return to the atmosphere. Water evaporates from leaves and stems of plants through transpiration.

Shoreland Zoning

Maine's Mandatory Shoreland Zoning Act is intended to protect water quality, conserve wildlife habitat, and preserve the natural beauty of Maine's shoreline areas. Successful implementation requires local awareness of and cooperation for surface water resources and effective enforcement of setback and buffer requirements.

At a minimum, Maine's shoreline zones include all land within:

- 250 feet of the high-water line of any pond over 10 acres, any river that drains at least 25 square miles, and all lead waters and tributary waters;
- 250 feet of a freshwater watershed over 10 acres (except "closed" waters); and
- 75 feet of a stream that is either an outlet stream of a great pond, or located below the confluence of two perennial streams as defined on the most recent, highest resolution version of the National Hydrography Dataset available from the USGS.

Shoreland zoning encourages towns to provide greater protection to their local water resources by requiring additional zone setbacks to additional resource areas such as smaller streams and wetlands, and rare terrestrial features. For specific guidance regarding Maine's Mandatory Shoreland Zoning Act contact the Dept. of Environmental Protection Shoreland Zoning Unit, Southern Maine 207-875-7244, Central Maine 207-464-4148, Eastern & Northern Maine 207-526-4314. <http://www.maine.gov/dep/shz>

Data Sources

DATA SOURCE INFORMATION

TOWNSHIP BOUNDARIES	Maine Department of Marine Resources
WATERSHED BOUNDARIES	Maine Department of Marine Resources
WETLANDS	Maine Department of Marine Resources
WETLANDS (NWI)	Maine Department of Marine Resources
WETLANDS (NWI) (2011)	Maine Department of Marine Resources
WETLANDS (NWI) (2011) (2011)	Maine Department of Marine Resources
WETLANDS (NWI) (2011) (2011)	Maine Department of Marine Resources
WETLANDS (NWI) (2011) (2011)	Maine Department of Marine Resources
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WETLANDS (NWI) (2011) (2011)	Maine Department of Marine Resources
WETLANDS (NWI) (2011) (2011)	Maine Department of Marine Resources

DATA SOURCE CONTACT INFORMATION

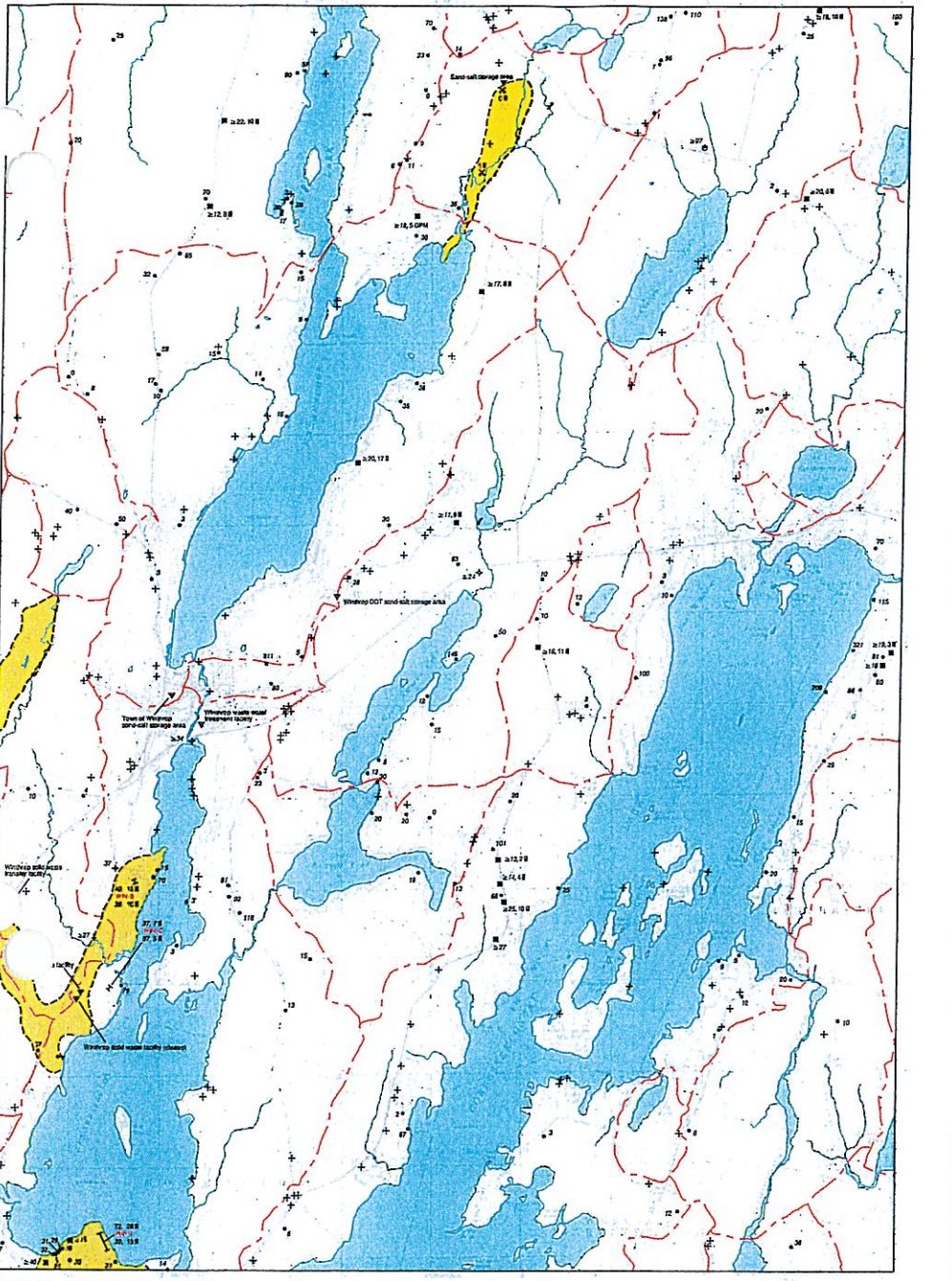
Maine Department of Marine Resources	207-526-4314
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Maine Department of Marine Resources	207-526-4314
Maine Department of Marine Resources	207-526-4314

DATA SOURCE ACQUISITION

2022/08/15 10:30 AM EDT

Significant Sand and Gravel Aquifers

Winthrop Quadrangle, Maine



Compiled by
Craig D. Hall and Thomas K. Weddle
Fieldwork and editing by
Robert D. Tucker
Daniel S. Locke

Digital cartography by
Michael E. Foley
Susan S. Tolman

Cartographic design and editing by
Robert G. Harrinney
State Geologist
Bennett J. Wilson, Jr.

Funding for the preparation of this map was provided in part by the
Maine Department of Environmental Protection.

Maine Geological Survey
Address: 22 State House Station, Augusta, Maine 04333
Telephone: 207-287-2001 E-mail: mgp@maine.gov
Home page: <http://www.maine.gov/doc/mgsc/mgsc.htm>

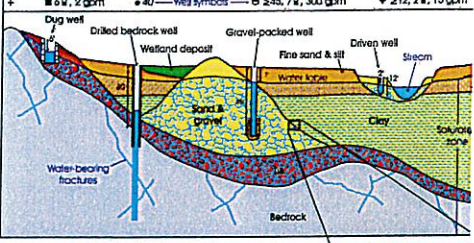
Open-File No. 04-78
2004
This map supersedes
Open-File Map 99-32.

WHAT IS AN AQUIFER?

Ground water, as the name implies, is water found below the land surface. In the loosest sense, any soil profile and its fractures in the bedrock (see diagrams below). An aquifer is a water-bearing geologic formation capable of yielding a sizable amount of ground water to a well. In Maine there are two types of aquifers: loose soil aquifers (such as sand, gravel, and other unconsolidated) and fractured bedrock aquifers. A sand and gravel deposit is considered a significant aquifer when a well at that deposit is capable of being continuously pumped at a rate of 10 gallons per minute (gpm) or more. To sustain a yield of 10 gpm or more, a deposit must be permeable enough for water to flow readily into the well and it must be thick enough to provide a sufficient depth of water to the well at all times of the year.

The diagram below shows a schematic cross-section of a sand and gravel aquifer in relation to the bedrock. The diagram corresponds to the well in the adjacent map. The blue line indicates the water table. The area below the water table is labeled "water-bearing aquifer." The area above the water table is labeled "soil." The diagram also shows a well tapping into the aquifer. The water table is shown to be higher in the center of the aquifer and lower towards the edges. This is due to the fact that the center of the aquifer is thicker and more permeable than the edges.

Several types of aquifers are shown in the diagram. A well is shown tapping into a sand and gravel aquifer. The water table is shown to be higher in the center of the aquifer and lower towards the edges. This is due to the fact that the center of the aquifer is thicker and more permeable than the edges.



POROSIITY AND PERMEABILITY

The diagram at right is an enlarged view of a section of the diagram above. Note that the pores between the grains of sand and gravel are filled with water. This water is the aquifer. In an aquifer, the pores between the grains of sand and gravel are filled with water. This water is the aquifer. In an aquifer, the pores between the grains of sand and gravel are filled with water. This water is the aquifer.

Permeability is an important characteristic since it determines whether ground water can actually be drawn into a pumping well.

HOW ARE AQUIFERS MAPPED?

When mapping sand and gravel aquifers, geologists use a variety of methods. They use aerial photography, ground-penetrating radar, and other techniques to identify and map the aquifers. They also use test wells to determine the location and characteristics of the aquifers. The mapping process is complex and requires a lot of data and analysis.

Mapping sand and gravel aquifers is a complex process. It involves a variety of techniques, including aerial photography, ground-penetrating radar, and test wells. The mapping process is complex and requires a lot of data and analysis.

GROUND-WATER FLOW AND CONTAMINATION

Ground water is replenished or recharged by rain and snow melt that soaks into the soil. This water percolates downward and eventually reaches the water table. When recharge is high during spring months and fall rains, the water table rises and the water table rises. When recharge is low during the late summer or fall, the water table falls and the water table falls.

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Aquifer boundaries modified in 2003 based on 2003 field work by W. B. Thompson. Aquifer boundaries modified from Tolman, A. J., and Locke, D. S. (2003). Significant sand and gravel aquifers in the Winthrop Quadrangle, Maine. Open-File Map 03-32. Maine Geological Survey, Open-File Report 03-32, 10 p.

Drainage basin boundaries compiled by U.S. Geological Survey, Water Resources Division, Augusta, Maine, with funding from the Maine Civil-lead Remediation Work Units.

SCALE 1:24,000

Topographic base from U.S. Geological Survey 7.5-minute quadrangle, map 22490, water modified U.S. Geological Survey topographic maps.

The use of military, civil, and other government sources in this map is for the benefit of the people of Maine and does not constitute an endorsement of the products or services of the federal government.

SIGNIFICANT SAND AND GRAVEL AQUIFERS
(Yields greater than 10 gallons per minute)

Approximate boundary of surficial deposits with significant saturated thickness when potential ground-water yields are moderate to excellent.

Surficial deposits with good to excellent potential ground-water yields generally greater than 10 gallons per minute to a properly constructed well. Deposits consist primarily of glacial sand and gravel, but can include areas of sandy silt and silty sand. Yield rates are based on unconsolidated deposits where available, and may vary from mapped characteristics in areas where data are unavailable.

Surficial deposits with moderate to good potential ground-water yields generally greater than 10 gallons per minute to a properly constructed well. Deposits consist primarily of glacial sand and gravel, but can include areas of sandy silt and silty sand. Yield rates are based on unconsolidated deposits where available, and may vary from mapped characteristics in areas where data are unavailable.

SURFICIAL DEPOSITS WITH LESS FAVORABLE AQUIFER CHARACTERISTICS
(Yields less than 10 gallons per minute)

Areas with moderate to low or no potential ground-water yield (includes areas of sandy silt, silty sand, clayey deposits, silty loam, clayey silt, silty clay, and silty loam). Yield rates are based on unconsolidated deposits where available, and may vary from mapped characteristics in areas where data are unavailable.

SEISMIC-LINE INFORMATION

Profiles for 12-channel seismic lines are shown in Figure 10 of Open-File Report 03-32 (Rupper and others, 1983), or may be viewed at the Maine Geological Survey, 22 State House Station, Augusta, Maine 04333. All single-channel lines are 100 feet long and are not to scale.

63 Depth to bedrock, in feet below land surface.

263 Depth to bedrock exceeds depth shown (based on calculations).

120 Depth to water level, in feet below land surface.

Two-channel seismic line, with depth to bedrock and depth to water shown at each end of the line, in feet below land surface. Unless otherwise indicated, data shown are from the line identifier box (lines to the north end of the seismic line).

MAP-7 129, 213

69 18

72, 128

DEPTHS AND WELL INFORMATION

63 Depth to bedrock, in feet below land surface.

120 Penetration depth of bedrock (vertical relief to maximum depth to bedrock based on bedrock depth or relief).

69 Depth to water level, in feet below land surface (observed or well, spring, test pit, or stream line).

263 Corn pit (or other thickness record) in feet, e.g., 5-127.

QC Quarry.

40PM Yield (flow) of well or spring in gallons per minute (GPM).

Spring with general direction of flow.

Drilled overcasing well.

Open casing well (project well) if labeled; nonproject well if unlabeled.

Test boring (project boring if labeled; nonproject boring if unlabeled).

Driven pit.

Test pit.

Drilled bedrock well.

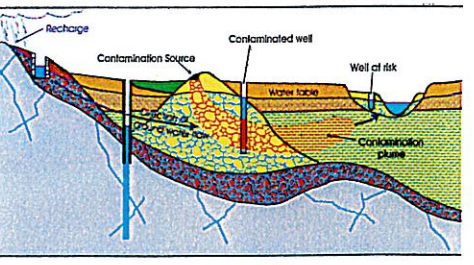
Potential point source of ground-water contamination.

Bedrock outcrop.

Surface-water drainage-basin boundary; surface-water divides generally correspond to ground-water divides. Horizontal direction of ground-water flow generally is away from divides and toward stream or water bodies.

OTHER SOURCES OF INFORMATION

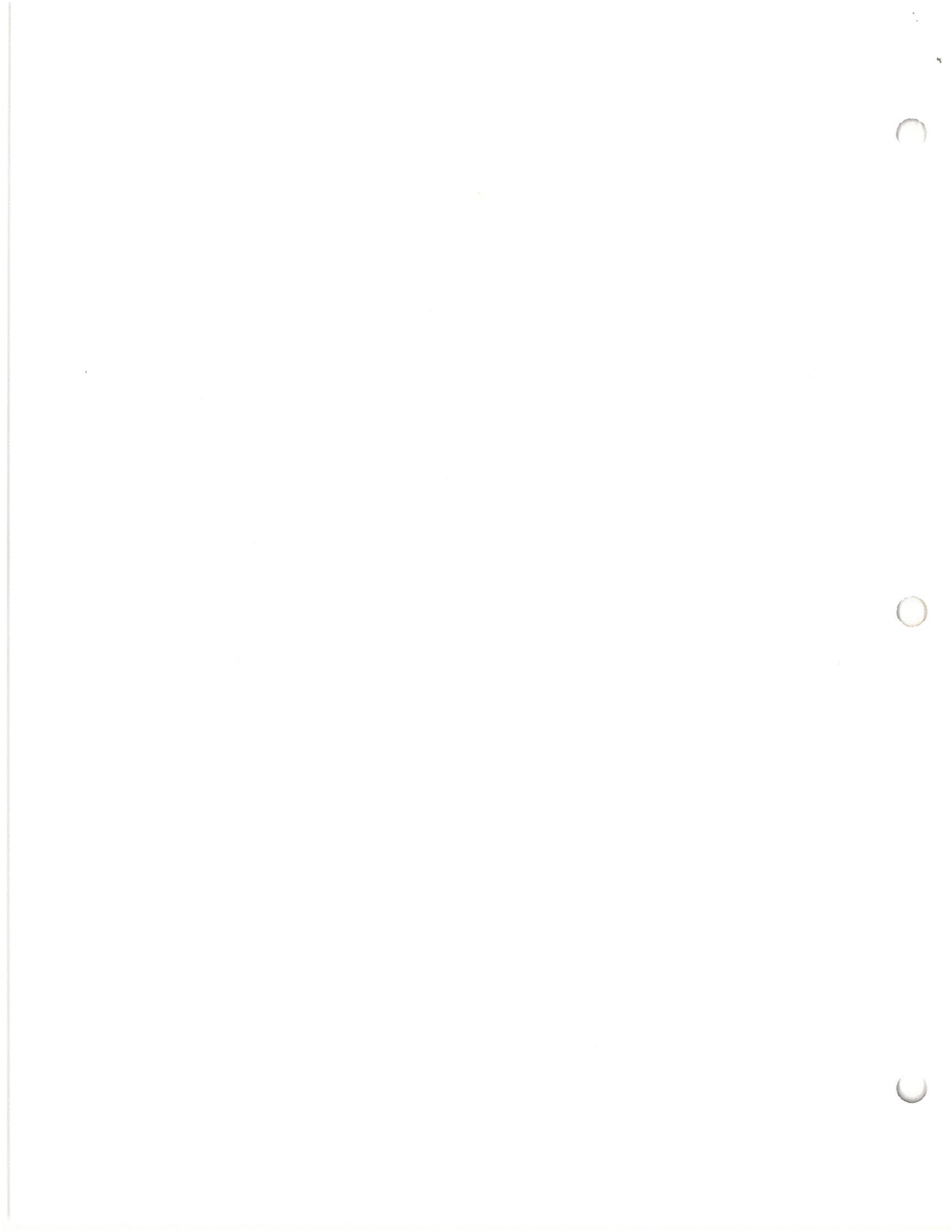
- Tolman, A. J., Tolman, A. J., and Prescott, G. C., Jr., 1985. Hydrogeology of significant sand and gravel aquifers in parts of Androscoggin, Kennebec, Lincoln, Oxford, Sagadahoc, and Somerset Counties, Maine. Maine Geological Survey, Open-File Report 85-27a, 106 p.
- Thompson, W. B., and Locke, D. S., 2003. Surficial geology of the Winthrop quadrangle, Maine. Maine Geological Survey Open-File Map 03-32.
- Thompson, W. B., 2004. Surficial geology of the Winthrop quadrangle, Maine. Maine Geological Survey, Open-File Map 04-78.
- Cannell, W. B., 1987. Ground water handbook for the state of Maine. Second Edition. Maine Geological Survey, Bulletin 193, 235 p.
- Thompson, W. B., 1979. Surficial geology handbook for coastal Maine. Maine Geological Survey, 60 p (unpublished).
- Thompson, W. B., and Hesse, H. W., Jr., 1985. Surficial geology map of Maine. Maine Geological Survey, scale 1:500,000.



HOW TO USE THIS MAP

This map is intended to be used in conjunction with the Maine Geological Survey's Ground-Water Flow and Contamination map. The map shows the location and characteristics of the aquifers and the direction of ground-water flow. The map is intended to be used in conjunction with the Maine Geological Survey's Ground-Water Flow and Contamination map.

This map is intended to be used in conjunction with the Maine Geological Survey's Ground-Water Flow and Contamination map. The map shows the location and characteristics of the aquifers and the direction of ground-water flow. The map is intended to be used in conjunction with the Maine Geological Survey's Ground-Water Flow and Contamination map.



Agenda Item #5

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION

FOR INSURANCE COMPANY USE

A1. Building Owner's Name: STEPHEN H. & ANASTASIA SHUMAN

A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:
206 MEMORIAL DRIVE

City: WINTHROP State: ME ZIP Code: 04364

A3. Property Description (e.g., Lot and Block Numbers or Legal Description) and/or Tax Parcel Number:
TAX MAP 42, LOT 3

A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.): RESIDENTIAL

A5. Latitude/Longitude: Lat. 44.317096 Long. -69.965294 Horizontal Datum: NAD 1927 NAD 1983 WGS 84

A6. Attach at least two and when possible four clear photographs (one for each side) of the building (see Form pages 7 and 8).

A7. Building Diagram Number: 1B

A8. For a building with a crawlspace or enclosure(s):

a) Square footage of crawlspace or enclosure(s): _____ sq. ft.

b) Is there at least one permanent flood opening on two different sides of each enclosed area? Yes No N/A

c) Enter number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade:
Non-engineered flood openings: _____ Engineered flood openings: _____

d) Total net open area of non-engineered flood openings in A8.c: _____ sq. in.

e) Total rated area of engineered flood openings in A8.c (attach documentation – see Instructions): _____ sq. ft.

f) Sum of A8.d and A8.e rated area (if applicable – see Instructions): _____ sq. ft.

A9. For a building with an attached garage:

a) Square footage of attached garage: _____ sq. ft.

b) Is there at least one permanent flood opening on two different sides of the attached garage? Yes No N/A

c) Enter number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade:
Non-engineered flood openings: _____ Engineered flood openings: _____

d) Total net open area of non-engineered flood openings in A9.c: _____ sq. in.

e) Total rated area of engineered flood openings in A9.c (attach documentation – see Instructions): _____ sq. ft.

f) Sum of A9.d and A9.e rated area (if applicable – see Instructions): _____ sq. ft.

SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1.a. NFIP Community Name: WINTHROP B1.b. NFIP Community Identification Number: 230072

B2. County Name: KENNEBEC B3. State: ME B4. Map/Panel No.: 479 B5. Suffix: D

B6. FIRM Index Date: 6/16/2011 B7. FIRM Panel Effective/Revised Date: 6/16/2011

B8. Flood Zone(s): AE B9. Base Flood Elevation(s) (BFE) (Zone AO, use Base Flood Depth): 214.7

B10. Indicate the source of the BFE data or Base Flood Depth entered in Item B9:
 FIS FIRM Community Determined Other: _____

B11. Indicate elevation datum used for BFE in Item B9: NGVD 1929 NAVD 1988 Other/Source: _____

2. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? Yes No
Designation Date: _____ CBRS OPA

B13. Is the building located seaward of the Limit of Moderate Wave Action (LiMWA)? Yes No

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

206 MEMORIAL DRIVE

City: WINTHROP State: ME ZIP Code: 04364

FOR INSURANCE COMPANY USE

Policy Number:

Company NAIC Number:

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: [] Construction Drawings* [] Building Under Construction* [X] Finished Construction
*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations - Zones A1-A30, AE, AH, AO, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, A99. Complete Items C2.a-h below according to the Building Diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: PE1121 F 166 Vertical Datum: NAVD88 ELEV=214.96

Indicate elevation datum used for the elevations in items a) through h) below.

[] NGVD 1929 [X] NAVD 1988 [] Other:

Datum used for building elevations must be the same as that used for the BFE. Conversion factor used? [] Yes [X] No

If Yes, describe the source of the conversion factor in the Section D Comments area.

Check the measurement used:

- a) Top of bottom floor (including basement, crawlspace, or enclosure floor): 217.2 [X] feet [] meters
b) Top of the next higher floor (see Instructions): 227.2 [X] feet [] meters
c) Bottom of the lowest horizontal structural member (see Instructions): [] feet [] meters
d) Attached garage (top of slab): 217.0 [X] feet [] meters
e) Lowest elevation of Machinery and Equipment (M&E) servicing the building (describe type of M&E and location in Section D Comments area): 217.0 [X] feet [] meters
f) Lowest Adjacent Grade (LAG) next to building: [] Natural [] Finished 215.0 [X] feet [] meters
g) Highest Adjacent Grade (HAG) next to building: [] Natural [] Finished 217.0 [X] feet [] meters
h) Finished LAG at lowest elevation of attached deck or stairs, including structural support: 216.2 [X] feet [] meters

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by state law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? [X] Yes [] No

[] Check here if attachments and describe in the Comments area.

Certifier's Name: SHAWN M TYLER License Number: 2519

Title: PLS / OWNER

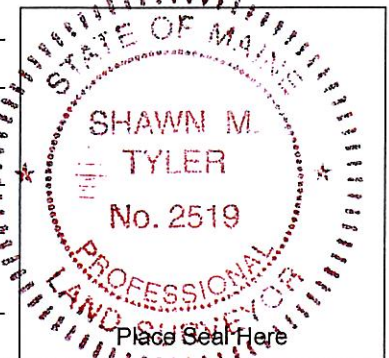
Company Name: DIRIGO SURVEYING

Address: 165 SOUTH ROAD

City: WINTHROP State: ME ZIP Code: 04364

Signature: [Handwritten Signature] Date: 04-26-2024

Telephone: 207-923-3443 Ext.: Email: shawn@dirigosurveying.com



Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including source of conversion factor in C2; type of equipment and location per C2.e; and description of any attachments):



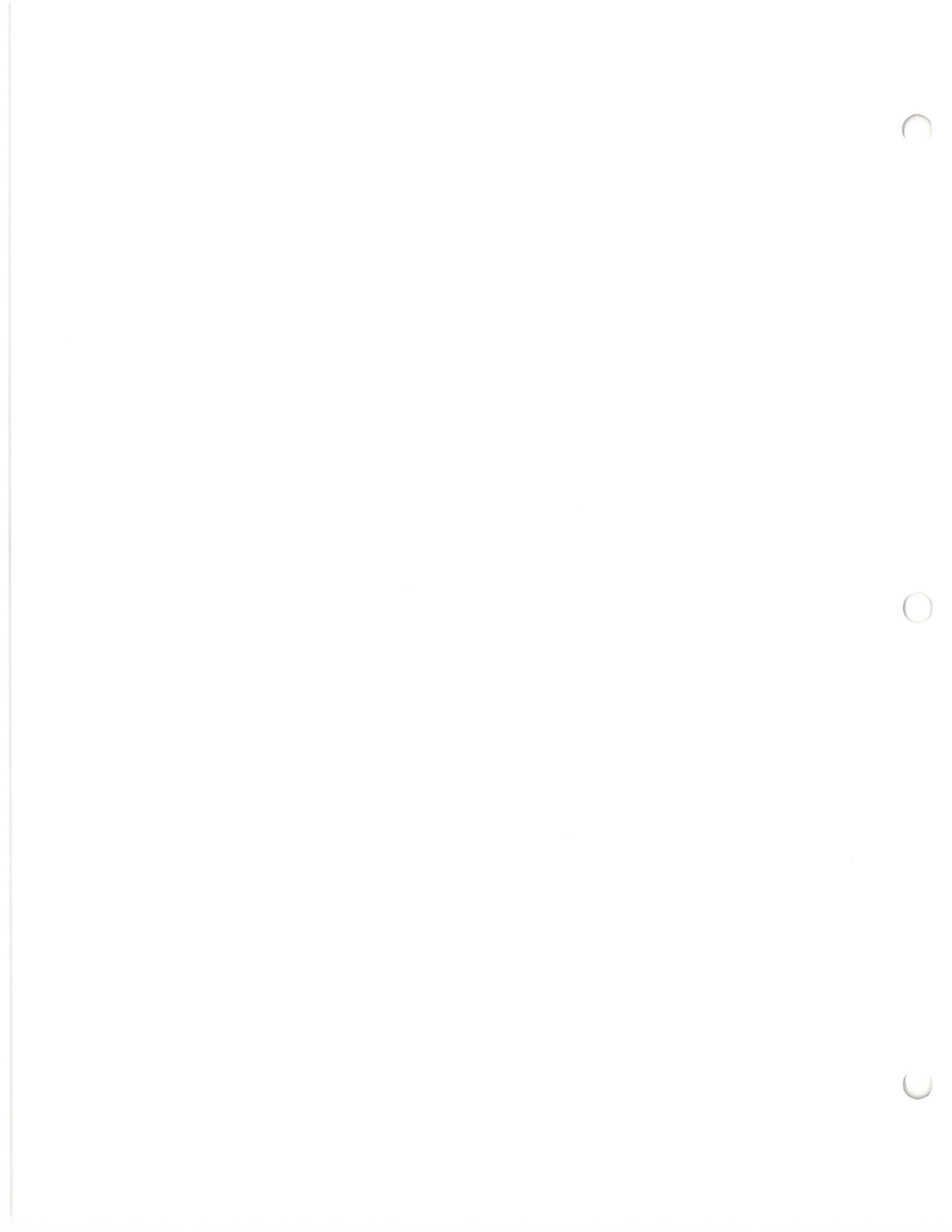
Date: April 26, 2024
To: Anthony Wilson, Town Manager
From: Dawn Emerson, Town Planner
RE: Mineral Extraction Ordinance

At the April 22, 2024, meeting the Town Council held the first reading of a Mineral Extraction Ordinance as recommended by the Planning Board.

As a result of public input and Council deliberation three items were identified that need to be addressed prior to the second reading. They are as follows:

1. Article II Authority, Applicability & Administration Section 4: The ordinance allows Mineral Extraction Operations exclusively in the Rural Zone. Members of the public requested additional measures to protect groundwater. Staff was directed to review language originally drafted by KVCOG regarding aquifers and incorporate that back into the ordinance. As a result, staff will provide language which will preclude Mineral Extraction Operations in the Groundwater Protection Overlay District and request an update to the map for that district.
2. Article IV Application Section 6.A: States that "The CEO, or his/her designee", shall conduct an annual compliance inspection. The Council asked for the reference to a "designee" to be modified. The following will be proposed: The CEO "or a consultant with appropriate expertise".
3. Article V Performance Standards Section 2.14 Blasting: It was noted by members of the public that the measurement of peak particle velocity did not appear to reflect the intent of the Planning Board and that some language may have been inadvertently omitted. I have been communicating with individual Planning Board members to get clarity on the actual recommendation. At this time, it feels appropriate to ask the Board as a whole to inform staff if the language reflects their recommendation. It is my intention to place this as an item on the May 8, 2024, Planning Board agenda. As such, I would like to request the second reading by the Council be delayed until after 5.8.24.

Thank you.



MINERAL EXTRACTION ORDINANCE

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ARTICLE I - TITLE & PURPOSE

Sect. 1 Title

This Ordinance shall be known and may be cited as the Mineral Extraction Ordinance of the Town of Winthrop, Maine and will be referred to herein as "this Ordinance."

Sect. 2 Purpose

The purpose of this Ordinance is to establish minimum removal and reclamation standards, and municipal procedures intended to regulate the removal, processing and storage of topsoil, loam, rock, flat rock, sand, gravel, or other similar materials, other than metallic minerals. These standards and procedures are intended to protect the public health, safety, and general welfare; and to minimize the adverse impact of extraction to the town, abutting property owners, citizens of the town, and wildlife and natural resources by:

- A. Preserving and protecting surface and groundwater quality and quantity;
- B. Preserving the value of property;
- C. Assuring that mineral exploration or extraction activities are compatible with permitted uses in that particular zone;
- D. Assuring protection of wildlife and wildlife habitat; and
- E. Protecting the air and scenic quality of Winthrop, its environment and its residents.

ARTICLE II - AUTHORITY, APPLICABILITY & ADMINISTRATION

Sect. 1 Authority

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article 8, Part 2 of the Maine Constitution and under the authority granted to the town by the statutes of the State of Maine, Title 30-A M.R.S.A., Section 3001 and 3105(2), and Title 38 M.R.S.A. Sections 490-DD and 490-I.

Sect. 2 Administration

The provisions of this Ordinance shall be administered by the Town of Winthrop's Planning Board and enforced by the Town of Winthrop's CEO and Town Council, who will establish, after notice and hearing, and, from time to time, revise a fee schedule for the various applications and fees required by this Ordinance.

Sect. 3 Effective Date

This Ordinance shall be effective by vote of Town Council of the Town of Winthrop, Maine.

Sect. 4 Applicability

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall apply to any proposal to establish, operate, or expand a Mineral Extraction Operation, whether or not an application or a proceeding to establish or operate a business or operation for a Mineral Extraction Operation would be deemed a pending proceeding under 1 M.R.S. § 302.

- A. The provisions of this Ordinance shall apply to all mineral extraction operations (MEOs), except metallic minerals, within the Town of Winthrop, Maine, as described in Article I,

and as listed below, unless exempted in Article III.

1. Existing operations.
 2. Expansion of existing operations.
 3. New operations.
- B. This ordinance does not apply to “inactive” mineral extraction operations, defined as (1) mineral extraction that has ceased for twelve (12) consecutive months prior to the adoption of this Ordinance, and (2) a mineral extraction operation that was not registered, pursuant to Article IV.1.A, within one hundred and eighty (180) days after the adoption of this Ordinance. No inactive mineral extraction operation shall be resumed until the owner or operator obtains a new approval pursuant to Article IV.3, for the entire affected area, except those portions previously reclaimed.
- C. Mineral extraction operations (MEOs) less than one (1) acre are allowed as a permitted use with Planning Board approval in the following zones: Rural.

Mineral extraction operations (MEOs) are prohibited in all other zones including the Groundwater Protection Overlay District as identified by the Maine Geological Survey (Significant Sand and Gravel Aquifers, Winthrop Quadrangle) and depicted on the Official Zoning Map.

ARTICLE III - EXEMPTIONS

This Ordinance shall not apply to the following:

- A. Mineral exploration whose sole purpose is the determination of the nature and/or extent of mineral resources, accompanied by hand-sampling, test boring, or other methods which create minimal disturbance. Test holes shall be filled in immediately after use;
- B. Gravel Pits that affect less than five thousand (5,000) square feet of surface area, or the removal or handling of less than two hundred (200) cubic yards of material in less than twelve (12) months. This includes pits under the same ownership regardless of being in a different land parcel/lot;
- C. Storage or Stockpiles of winter abrasives (sand) used for the maintenance of private or public roads. This applies to the stockpile or storage area itself and not any associated mineral extraction activity or area;
- D. Removal or filling of material incidental to construction, alteration or repair of a structure, or in the landscaping incidental thereto;
- E. Construction of farm and fire ponds; and water management berms; and
- F. Inactive areas where previous mining had last occurred at least 24 months prior to the adoption of this Ordinance. [NOTE: Mineral extraction operations, which are exempt from this Ordinance, may need a permit under provisions of the Zoning Ordinance of the Town of Winthrop and must comply with other rules and regulations of the Town.]

ARTICLE IV - APPLICATION

Sect. 1 Existing Operations

- A. Within one hundred and eighty (180) days of the approval of this Ordinance, all MEOs existing as of that date, shall be registered with the Planning Board, and submit the following:
1. Registration fee.
 2. Names and addresses of the current owner of the MEO and the operator, and a copy of the deed or lease, if the operator is not the property owner.
 3. Evidence that the MEO qualifies as an existing operation, boundaries of the tract of land showing lot lines, total acreage of entire parcel, existing and proposed excavation areas, depth and height of final excavation, structures on property, area used for storage of topsoil and other overburden, location of hazardous material storage areas, location of existing public and private streets, roadways, rights of way, and access roads, the amount of earth material annually extracted, whether processing of materials is done on the site, the nature and amount of that processing, the average daily number of trucks taking material in or out of the site, and the number of employees.
 4. For existing operations larger than the five (5) acres or more surface area at the time of passage of this Ordinance, the reclamation plan as required by the Maine Department of Environmental Protection (MDEP) must be submitted.
- B. Any operation not registered, or which fails to qualify to be registered, pursuant to this section, shall be deemed closed, and may not, after such 180 day period, continue or resume operation, and be subject to the civil penalties allowed in 30-A M.R.S.A., Section 4452 assessed for each day after the 180-day period.

Sect. 2 Expansion of Existing Operations

A. Requirements

No MEO existing at the time of passage of this Ordinance may expand without first obtaining an Expansion of Existing Mining approval from the Planning Board. For operations less than five (5) acres in surface area as of the effective date, expansion is defined as an additional fifty percent (50%) or more in surface area. For operations larger than five (5) acres, expansion is defined as an increase of fifty percent (50%) or more surface area or four (4) additional acres, whichever is less. Once mineral extraction operation has reached five (5) acres in size, no expansion is allowed until 4/5 of the existing excavated area has been reclaimed in accordance with Article V, Section 13 of this Ordinance and a new application has been approved by the Planning Board.

B. Application Requirements

The applicant shall submit the following to the Planning Board:

1. A minimum of four (4) color paper copies of the Application including one (1)

- digital copy in pdf format. The town may request additional copies as needed.
2. Application fee and technical review fee.
 3. Names and addresses of current owners of the property and the current or proposed operator.
 4. A copy of the deeds or lease agreements, if the operator is not the owner, with copies of all covenants, deed restrictions, easements, rights of way, or other encumbrances, including, but not limited to liens and mortgages currently affecting the property.
 5. A site plan of at least 36"x24" in size, prepared by a licensed surveyor, showing the following:
 - a. Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic).
 - b. Boundaries of land showing lot lines, total acreage, existing and proposed excavation areas, structures on property, anticipated depth and height of final excavation, areas to be used for storage of topsoil and other overburden, location of existing or proposed hazardous material storage areas, location of public and private streets, parking areas, roadways and rights of way, location of existing or proposed access roads, security gates, fencing, exposed ground water on site, as well as the location and size of all wetlands and waterbodies, all temporary and permanent structures located on property, and the location of existing and proposed groundwater monitoring wells as well as the depth of ground water at representative points throughout site including at the site of the existing or proposed excavation, as determined by test borings and other geotechnical methods. Contours of the mineral extraction area and surrounding area for two hundred (200) feet at five (5) foot contour intervals. GPS coordinates of the proposed active extraction site or area.
 6. Reclamation Plan: In the same scale as the site plan, prepared by a registered civil engineer, registered landscape architect or licensed land surveyor requiring, at a minimum, the following:
 - i. Final contours of site after reclamation at two (2) feet or less contour intervals.
 - ii. Areas which will be back-filled and restored with topsoil and other overburden, and depth of same.
 - iii. Areas which will contain water with measures to be taken to avoid stagnation and erosion
 - iv. Phasing program of reclamation and timing.
 - v. Landscape plan, indicating location and type of proposed landscape features including plant list.
 - vi. Location of driveways, roads, fences, and gates to be part of restoration program.
 - vii. Description of proposed final care of site, and a statement of how this relates to Winthrop's Comprehensive Plan and Zoning Ordinance's zoning classification.
 7. The following submissions and narratives shall be provided with the application:

- a. Present uses of the entire property, including existing excavated area, and present use of adjacent property.
- b. The approximate date of commencement of excavation, and estimated time schedule of future excavation, reclamation and closure including proposed phasing of operation, if applicable.
- c. Proposed hours and days of operation.
- d. A plan showing how security at the site will be controlled.
- e. Location of residences and wells within 1,000 feet of property boundaries with names of property owners shown.
- f. Names and addresses of all property owners within 1,000 feet of the property.
- g. Plan for screening the operation from abutters and public roads.
- h. Estimated volume of the excavation.
- i. Method of extracting and processing, if applicable.
- j. Blasting plan, if applicable.
- k. Disposition of topsoil or overburden, equipment proposed to be used in operation, and operational practices to be used to prevent surface or groundwater pollution, and minimize noise, dust, air contaminants and vibration.
- l. Whether processing of materials will be brought on site from another location.
- m. A plan showing, in addition to location of hazardous materials, provisions for safe storage of such material. No hazardous materials shall be located or stored such that they will enter the ground or surface water.
- n. A Spill Prevention, Control & Containment Plan (SPCC).
- o. An erosion and sedimentation control plan, prepared with standards contained in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, dated October 2016 or latest edition.
- p. Identification of all required state and/or federal permits, including, if applicable, a Department of Environmental Protection permit ID number and copies of DEP inspection reports. Any letters of warning, notices of violation issued to the applicant and/or their agent within the last ten (10) years.
- q. Letter from Maine Historic Preservation Commission documenting historic buildings and sites.
- r. A narrative description of the impact on the significant wildlife habitat, designated by the Maine Department of Inland Fisheries & Wildlife.
- s. Pre-development ambient hourly sound levels at the property boundaries.
- t. Proof of financial capacity and technical ability to complete the project as reasonably related to size and intensity of project.
- u. A performance guarantee in the form of a bond, letter of credit, or such other financial instrument as deemed satisfactory by the Town Council, covering the cost of the reclamation plan or next phase when reclamation plan is divided into distinct sections.
- v. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of

adequate insurance to indemnify the Town of Winthrop against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.

- w. Performance / Surety Bond for possible damage to abutting wells and foundations.
- x. A hydrogeological evaluation, prepared by a qualified professional, which shows the quality and depth of ground water throughout the site and establishes that the MEO will not cause any pollution to ground water and/or surface water. A traffic study pursuant to Article V, Sect. 2, 10. Traffic and a Town of Winthrop Driveway Permit if entrance is on a Town Road or Maine DOT Entrance/Access Permit.
- y. Viewshed analysis report.
- z. Any other pertinent information the Planning Board may require.

Sect. 3 New Mineral Extraction Operation Applications

A. Application Requirements

No new MEO or pre-existing operation which failed to meet registration requirements of Article IV, Section 1, may commence operation, without first applying to the Planning Board for approval of a new Mineral Extraction Operation application.

- B. All application requirements identified in Article IV - Sect. 2 B. shall be submitted.

Sect. 4 Waiver of Submission Requirements

The Planning Board, upon the written request of an applicant stating the reasons therefore, with written findings of fact that there are special circumstances in an MEO that affects an area less than one (1) acre and over five thousand (5,000) square feet, may waive any of the application requirements set forth in Article IV, Sect. 2 B. and Sect. 3 A. and B., providing the public health, safety and welfare are protected, and the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, Zoning Ordinance, or this Ordinance.

Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

Sect. 5 Application Procedures

- A. Application forms for MEOs shall be provided by the Town of Winthrop, and submitted to the CEO, who will submit them to the Planning Board within seven days.
 - 1. A minimum of four (4) color paper copies and one (1) digital copy in pdf format of the application shall be accompanied by an Application Fee and a Technical Review Fee as the same may be established from time to time by the Town Council, after notice and hearing (see current Fee Schedule).

The fees shall be paid to the Town of Winthrop and the purpose of the fees shall be clearly indicated on the receipts for same.

If the balance of the unexpended funds in the Technical Review Fee are drawn down by fifty percent (50%) or more, the applicant shall be notified and required to pay an additional amount as the same may be established from time to time by the Town Council, after notice and hearing. The applicant shall continue to be notified and required to pay the appropriate additional amounts as necessary whenever the balance of the funds is drawn down by 50% of the original amount. Failure to pay the required amount within 30 days shall also be a violation of this Ordinance and be cause to stop the review process.

Any balance remaining in the Technical Review Fee, after approval of the Mineral Extraction Operation, shall be returned to the applicant.

See Article VI - Performance Guarantees, Sect. 2 Professional Review.

2. The Planning Board will schedule an on-site inspection within 30 days of having received a complete application.
3. Within thirty (30) days of receiving an application, the Planning Board shall notify the applicant whether the application is complete, or if incomplete, the additional material needed for completion. Determination of completeness by the Planning Board in no way binds the Board as to the adequacy of the application to meet the criteria of this Ordinance.

B. Public Hearing

All Mineral extraction applications require a Public Hearing. At the expense of the applicant the Planning Board shall:

1. Advertise a Public Hearing seven (7) days in advance in a local newspaper, and post notices in appropriate places.
2. Notify by mail at least ten (10) days in advance of Public Hearing, all owners of property, listed on town tax maps, within a minimum of 1,000 feet of the boundary of the property for which application is being made at the discretion of the Planning Board.

C. Planning Board Decision on the MEO Activity Application

1. Within thirty (30) days of a Public Hearing, or within sixty (60) days of having received a complete application, or within any other time limit that is otherwise mutually agreed upon, the Planning Board shall issue a written finding of fact and decision whether the General Requirements and Performance Standards in Article V have been met, granting or denying approval of the proposed MEO activity, or approving, with conditions on such terms as it may deem advisable, to satisfy this Ordinance. In all instances, the burden of proof shall be upon the applicant.

2. Upon approval of the MEO application, the Board shall sign all four (4) copies of the final site plan. The site plan copies shall be distributed to: a) the applicant, b) the Planning Board, c) the tax assessor, d) the CEO, and e) the Town. See Article XII - for Final Plan Approval signature block and details.
3. Approval, by the Planning Board, of an MEO, does not show evidence of acceptance, by the Town of Winthrop, of any road, easement, or open space on such plan.

Sect. 6 Inspections

A. Annual Inspections

The CEO ~~or a consultant with appropriate expertise, or his/her designee,~~ shall conduct an annual compliance inspection prior to the anniversary date of the original approval, to determine whether the approved MEO applicant/operator has complied with, or deviated from, the approved plan. The costs of the inspection and report shall be covered by the applicant/operator. Reports shall be provided to MEO applicant/operator. In case of non-compliance, the CEO shall issue a stop work order, except for remedial action, until such time as compliance is achieved.

Sect. 7 Conditions and Limitations

A. General

Before any mineral extraction activity begins, the applicant shall obtain all applicable permits required by town, state, or federal regulations, laws, or ordinances regulating such developments. Violation of other permits necessary for operation shall be considered a violation of this Ordinance.

Before a Final Plan has been approved, the following is not permitted:

1. No material from any MEO may be sold.
2. Development of the infrastructure of the MEO is not permitted, including buildings, roads, removal of vegetation, land clearing, timber harvesting and utility installations.

B. Expiration

Mineral Extraction approvals shall expire one (1) year from the date of issuance, unless the mineral extraction activity has commenced.

C. Plan Revisions

Plan revisions, after approval, shall be made as provided for in Article VII, Section 3 of this Ordinance.

D. Expert Consultant

In the event the CEO and/or the Planning Board require expert consultation, the charges

for same shall be the responsibility of the applicant/operator.

- E. Transfer of Mineral Extraction Operation When an MEO ownership is transferred:
1. the transferor shall notify the Planning Board of the transfer,
 2. the transferee shall file a Notice of Intent to Comply similar to that required by the MDEP - 38 M.R.S.A. §490-C (borrow pits) and §490-R (quarries), and
 3. the transferee must provide a new performance guarantee acceptable to the Winthrop Planning Board.

ARTICLE V - PERFORMANCE STANDARDS

Sect. 1 General Requirements

- A. Mineral extraction operations shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this article conflict with specific provisions of State laws or other town ordinances, the stricter provisions shall prevail.
- B. The owner and/or operator of a mineral extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites.
- C. In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Ordinance and subsequent approval are met.
- D. Where the Code Enforcement Officer and/or Planning Board determine there is a need for testing or measurements of standards, all reasonable testing shall be at the operator's expense.

Sect. 2 Performance Standards

- A. Unless otherwise noted, and not required in the application requirements, these standards apply to all mineral extraction operations over 5,000 square feet.
- B. Existing mineral extraction operations, after registering with the Town, may continue to operate at their present size and not be regulated by the standards that apply to expansions and new operations.
- C. The Planning Board in reviewing projects requiring Mineral Extraction Operation Approval under this Ordinance shall make positive written findings that the applicant has submitted clear and convincing evidence that all the following Performance Standards have been met. Projects that don't meet these standards shall not be approved.

1. Significant wildlife habitat and other protected areas. Affected land may not be located in a significant wildlife habitat as defined in Title 38 M.R.S.A. Section 480-B or in an area listed pursuant to the Natural Areas Program, Title 12, Section 544.

2. Solid waste and sewage disposal. Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be stored or disposed of in accordance with Maine Department of Environmental Protection (MDEP) Regulations, Chapter 400.

a. The storage, collection and disposal of refuse at the extraction site shall not create health hazards, rodent or insect breeding areas, accident or fire hazards, air pollution, or surface or ground water pollution.

b. All sewage shall be disposed of by sewage systems meeting the requirements of the State of Maine Plumbing Code

3. **Groundwater protection.** To provide an adequate buffer for ground water and allow for filtration of impurities from surface water, excavation shall not occur within 5 feet of the seasonal high water table. One or more test pits or wells sufficient to verify the location of the seasonal high water table must be established.

a. The Planning Board shall require monitoring of groundwater levels twice per year and may require monitoring of groundwater quality to assure there are no adverse impacts to any water supplies or wells within 500 feet of the site, and that at least one test pit or monitoring well must be established on each 5 acres of un-reclaimed land. This includes the flow rate of domestic wells. The applicant is responsible for all costs associated with this testing.

b. A hydrogeologic evaluation performed by a qualified professional, which shows the depth of ground water throughout the site and establishes that the MEO will not cause any pollution to ground water and/or surface water is required.

If over 5,000 gallons per day is to be withdrawn to be used for operational purposes, dust control, etc. a hydrogeologic evaluation should identify the location of any proposed extraction well and any potential adverse effects to the water supplies.

c. Separations between excavations and private water sources existing at the time of application shall be 300 feet. Separations between excavations and public water sources shall conform to MDEP standards contained in 38 M.R.S.A. 490-D, Performance Standards for Excavations.

d. If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a Spill Prevention Control and Countermeasures (SPCC) Plan shall be submitted. The Plan should be developed in accordance with MDEP regulations as referenced in paragraph f., below, and must be posted at the site.

e. Petroleum products, highly flammable or explosive liquids, solids or gases shall be located in bulk, above ground, anchored tanks or containers, having a secondary containment system for control of spills and leaks, located at least 75 feet from any lot line, Town road or interior road. The use of underground tanks is strictly prohibited.

f. Refueling operations, oil changes, other maintenance activities requiring the handling of fuels, petroleum products and hydraulic fluids and other on-site activity involving storage or use of products that, if spilled, may contaminate groundwater, must be conducted in accordance with the SPCC Plan and follow Performance Standards for the Storage of Petroleum Products as outlined and included in MDEP's Chapter 378 and 40 CFR 112.

g. Routine maintenance operations are allowed for fixed equipment such as screeners, crushers and wash facilities provided that precautionary measures such as portable drip pans or vacuum devices are used.

g.h. Crankcase oil, hydraulic fluids, or similar products shall not be changed, stored, or disposed of within any work site within a Water Protection Area defined in the Ground Water Protection Overlay District as identified in the Zoning Ordinance and on the Official

Zoning Map.

4. **Natural buffer strip.** Existing vegetation within a natural buffer strip may not be removed. If vegetation within the natural buffer strip has been removed or disturbed by the excavation or activities related to the mineral extraction operation prior to submission, that vegetation must be reestablished as soon as practicable.
5. **Protected natural resources.** A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, coastal wetland or freshwater wetland as defined in Title 38 M.R.S.A., Section 480-B. The width requirements for natural buffer strips are as follows:
 - a. A natural buffer strip at least 100 feet wide must be maintained between the mineral extraction operation and the normal high water line of any permanent surface water body or wetland.
 - b. A natural buffer strip at least 75 feet wide must be maintained between the mineral extraction operation and the normal high water line of a seasonal waterbody or wetland.
6. **Public and private roads.** A natural buffer strip at least 150 feet wide must be maintained between the working edge of an excavation and any public road right of way and a strip at least 50 feet wide must be maintained from the edge of any off-site private road or right of way. No below grade excavation or mining shall be allowed within 200 feet of any public road right of way.
7. **Property setbacks, boundaries, buffers and screening.**
 - a. A setback of at least 300 feet wide shall be maintained between all mineral extraction excavations and property boundaries.
 - b. To minimize visual impacts and provide for wildlife, a natural buffer strip at least 100 feet wide (quarries) and 50 feet wide (borrow pits) shall be maintained between an excavation and any property boundary.
 - c. To protect neighboring uses from dust, noise and unsightly appearance, the Planning Board may require the applicant to provide screening to shield all operations from surrounding property where there is inadequate natural buffer including, but not limited to, the planting of trees, placement of solid fence or creation of berm, but no closer than twenty-five (25) feet of the property boundary. Screening may take place within the buffer at the discretion of the Board or may be outside the buffer depending on the site conditions.
8. **Erosion and sedimentation control.** All reclaimed and un-reclaimed areas, except for access roads, must be naturally internally drained unless an approved engineering plan is provided.
 - a. All erosion and sedimentation plans must conform to standards outlined in the Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers, October 2016 or latest edition.

- b. Stockpiles consisting of topsoil to be used for reclamation and berms must be seeded, mulched or otherwise temporarily stabilized.
- c. Sediment may not leave the parcel or enter a protected natural resource.
- d. Grubbed areas not internally drained must be stabilized.
- e. Erosion and sedimentation control for access roads must be conducted in accordance with DOT best management practices for erosion and sedimentation control.
- f. Land shall be restored and stabilized according to the Reclamation Plan.
- g. For projects exceeding 1 acre, a volume calculation shall be provided demonstrating that the area(s) will safely hold a volume of precipitation at least equal to that which may be expected in the area from the 25-year, 24-hour storm event for the region.

9. Surface water protection and storm water management. Surface water discharges from areas not required to be naturally internally drained may not be increased as a result of storm water runoff from storms up to a level of a 25-year, 24-hour storm. Accumulated water from precipitation must be put into sheet flow and the discharge point must be directed to an undisturbed natural buffer strip. The discharge point must be at least 250 feet away from a protected natural resource. The slope of the discharge area may not exceed 5%.

- a. Grading or other construction activity on the site may not alter natural drainages so that the drainage, other than that which occurred before development, adversely affects an adjacent parcel of land or so that the drainages flowing from an adjacent parcel of land to the parcel are impeded.
- b. Structures such as detention ponds, retention ponds and undersized culverts may not be used to meet the standards in this subsection.

10. Traffic. The following provisions govern traffic.

- a. Access Standards
 - i. Entrances and exits of the mineral extraction operation onto a public way must be located, posted and constructed in accordance with standards for roadways adopted by the Town of Winthrop's Ordinances and the Maine DOT. Adequate distances for entering, exiting and stopping must be maintained in accordance with these standards.
 - ii. The intersection of any road within the mineral extraction operation and an existing public road shall meet all standards for roads adopted by the Winthrop Subdivision Ordinance.

The following design standards apply:

DESCRIPTION	DIMENSION
Minimum Traveled Way	18'
Shoulder Width	2'
Maximum Grade	8%
Roadway Crown	¼" /ft.
Angle of all Road Intersections	90 degrees
Maximum Grade within 75' of Intersections	3%
Minimum Curb Radii at Intersections	25'
Minimum r/o/w Radii at Intersections	10'

- iii. Sight Distances. Access shall be designed in line and grade to provide the required sight distance in each direction, as outlined below:

VEHICLE TYPE EXPECTED TO ENTER OR CROSS HIGHWAY	SIGHT DISTANCE (GIVEN IN FEET PER EACH 10 MPH OF POSTED SPEED)
Single-unit truck	130
Multi-unit truck	170

Sight distance shall be measured at a distance of 15 feet back from the edge of the travel way and at a height of 3.5 feet above the proposed access road grade to an object 4.25 feet above the pavement. Each direction of traffic shall be considered separately.

- iv. Pavement. All driveways within the road right of way shall be paved with bituminous concrete pavement. All access points, regardless of access volume, shall provide a paved apron extending a minimum 30 feet beyond the right of way.
- v. Number of entrances. Unless approved by the Planning Board, no mineral extraction operation shall have more than two entrances on any one road nor shall entrances be spaced any closer than 120' away from other entrances as measured from the closest adjacent edge of each driveway excluding radii, whether these be located on the subject property, or adjacent properties. Adjacent Properties under the same ownership shall be considered as a single property for application of entrance spacing.
- vi. Alignment of access drives. Access drives shall be either lined up with access drives located across roads or offset by a minimum distance of 100 feet. The Planning Board shall have the option of waiving this provision on individual lots after a review of the volume of traffic to be generated by a specific proposed use.
- vii. Distance from intersections. Access drives shall be located so as to allow the maximum clearance distance from road intersections as practical, based on site constraints. No access drive shall be located closer than 150 feet from any intersection measured from

the closest adjacent edge of pavement excluding radii. Driveways to corner lots shall gain access from the road of lower classification when a corner lot is bounded by roads of two different classifications.

b. Traffic impact study requirement if the access is onto a Town Road.

The operator shall provide a traffic impact study at their own expense. This study is subject to review by another consultant of the Town's choosing at the operator's expense.

The safety and congestion mitigation measures recommended in the traffic study shall be followed by the operator.

i. Traffic Impact Study Requirements

a) Study Area

The study area must include the first major intersection to either side of the mineral extraction entrance. The study area must be expanded beyond the first major intersection to either side of the entrance to include those links and intersections for which, during any one-hour peak period, truck traffic to and from the mineral extraction operation equals or exceeds the following:

- 1) 25 vehicles in a left-turn lane;
- 2) 35 vehicles in a through lane, right-turn lane or a combined through and right-turn lane; or
- 3) 35 vehicles (multiplying the left-turn lane volume by 1.5) in a combined left-turn, through and right-turn lane.

A map showing the parcel boundaries, town roadways, access road, and other driveways and rights of way within 200 feet of the access road, shall be submitted to the Planning Board indicating the roads and intersections to be studied.

The study area identifying the roads and intersections to be studied shall be approved by the Planning Board prior to undertaking the analysis.

b) Scenarios

The traffic study shall consider the following scenarios:

- Existing
- Existing + Project

The existing + project scenario shall include traffic attributable to the proposed mineral extraction operation as well as other projects that are proposed or approved.

c) Data Collection

Traffic counts shall be collected at each of the study intersections and/or study roadway segments. Traffic data shall identify truck counts. Existing traffic count data may be used if data is less than 5 years old and no significant project development has occurred in the surrounding area, and no other changes have

occurred to limit the usefulness of the data.

Pedestrian and bicyclist counts may be required by the Planning Board.

d) Trip Generation and Distribution

The number of daily and peak-hour trips attributable to the proposed mineral extraction operation shall be identified based on project-specific information and comparison to similar facilities. Distribution of project traffic shall be based on substantial evidence.

A calculation of traffic attributable to other projects that are proposed or approved shall be identified based on project-specific information, project-specific traffic studies, and/or rates based on the Institute of Transportation Engineers' Trip Generation Manual.

A map shall be provided indicating the distribution of project traffic and traffic attributable to other projects.

e) Capacity Analysis

The level of service (LOS) shall be analyzed for all study area roadways and intersections. LOS analysis shall be consistent with procedures defined in the latest version of the Highway Capacity Manual published by the Transportation Research Board. LOS analysis shall address weekday A.M. and P.M. peak hours and Saturday peak hours.

f) Access Design

The proposed project access road shall be evaluated for safety of ingress and egress and for conformity to Town design standards identified in Section 10.b.ii.

g) Safety

The traffic study shall identify any potential traffic safety impacts caused by additional project traffic, design features or incompatible land uses. The analysis shall address safety impacts to pedestrians and bicyclists.

h) Design and Mitigation

The traffic study shall determine and document safe and efficient operational design needs based on site and study area data. Operational concerns and mitigation measures to ensure safe and efficient operation shall be identified. The study shall identify any mitigation measures needed to ensure LOS standards identified in Section 10.b.ii are maintained. Where necessary to safeguard against hazards to pedestrians and to avoid traffic congestion, or adverse impacts to Town roads, alternative routing may be required.

ii. Traffic Impact Criteria

Traffic from the mineral extraction operation shall not:

- a) increase the volume to capacity of any town road above 80%,

- b) decrease the LOS of a Town road intersection by more than one level, or
- c) reduce a Town road intersection LOS to “D” or below.

Evaluation of intersection LOS shall be based on the following definition provided by the Highway Capacity Model published by the Transportation Research Board:

LEVEL OF SERVICE	UNSIGNALIZED AVERAGE DELAY PER VEHICLE (SEC.)	SIGNALIZED AVERAGE DELAY PER VEHICLE (SEC.)
A	≤10	≤10
B	>10 – ≤20	>10 – ≤20
C	>20 – ≤30	>20 – ≤35
D	>30 – ≤40	>35 – ≤55
E	>40 – ≤50	>55 – ≤80
F	>50	>80

iii. Road Condition

Where mineral extraction activity traffic will use town maintained roads, the condition of the existing roads shall be suitable for the proposed traffic volume and type. The Head of Public Works shall provide a preliminary determination of the suitability of the existing roads. Based upon the Head of Public Works evaluation, the Planning Board may require an engineering impact study, at the expense of the applicant, and may require mitigation for adverse impacts on Town roads.

11. Noise.

The sound level limits contained in this regulation apply to property lines of the proposed mineral extraction operation or contiguous property owned by the operator, whichever are farther from the proposed operation’s regulated sound sources.

The sound level limits contained in this regulation do not apply to noise within the mineral extraction operation boundary.

a. Sound Level Limits

Except as allowed for production blasting, the hourly sound levels resulting from the mineral extraction operation shall not exceed the following limits:

- i. At any property line of the mineral extraction operation or contiguous property owned by the operator, whichever is farther from the proposed mineral extraction operation’s regulated sound sources: 65 dBA between 7 a.m. and 4 p.m.
- ii. Measurement of sound levels will be measured in accordance with regulations pursuant to MDEP’s Site Location of Development Law, Chapter 375.10. Control of Noise.

b. Exemptions. Sound associated with the following shall be exempt from regulations by the Planning Board:

- i. Warning signals and alarms.
 - ii. Safety and protective devices installed in accordance with code requirements.
 - iii. Test operations of emergency equipment occurring in the daytime and no more frequently than once per week.
- c. The Planning Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the mineral extraction operator has made adequate provision for the control of noise from the operation, and to reduce the impact of noise at the property boundaries. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.
- d. The sound level limits prescribed in this regulation shall not preclude the Planning Board from requiring a mineral extraction operator to demonstrate that sound levels from a mineral extraction operation will not unreasonably disturb wildlife or adversely affect wildlife populations.

In addition, the sound level limits shall not preclude the Board, as a term or condition of approval, from requiring that lower sound level limits be met to ensure that the operator has made adequate provision for the protection of wildlife and impact on abutting properties.

12. Dust and Air Pollution. Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation designed to avoid excessive dust, dirt or other air pollution injurious or substantially annoying to adjoining property owners. Emission of dust and dirt at any point beyond lot lines shall be prohibited.

- a. All air pollution control shall comply with minimum State requirements and all applicable equipment must have a current MDEP Air Emissions License.
- b. Air Quality Monitoring:
 - i. The applicant shall use an appropriate remote air quality monitoring system located at the property boundaries which is capable of monitoring pollutants with a high level of accuracy and reliability to ensure compliance with local and state environmental standards.
 - ii. An initial assessment to identify potential air quality risks associated with quarry operations (particulate matter (PM10 and PM2.5) and VOC's shall be conducted.
 - iii. The applicant shall utilize automated real-time reports and alerts from the monitoring system to facilitate communication with the Town and State ensuring prompt action in response to any exceedances.
- c. Dust generated by activities at a mineral extraction operation must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions so that the particulate standards set forth in 38 M.R.S.A. 584-A are not exceeded.

- d. All access/egress roads leading to/from the extraction site to public ways shall be treated to reduce dust and mud.
 - e. Loaded vehicles shall comply with all State Laws and Regulations and be suitably covered to prevent dust and contents from spilling or blowing from the vehicle. Remediation of any spillage of extracted materials on public roads shall be the responsibility of the operator.
- 13. Reclamation.** The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation shall be conducted in accordance with the MDEP's best management practices for erosion and sedimentation control and must include the following:
- a. Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures and collapse. A highwall that is loose must be controlled by the use of blasting or scaling, the use of safety benches, the use of flatter slopes or reduced face heights or the use of benching near the top of the face or rounding the edge of the face.
 - b. Side slopes of gravel pits must be regraded to a slope no steeper than two and a half (2 1/2) feet horizontal to one (1) foot vertical.
 - c. Within six months of the completion of extraction operations, ground levels and grades shall be established in accordance with the reclamation plan; within 30 days of final grading, topsoil must be placed, seeded and mulched; all dependent upon seasonal weather conditions. Vegetative cover must be established on all affected land, except for quarry walls and flooded areas. This requirement may be waived if the CEO determines that the slope(s) exhibit substantial vegetation and are stable.
 - d. Vegetative cover is acceptable if within one year of seeding:
 - i. The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and
 - ii. The planting of all material results in permanent 90% ground cover.
 - iii. Vegetative cover used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture of these.
 - e. All access roads, haul roads and other support roads must be reclaimed, unless reserved for future productive use of the land, as described in the reclamation plan.
 - f. All structures or temporary shelters and equipment used in active extraction operation shall be removed within 30 days following completion of active extraction operations.
 - g. All affected lands must be reclaimed within 2 years after final grading.

- h. Topsoil that is stripped or removed must be stockpiled for use in reclaiming disturbed land areas unless the applicant demonstrates that the soil is not needed for reclamation purposes. Stockpiles must be seeded, mulched or otherwise stabilized. Whenever practical, at least 4 inches of topsoil should be used for final cover.
- i. The site must be reclaimed in phases so that the active extraction area does not exceed 5 acres at any time. This refers to the area of extraction and does not include roads, structures, stock-piles, etc. not part of the active mineral extraction operation.
- j. Upon completion of the reclamation, or the reclamation phase, a written reclamation certificate, signed by an independent registered professional engineer, shall be provided to the CEO.

14. Blasting. The applicant must ensure that the blasting is conducted in accordance with regulations issued pursuant to M.R.S.A. Title 25, Chapter 318 and conform, at a minimum, to MDEP, Article 8-A, Performance Standards for Quarries, 38 M.R.S.A. §490-Z(14).

- a. The blasting will be conducted in a manner which will cause no damage nor unreasonable disturbances to surrounding properties. The owner or operator shall use sufficient stemming, matting or natural protective cover to prevent flyrock from leaving property owned or under control of the owner or operator or from entering protected natural resources or natural buffer strips. Crushed rock or other suitable material must be used for stemming when available; native gravel, drill cuttings or other material may be used for stemming only if no other suitable material is available.

Sound from Production Blasting. Sound exceeding the limits in Sect. 2.11. Noise and resulting from production blasting at a mine or quarry shall be limited as follows:

Sound from blasting shall not exceed the following limits at any location:

Number of Blasts Per Day	Sound Level Limit
1	129 dBL
2	126 dBL
3	124 dBL
4	123 dBL

Blast sound shall be measured in peak linear sound level (dBL) with a linear response down to 5 Hz.

Refer to Bureau of Mines Report of Investigations 8485 for information on airblast sound levels and pertinent scaled distances.

- b. The maximum allowable airblast at any building not owned or controlled by the developer may not exceed 129 decibels peak when measured by an instrument having a flat response (+ or -3 decibels) over the range of 5 to 200 hertz.
- c. If necessary to prevent damage, the Planning Board may specify lower maximum allowable

airblast levels than those in paragraph b. of this section for use in the vicinity of a specific blasting operation.

- d. Pre-blast surveys shall be conducted in accordance with MDEP Regulations outlined in the above-referenced Article 8-A.
- e. Blasting may not occur in the period between 4:00 p.m. and 9:00 a.m. the following day. Routine production blasting is not allowed on Saturday, Sunday, and holidays as specified in subsection 15 Hours of Operation. Detonation of misfires may occur outside of these times. A misfire must be reported to the Winthrop Police as soon as it is recognized.
- f. Blasting may not occur more frequently than 4 times per day and on no more than 10 days per year.
- g. Under no circumstances shall the Planning Board approve any production blasting within one hundred fifty (150) feet of an adjoining property line.
- ~~h.~~ The maximum peak particle velocity at inhabitable structures not owned or controlled by the Operator may not exceed 0.5 inch per second measured at 300 feet from the blast site. Except for the peak particle velocity, all other standards of MDEP Article 8-A, Performance Standards for Quarries 38 M.R.S.A. § 490-Z.14.K. (Blasting), including Table 1 and the graph published by the U.S. Dept. of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1 apply.

Either of the above referenced guidelines must be used to evaluate ground vibration effects for those blasts for which a preblast survey is required and/or when blasting is to be monitored by seismic instrumentation.

~~i.~~ h. The maximum allowable ground vibration may be reduced by the Planning Board beyond the limits otherwise provided by this section, if determined necessary to provide damage protection.

~~j.~~ i. Groundwater testing –

During all instances of blasting, the testing of water wells within 1,000 feet of the construction workspace where granted, both before and after construction, for water quantity and quality parameters.

At the request of an abutting landowner, a Town Agent will inspect structures and wells within 1,000 feet of the construction work area prior to blasting. Post-blast inspections will be performed as warranted in order to evaluate any damage complaints associated with construction activities, including blasting.

Well Water Quality Abutter owned water wells within 1,000 feet of any blasting area shall have water quality and recovery rate testing performed by the Contractor, at the discretion of the Town and Abutter, and in the presence of a Town Agent. Baseline testing shall be performed prior to the start of construction activities, and again immediately after construction is completed. Temporary water turbidity due to blasting may require additional testing over time, once the blasting has been completed, to ensure baseline levels return.

Testing of well water should include the following contaminants: metals, gases and chemical agents present in the area, metals, gases, and chemical agents that form the composition of explosives that were used to blast, and well water recovery rate. Recovery rate testing may be performed via rising head test, or other methods as approved during site plan review. Testing shall also include cursory video documentation of the structural integrity of the full length of the well via a down-hole camera. If well damage is sustained in the form of impaired water quality, recovery rate, or loss of structural integrity, the Contractor shall be responsible for compensation agreeable to the Contractor, the Town, and the Abutter. In the unlikely event that structural damage occurs at a nearby structure as a result of blasting activities, the owner will be compensated for damages or appropriate repairs will be made.

k.j. A record of each blast must be compiled in accordance with the specifications in the above mentioned Article 8-A. In addition, pre-blast, blast, and post blast linear-peak sound levels in decibels should be included for each airblast.

l.k. The records for each blast, including all monitoring records, shall be filed with the Town no more than ten (10) days after each blast.

i. **Blasting Schedule.** A blasting schedule shall be prepared by the blaster and be published in a newspaper of general circulation in the locality, at least 10 days, but not more than 30 days, before beginning a blasting program. Copies of the schedule shall be distributed to the Town, public utilities, and to all abutters and residences within one-half mile of the proposed blasting site described in the schedule and, as outlined in 30 CFR 816.64, shall contain, at a minimum:

- 1) Name, address, and telephone number of operator;
- 2) Identification of the specific areas in which blasting will take place;
- 3) Dates and times when explosives are to be detonated;
- 4) Methods to be used to control access to the blasting area; and
- 5) Type and patterns of audible warning and all-clear signals to be used before and after blasting.

15. Hours of Operation.

The following shall apply to specific applications of the operation.

Blasting	9 am - 4 pm	Monday-Friday
Drilling	8 am - 5 pm	Monday-Friday
Crushing & Processing	7 am - 6 pm	Monday-Friday
Loading & Trucking	7 am - 6 pm	Monday-Saturday

a. No operations are allowed on the following holidays: Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas.

b. In the case of emergency requests for sand or gravel from public safety officials, the above

hours may be waived.

- c. The Planning Board may impose more restrictive operating hours at its discretion if warranted by site conditions, or if the operation unreasonably interferes with existing adjacent land uses.

16. Fencing and Security. Fencing around dangerous excavations, pits, and pond areas shall be required STATE Requirements reference, but the Planning Board may require additional fencing standards at it's discretion, to maintain public safety. Access to the mineral extraction operation shall be strictly controlled with locking gates at the entrance of access roads. KNOX Box requirement for Police/fire When the pit is not being operated, all vehicular entrances shall be made impassable.

17. Signs and Lighting. Signs and lighting must comply with the standards of the Winthrop Zoning Ordinance and other applicable town ordinances. Notice of contact information (24hr) posted at main entrance. Lighting on the premises shall be shielded in such a manner as to prevent glare from extending beyond the lot lines.

18. Preservation of Natural and Historic Features. The scenic, historic or environmentally sensitive areas or any areas identified in the Comprehensive Plan or by the Maine Natural Areas Program as rare and irreplaceable areas shall be preserved.

19. Visual Impact / Viewshed analysis

An analysis to determine potential visual effect of the MEO must be undertaken. The visual impact assessment must be prepared by a design professional trained in visual assessment procedures such as professional engineering, GIS or landscape architecture companies.

In all visual impact assessments, scenic resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described. The assessment must be completed following standard professional practices to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures.

A visual impact assessment must also include narratives to describe the following:

- Significance of any potential impacts
- The level of current use / visual interactions with the affected area by residents, abutters and the public i.e. how many people will be affected by the changes.
- Reasonable viewer expectations of the affected area based of existing conditions, uses and landscape setting
- Measures taken to avoid and minimize visual impacts
- Steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources.

The Visual Impact Assessment must include the following elements:

- i. A visual and cartographic analysis (Viewshed Analysis)
A geographical representation of all the areas of where the MEO, from its highest points is

visible from the surrounding (impact) area should be presented. Areas of the impact area from which the activity will be visible, including representative and worst-case viewpoints, must be identified. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real or imagined, that the eye follows from a specific point to another point when viewing the landscape.

- ii. Site inventory and photographic review.
This should provide a comprehensive and objective means by which to analyze and assess the potential visual and aesthetic impacts that may result from the MEO and its associated elements.
- iii. Visual Simulations - Visual simulations should be provided to show a photo-realistic perspective view of proposed MEO elements in the landscape, thereby allowing abutters to clearly visualize how a project will really look from their primary residential structure.

ARTICLE VI - PERFORMANCE GUARANTEES

Sect. 1 Types and Contents of Guarantees

Accompanying application for Final Plan of new or expansion of existing MEOs, one of the following performance guarantees must be submitted for an amount adequate to cover the total cost of all required reclamation. It should contain the reclamation schedule, with date after which the approved operator/owner will be in default, with estimates for each plan of reclamation, including inspection costs. The amount shall be determined by the Town Council after consultation with the Planning Board, Road Commissioner, Town Attorney, and/or other appropriate consultants.

A. Escrow Account

A certified check, savings account, or CD, for which the municipality must be named as sole owner, and who may withdraw funds only when the reclamation does not follow the agreed-upon plan. In addition, the principal and any earned interest shall be returned to the operator when the reclamation is completed, unless the municipality has found it necessary to draw on the account. In the latter case, the residual from the account, if any, and its earned interest, will be returned to the developer proportionately.

B. Performance Bond

A bond, payable to the Town, issued by a surety company approved by the Town Council, with details of its condition, and with methods of release for the specific project clearly delineated.

C. Letter of Credit

A letter of credit from a financial institution approved by the Town Council. This credit must be irrevocable, and be sufficient to handle reclamation of the specific project, and from which the Town may draw if reclamation does not follow the agreed-upon plan.

Check language with town to make standardized.

Sect. 2 Phased Guarantees

The Planning Board may approve Phased Performance Guarantees when an MEO is approved in separate distinct phases.

Sect. 3 Default

If, upon inspection by the CEO, or their designee, it is determined that the reclamation has not followed the previously approved plan, they shall so report to the Town Council, Planning Board, and approved operator/owner. The approved operator/owner shall have thirty (30) days, unless otherwise notified, to remedy any deficiencies.

Sect. 4 Release of Guarantees

Prior to release of any part of the Performance Guarantee, the Town Council shall determine, after consultation with an independent professional engineer and other consultant(s) as needed, that the reclamation meets the requirements of that portion of the project requested.

ARTICLE VII - MISCELLANEOUS

Sect. 1 Costs

The applicant shall be required to bear full costs of all inspection, consultants, and all enforcement.

Sect. 2 Professional Review

A. Additional Studies

The Planning Board may require the applicant to undertake any additional studies which it deems reasonable and necessary to ensure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.

B. Independent Technical Review

The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application. The independent consultant(s) shall report to the Planning Board as to the project's compliance or noncompliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include but are not limited to:

1. An Attorney;
2. A Community Planner;
3. A Registered Professional Engineer;
4. A Registered Architect;
5. A Registered Landscape Architect;
6. A Registered Geologist;
7. A Licensed Soil Scientist;
8. A Registered Land Surveyor;
9. A Certified General Real Property Appraiser; or
10. Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified and mutually acceptable to the Town and the applicant. The consultant(s) selected shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost in accordance with Article IV, Sect. 5, A.1. Technical Review Fee.

Sect. 3 Amendment after Approval

No modifications shall be made in an approved Final Plan unless they have been resubmitted to and approved by the Planning Board. The intensity of the review will be determined by the Board, and depends upon the complexity of the proposed alteration.

Sect. 4 Enforcement

- A. Enforcement procedures and legal action will be in conformity with those of the Winthrop Zoning Ordinance.
- B. If, at any time, it is ascertained that a violation of this Ordinance constitutes a danger to the health, safety, or welfare of any person, property or environment of the Town of Winthrop, the town may initiate immediate proceedings to abate or correct such violation.

Sect. 5 Right of Entry on to Land

The CEO shall have the right of entry onto any mineral extraction activity site at reasonable times and after reasonable notice. If the operator, or its employee or agent, interferes with an inspection by the CEO, it shall be a violation of the Ordinance and the CEO may seek an administrative search warrant pursuant to court rule 80E, and the operator shall pay the town a civil penalty in an amount determined by the Town Council plus any legal fees incurred in obtaining that warrant.

Sect. 6 Penalties

Any person, firm, corporation, or other entity being the owner, or having control or responsibility for any MEO, who violates the terms or conditions of any MEO approval, approved by the Planning Board, or who proceeds without approval, shall be deemed a nuisance, and shall be subject to a civil penalty, expert witness fees, costs of court, and legal fees due and payable to the Town of Winthrop, in an amount determined by the court in accordance with the penalty provisions of 30-A M.R.S.A. Section 4452.

Sect. 7 Appeals and Variances

- A. Administrative Appeals and Variances
Appeals may be heard by the Winthrop Board of Appeals according to the Town’s Zoning Ordinance, Article V, Section 15.I.
- B. Appeal to Superior Court
Any aggrieved party having proper standing may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Kennebec County, within 45 days of a written decision in accordance with Maine State Law.

ARTICLE VIII - SEVERABILITY AND CONFLICT

Sect. 1 Severability

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

Sect. 2 Conflict with other Ordinances

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation or ordinance, that imposing the most restrictive or higher standard shall govern.

ARTICLE IX - AMENDMENT OF THIS ORDINANCE

Sect. 1 Initiation of Amendment

A proposal to amend this Ordinance may be initiated by:

- A. The Planning Board, by majority vote;
- B. The Town Council, through a request to the Planning Board; or
- C. The public, through a 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, but in no case less than 10. When an amendment to this Ordinance is proposed by other than the municipal officers or Planning Board, a fee as the same may be established from time to time by the Town Council after notice and hearing, shall accompany the proposal to cover the cost of review, hearings, and advertisements. This fee is non-refundable.

Sect. 2 Process of Adoption

The process to be followed in adopting an amendment to this Ordinance is as follows:

- A. Proposed amendments must first be submitted to the Planning Board for consideration;
- B. The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment;
- C. Notice of the public hearing shall be given as required by State Law;
- D. The Planning Board shall make its official report at a Town Council meeting occurring within sixty (60) days after the public hearing.
- E. If the Planning Board votes and reports to the Town Council that the amendment ought not to pass, because in the Board's opinion (i) the amendment is contrary to the Town's Comprehensive Plan, or (ii) it will not act to protect the public health, safety, and general welfare of the citizens of Winthrop, its environment, or its wildlife, enactment of that proposed amendment shall require a two-thirds (2/3) vote of the voters present at the town meeting; and
- F. Enactment of a proposed amendment having the approval of the Planning Board shall require only a majority of the voters to enact that amendment.

ARTICLE X - OTHER PROVISIONS

Sect. 2 Adjoining Mineral Extraction Activity Under Common Scheme of Development

Adjoining mineral extraction activity under common scheme of development separated by less than 500 feet of unaffected land shall be required to fulfill all the requirements as established in this Ordinance for the total size of the extraction area, including the adjoining site.

ARTICLE XI - DEFINITIONS

Active Extraction Area: The extraction area including side slopes and adjoining areas with overburden removed, excluding roads, structures, stockpiles, etc. not part of the active mineral extraction operation.

Affected Land: The land area from which the overburden will be or has been removed; land upon which stumps, spoil, or other solid waste will be or has been deposited; and any storage area that will be or has been used in connection with the development, except a natural buffer strip.

Ambient Sound: The existing sounds at a given location coming from all sources, both near and far.

Aquifer: An underground bed or stratum of earth, gravel or porous stone that contains water.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Blasting: The use of explosives to break up or otherwise aid in the extraction or removal of a rock or other consolidated natural formation.

Body of Water: Shall include the following:

- A. Pond or Lake - any inland impoundment, natural or man-made, which collects and stores surface water.
- B. Stream or River - a free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and flowing water for more than three months during the year.

Borrow Pit: A development undertaken for the primary purpose of excavating sand, gravel, or fill. This does not include an excavation for rock or clay.

Environmentally Sensitive Areas: Wetlands, swamps, wildlife habitat areas delineated by the Dept. of Inland Fisheries and Wildlife (IF&W), prime agricultural areas, areas with steep slopes, areas with poorly drained soils, and flood plain areas (subject to a 100 year flood). Also to include Protected Natural Resources.

Expansion of Existing Operation: Excavation operations that exceed the approved area or footprint. For operations less than five (5) acres in surface area as of the effective date of this Ordinance, expansion is defined as an additional 50% or more in surface area. For operations larger than five (5) acres, expansion is defined as an increase of 50% or more surface area or four (4) additional acres, whichever is less.

Ground water: The water beneath the surface of the ground, consisting largely of surface water that has seeped down; the source of water in springs and wells.

Level of Service: (LOS) is a quantitative or qualitative measure of traffic flow for roadways and intersections. The levels range in six grades: A, B, C, D, E and F. LOS "A" indicates free flow with low traffic density and minimal delays. LOS "F" indicates traffic volumes that exceed

capacity with very long delays.

Mineral Extraction Operation (MEO): Any excavation or removal, handling or storage of sand, gravel, borrow, rock, clay, minerals, or topsoil including but not limited to sand or gravel pits, clay pits, borrow pits, quarries, mines, and topsoil mining or removal.

Mineral Extraction Site or Area: All of the land area disturbed or otherwise developed for the extraction, handling, removal, processing, hauling or storage of sand, gravel, clay, minerals, stone, rock, or topsoil; including any access roads and cleared areas adjacent to a pit or excavated area.

Natural Buffer Strip: An undisturbed area or belt of land that is covered with trees or other vegetation.

Normal High-Water Line: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Preblast Survey: "Preblast survey" means documentation, prior to the initiation of blasting, of the condition of buildings, structures, wells or other infrastructures; protected natural resources; historic sites; and unusual natural areas.

Private Water Supply: A surface water supply, a dug well, a spring or a hole drilled, driven or bored into the earth that is used to extract drinking water for human consumption and that is not part of a public water supply.

Processing: Any washing, screening, crushing, mixing of sand, gravel, stone, rock, clay, or topsoil.

Production Blasting: A blasting operation carried out on a regular basis for the purpose of production of material.

Protected Natural Resource: Wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, bog, marsh, rivers, streams or brooks, as the terms are defined in applicable state law.

Public Water Supply: Any publicly or privately-owned system of pipes or other constructed conveyances, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption, if such system has at least 15 service connections or serves at least 25 individuals daily at least 60 days out of the year or bottles water for sale.

Quarry: A place where rock is extracted.

Reclamation: The restoration or continued maintenance of the area of land affected by mining

under a reclamation plan. This may include but is not limited to, grading and shaping of the land, the creation of lakes or ponds, the planting of forests, the seeding of grasses, legumes, or crops for harvest, or the enhancement of wildlife and aquatic resources.

Reclamation Plan: A plan, as defined in Article V, Section 2.13., which depicts how the project will be restored, or maintained, after excavation is complete. Such a plan usually includes final grading and revegetation plans, of any given phase.

Road: Public and private owned ways such as alleys, avenues, boulevards, highways, roads, streets, lanes and other rights of way, as well as areas on mineral extraction activity plans designated as rights of way.

Seasonal High-Water Table: That part of the year when the water table is at its highest level.

Setback: The horizontal distance from a lot line or referred location to the nearest part of a structure or activity.

Setback from Water: The horizontal distance from the normal high water mark to the nearest part of a structure or activity.

Significant Wildlife Habitat: Defined under Maine's Natural Resources Protection Act (NRPA), which is administered by the Maine Department of Environmental Protection (DEP).

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks, raised walkways, handicapped access ramps, and satellite dishes.

Surface Water: Any water flowing on the surface, either channelized or by sheet flow including, but not limited to, rivers, streams, brooks, ponds, lakes and any swamp, marsh, bog or other contiguous lowland where water is periodically ponded on the surface.

Technical Ability: The ability to design, construct, operate, and maintain the proposed mineral extraction operation in a manner consistent with the Mineral Extraction Ordinance.

Waiver: A relaxation of the terms of the Ordinance where such a waiver would not be contrary to the public interest, where owing to existing conditions or operations, a literal enforcement of this Ordinance would result in an unnecessary or undue hardship, and where the intent of the Ordinance or item being waived can be met in some other appropriate manner, as determined by the Planning Board.

Water Supply: See Private Water Supply and Public Water Supply.

Water Table: The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

ORDINANCE #44

TOWN OF WINTHROP

GROUND WATER AND AIR PROTECTION ORDINANCE

*Replaces & Replaces
10/21/85 adopted
5/20/86 amended
amended 2-1-91*

Article I. PURPOSE

The purpose of this ordinance, made as part of the comprehensive plan of the Town, is to promote the health, safety and general welfare of residents of Winthrop by identifying certain Protection Areas and regulating development activities and land use practices within these areas.

Article II. SCOPE AND AUTHORITY

- A. Within the boundaries of the Protection Areas, comprising aquifers, recharge areas, and certain adjacent protective strips, as set forth in this Ordinance, no land shall be used except in conformity with the provision of this Ordinance. This Ordinance shall apply to such areas notwithstanding the provisions of any other Town Ordinance previously adopted.
- B. This Ordinance is adopted pursuant to Article VIII - A of the Maine State Constitution and Title 30-A M.R.S.A. Section 3001, 3002, and 4352.

Article III. DEFINITIONS

Aquifer: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially producible potable water.

Groundwater: All the water found beneath the surface of the ground. In this Ordinance the term refers to the slowly moving subsurface water present in aquifers and recharge areas.

Leachable Wastes: Waste materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to the surrounding environment.

Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

Recharge Area: Areas composed of porous sand and gravel, or other areas, that collect precipitation or surface water and carry it to aquifers.

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

Article IV. REGULATIONS

A. Establishments and Delineation of Protection Areas: For the purposes of this Ordinance, there are hereby established within the Town certain Protection Areas, consisting of aquifers and/or aquifer recharge and discharge areas. Aquifers and aquifer recharge and discharge areas are defined by standard geologic and hydrologic investigations which may include drilling observation wells, performing pumping tests, water sampling and geologic mapping. New areas identified by any of these methods may be added to the Ordinance by amendment. Water Protection Areas comprise the following elements:

1. Aquifers, together with:

- a. the surface of the land lying above them, and
- b. a surrounding protective strip, approximately 250 feet in width, so drawn that its bounds can be definitely established upon the site.

2. Recharge and discharge areas, defined by the extent of the sand and gravel deposits and wetlands within them that drain into and out of the aquifer, together with:

- a. a surrounding protective strip, approximately 100 feet in width so drawn that its bounds can be definitely established upon the site.
- b. the shorelands, to a constant depth, of any stream that flows into the recharge area.

The delineation of Protection Areas may be revised by the Town Council as the extent of the aquifers or recharge and discharge areas are more accurately defined. Initially, a Protection Area is established which has the following boundaries:

West by Annabessacook Road
North by the northern boundaries of Lots 34L, 34K,
and 35B of Map 2
East by Annabessacook Lake
South by a line which begins at the intersection of

Annabessacook Road and the northerly boundary line of Lot 47 of Map 2 of the Town Tax maps and then extends in a straight line to Annabessacook Lake through the easterly of two southeast corners of Lot 50, Map 2.

The referenced property maps are on file at the Town Office and are those bearing the following identification (as amended through the date of adoption of this Ordinance):

"Property Maps, Town of Winthrop, Kennebec County, Maine, Prepared by James W. Sewall Company, Old Town, Maine April 1, 1985"

B. Use Regulations: Within the Protection Areas, these regulations shall apply:

1. The following uses are prohibited in all Protection Areas:

- a. Disposal of solid wastes, other than brush and stumps;
- b. The disposal of liquid or leachable wastes except for residential sub-surface waste disposal systems;
- c. The removal of ground water by any means, including residential wells, except in cases where a public waterline is not located within 800 feet of the proposed site;
- d. The mining or excavation of land except that which is solely for residential purposes.

2. Additionally, the following uses are prohibited within 100 feet of the portion of the common property lines of Lots 47, and 50 of Map 2 that extends southerly from the point at which the easterly line of Lot 47 is intersected by the northerly line of Lot 50; within 100 feet of the common property line of Lots 47 and 50 of Map 2 that extends easterly from Annabessacook Road; within 100 feet of the common property line of Lots 47 and 49 of Map 2; and within Lots 47, 48, and 48A of Map 2:

- a. The construction of a below ground structure (e.g., building foundations, septic tanks) unless it is shown in an engineer's (licensed as a Professional Engineer in the State of Maine) report that the construction activity and the completed structure will not result in concentrations of landfill gas equal to or greater than 2 percent methane in enclosed spaces.

- b. The construction of a ground surface contact structure (e.g., mobile home on concrete pad) that does not provide natural, free ventilation between the occupied structure and the ground surface, unless it is shown in an engineer's (licensed as a Professional Engineer in the State of Maine) report that the construction activity and the completed structure will not result in concentrations of landfill gas equal to or greater than 2 percent methane in enclosed spaces.
- C. **Code Enforcement Officer:** It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance and to see that its requirements and restrictions are duly complied with. He shall adopt such reasonable procedures as, with the approval of the Planning Board, and within the scope of this Ordinance, shall facilitate the handling of all matters and questions arising hereunder.
- D. **Violations:** It shall be the duty of the Code Enforcement Officer to warn any person, firm or corporation of violations of this Ordinance by them and to inform them of their right to seek a variance or other relief.

Either the Code Enforcement Officer or the Municipal Officers shall institute or cause to be instituted, in the name of the Town, any and all actions, legal and equitable, that shall be appropriate or necessary for the enforcement of the provisions of this Ordinance.

Any person, firm or corporation, being the owner or occupant of, or having control or the use of, or being engaged in the construction or moving of, any structure or land or part thereof, found to violate any provision of this Ordinance, shall be guilty of a civil violation and upon conviction thereof, shall be punished by a fine of not less than \$100.00, and no more than \$250.00. Each day such violation is permitted to exist after notification thereof by the Code Enforcement Officer shall constitute a separate offense. Such persons shall be liable for any court costs and incurs reasonable attorney fees.

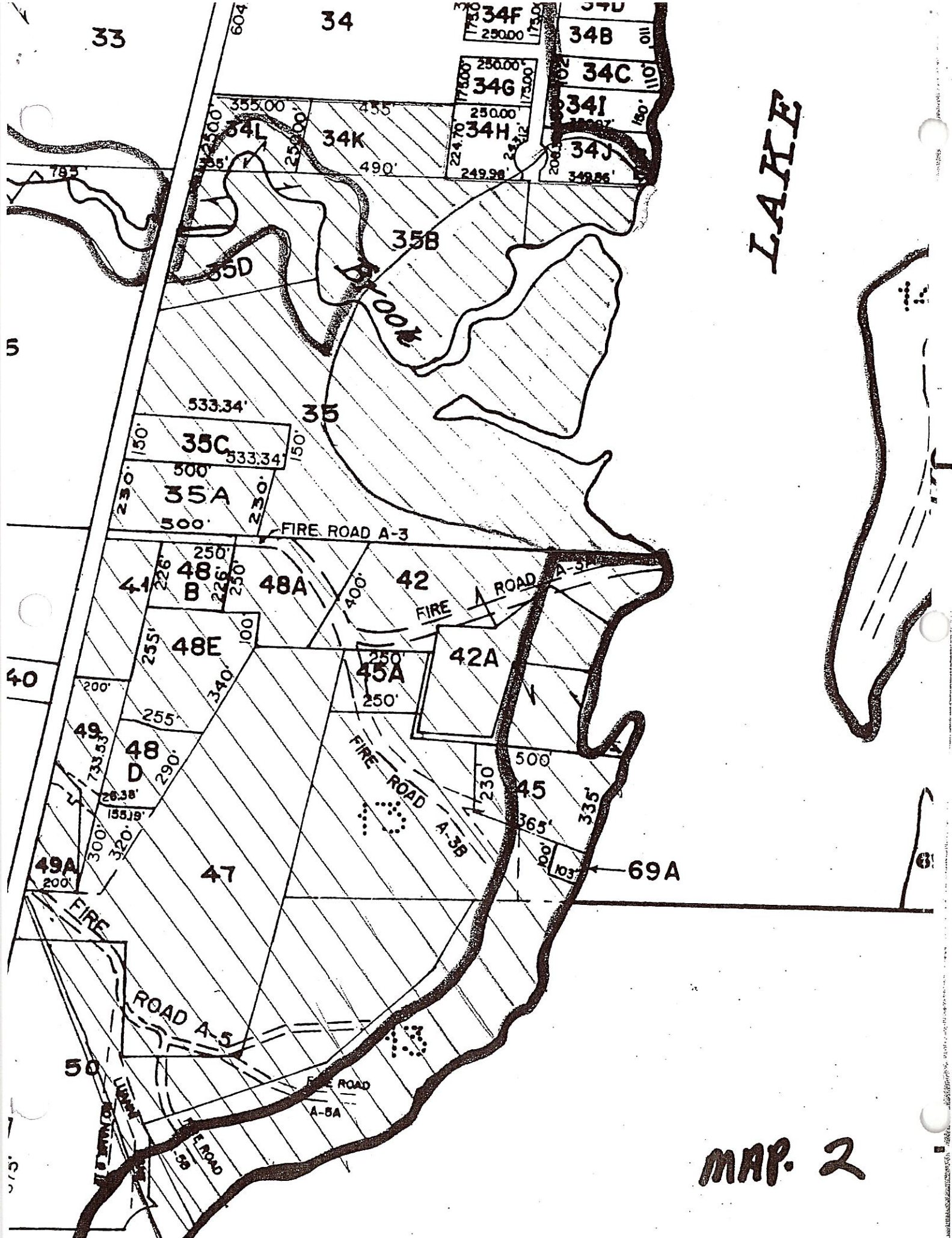
Article V. APPEALS

Appeal Procedure: In all cases, a person aggrieved by a decision or determination of the Planning Board or Code Enforcement Officer shall commence his appeal within 30 days after receipt or notification of a decision or determination. The appeal shall be filed with the Board of Appeals in writing and shall state specifically the grounds for said appeal.

Article VI. PRIOR ORDINANCE REPEALED

This Ordinance repeals and replaces the Town of Winthrop Ground Water Protection Ordinance (Ordinance #44) which was adopted on October 7, 1985 and amended on May 20, 1986.

Amended: April 1, 1991



MAP. 2

Winthrop Planning Board

By-Laws

Adopted May 8, 2024

1. General

The purpose of these Rules of Procedure is as follows:

- To establish a reasonable and consistent process for the Planning Board to consider, hear, and act upon the duties and responsibilities.
- To ensure fair and impartial treatment of each Applicant, Respondent, or Person who is interested in any proposed action of the Board;
- To promote the orderly and efficient conduct of public proceedings convened to decide such matters; and To comply with applicable federal, state, and local laws.

2. Adoptions and Amendments

These Rules of Procedure shall be adopted and may be amended by a majority vote of the Board.

3. Meetings

A. Regular Meetings

- i. Regular Meetings of the Planning Board (hereafter referred to as the "Board") are posted in a Board approved schedule available online on the Planning Board web page. Regular Meetings are generally the first-second (2nd) and third-fourth (4th) Wednesday of every month, with exceptions as indicated on the posted schedule.
- ii. Regular Meetings start at 7:00 PM. No new agenda items will begin after 9:00 PM.
- iii. At 9:00 PM, the Board shall, if necessary, temporarily suspend consideration of the agenda item currently under review in order to determine whether remaining agenda items will likely be reached before 9:30 PM. The Board shall at that time notify those in attendance for those agenda items which will not be reached that the items will be postponed until the next regularly scheduled meeting or at another date and time determined by the Board. Any item postponed under the provisions of this rule shall be considered as Unfinished Business at the next regularly scheduled meeting or at the meeting date specified by the Board.
- iv. Agenda items remaining after the 9:30 PM cut-off time shall be automatically continued to the next regularly scheduled meeting or to another date and time determined by the Board.
- v. The Regular Meeting of the Board follows the following Order of Proceedings:

A. Pledge of Allegiance

- B. Roll call, declaration of quorum and determination of which associate member (s), if needed, will be voting.
- C. Adjustment(s) of the Agenda
- D. Unfinished Business
- E. New Business
- F. Other Business
- G. Adjournment

B. Workshops:

- i. The purpose of Workshops is to discuss the Comprehensive Plan, Land Development Regulations (~~Zoning Ordinance~~), ~~Subdivision Regulations~~, and overall development review policies and procedures.
- ii. Workshops are also used for educational opportunities for the Board.
- iii. Workshops can either be a separate meeting or can be a part of a Regular Meeting.
- iv. Since the purpose of Workshops is for Board discussion, input from the general public, town staff, boards, and commissions is only permitted at the discretion of the Chairperson, or upon motion, by majority vote of the Board.

C. Special Meetings:

- i. Special Meetings may be called by the Chairperson or a majority of the Board.
- ii. Notice of Special Meetings shall be served ~~in person to the residence of to~~ each Board member by email and phone call at least 48 hours prior to such a meeting.
- iii. Whenever possible, notice of a Special Meeting shall be announced at a prior meeting of the Board.

D. Site Walks

- i. Site walks may be scheduled at the discretion of the Board.
- ii. The purpose of a Site Walk is to collect information related to the physical factors of a site under consideration by the Board.
- iii. The Board shall not deliberate or make decisions during a Site Walk.
- iv. Members of the public may attend Site Walks, but generally are not permitted to provide input or to ask questions unless allowed by the Chairperson. Such comments and questions shall only be provided through the Chairperson.
- v. The applicant and their agent are expected to attend a Site Walk. In the event that the applicant and/or their agent fails to appear at a scheduled Site Walk, the Planning Board may postpone said Site Walk until another time, to be determined by the Chairperson.

4. Application review, public input and public hearings:

A. Public Input at Regular Planning Board Meetings:

- The Planning Board seeks public input in a fair and efficient manner that permits a thorough exploration of the issues of fact and law to be decided. Notice of

meetings will be provided to Applicants and the public in order for them to review and prepare comments on applications.

- The decisions of the Planning Board on applications will be based on conformance with applicable legal standards, Federal, State, and local laws and ordinances, and the evidence and argument submitted into the record of the meetings, whether in written, oral, or exhibit form. The Board may also rely on the knowledge, experience, and observations of its members, and matters of common knowledge.

B. Formal Public Hearings:

- i. The Planning Board seeks to conduct public hearings in a fair and efficient manner that permits a thorough exploration of the issues of fact and law to be considered. Notice of hearings will be provided to Applicants and the public in order for them to review and prepare comments.
- ii. The Planning Board may also choose to hold a Public Hearing, upon majority vote, for any other item covered in the Scope of these Rules of Procedures.
- iii. The decisions of the Planning Board on applications will be based on conformance with applicable legal standards, Federal, State, and local laws and ordinances, and the evidence and argument submitted into the record of the meetings, whether in written, oral, or exhibit form. The Board may also rely on the knowledge, experience, and observations of its members, and matters of common knowledge.

C. Presiding Officer:

- i. The Chairperson is the presiding officer at any public meeting or hearing held by the Planning Board and has broad discretion to conduct meetings and hearings in any manner that establishes a complete administrative record and provides a reasonable opportunity for interested parties to be heard. In the event the Chairperson is absent for any reason, the Vice Chairperson or another member, as elected, of the Board will preside.

D. General Conduct of Public Hearings and Meetings:

- a. The Board welcomes testimony from the public and interested parties at its meetings and hearings. Where persons wish to bring to the Board's attention complex data, reports, or arguments, it will be helpful to the Board's consideration of this material if it is submitted in writing seven (7) days in advance of the hearing.
- b. Those providing input at public hearings and meetings are advised to observe general rules of decorum and address only the issues before the Board. Persons disrupting the proceeding may be asked to leave the room by the Chairperson.
- c. All questions from the public regarding an application shall be directed through the Chairperson. No direct discussion between the public and the applicant or their agents is permitted.
- d. Individuals and organizations with comparable positions in support or opposition are encouraged to be brief and not provide duplicative comments.

- e. Representatives of organizations such as committees, homeowner's associations must state for the record at the outset of their presentation whether the organization has authorized the substance of what is being presented.
 - f. Individuals and organizations that have provided written comments or materials for Planning Board consideration are encouraged to avoid unnecessary duplication of the record by reading verbatim text as oral comments. They should instead use their oral comments to highlight important points contained in that text, or supplement the written comments with additional information that is relevant to the Planning Board decision.
- ii. Order of Proceedings and Time Limits:
- a. In any meeting or hearing convened where the Planning Board receives public comment members of the public are invited to speak. Depending on the agenda, speakers may have up to five (5) minutes to present comments or questions to the Board. Speakers' comments and questions will be addressed at the Planning Board's discretion after everyone who intends to speak is heard. ~~the order of proceedings and time limits for presentations/comments shall be as presented in Table 1.~~
 - b. The time limits imposed shall take into account the total amount of time available to conduct the meeting or hearing, the number of persons likely to be heard, and the overall breadth and complexity of the matters to be considered by the Planning Board.
 - c. The Chairperson will announce any time limits imposed as soon as possible, but no later than when the public input session or hearing is convened.
 - d. Upon request, at the discretion of the Chairperson, the time limits may be lengthened if it will serve to better present information to aid the Board in its decisions.
- iii. Planning Board Questions:
- a. A question by a member of the Planning Board will be in order at any time during a public meeting (before and after the public comment period) or public hearing. Board members are encouraged to consolidate the questions put to any party in a manner that is efficient under the circumstances of each meeting or hearing.
 - b. In order to maintain order, all questions from members of the Planning Board shall be through the Chairperson. At the discretion of the Chairperson, Board members may be permitted to directly ask questions of individuals or groups, if it felt that the doing so will benefit the Board in making its decision.
- iv. Exhibits:
- a. Any exhibit, model, or demonstrative evidence presented by Planning Staff, the Applicant, or any other Person as an element of its oral or written testimony before the Planning Board, become the property of the Town of Winthrop and will not be returned.
 - b. Persons who expect to present exhibits or other demonstrative evidence are encouraged to advise Planning Staff prior to the hearing so that appropriate arrangements can be made for its presentation.
- v. Continuance:

- a. The Planning Board may continue a public hearing or an application to another date, place, and time.
- b. A motion for continuance may be made by any member of the Planning Board on the member's own initiative, upon request or recommendation of the Planning Staff, or at the request of the Applicant.
- c. A motion to continue a public hearing or application to another time must be approved by a vote of a majority of the members of the Board present and voting.
- d. Continued items on a regular Board agenda shall be continued to another regularly scheduled meeting, unless the item is continued to a site walk, in which case the date, time, and place shall be announced and no further notice is required other than announcement on the Town website.
- e. Public Hearings can be continued to any date, time, and place and if said date, time, and place is announced on the record, no further notice shall be required other than announcement on the Town Website.
- vi. Staff, Applicant, and Planning Board Responses and Planning Board Deliberations:
 - a. Members of the public may respond to new issues or substantive changes that are presented after the public comment period or public hearing is closed. It shall be within the discretion of the Chairperson to determine whether a response is appropriate. In making this determination, the Chairperson shall decide whether the response constitutes facts or information that could not have been presented during the public comment period and are related to such new issues or substantive changes.
- vii. Planning Board Decisions:
 - a. A quorum shall be four (4) members of the Planning Board, including Alternates if sitting in place of a Regular Member of the Board.
 - b. No member absent from a significant portion of a public hearing or review of an application shall be qualified to vote upon the matter heard unless that member first certifies for the record that they have reviewed the entire record of any such portion of the hearing or review of an application during which they were absent and has fully informed themselves of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.
 - c. The Planning Board may approve, with or without conditions, or disapprove an application or item on the motion by any Planning Board member other than the Presiding Officer. Any motion for approval of an Application subject to conditions shall specify the conditions to which the approval is subject by either stating the Conditions or by Reference to the Planning Staff's Report.
 - d. Where a vote on a matter results in a failure to approve, the Board shall immediately vote upon a motion to either table or deny the project. A motion to table shall specify what would be required for the Board to consider removing the item from the table for future consideration.
- viii. Signatures of Plans, Findings of Fact, and Minutes

- a. All Board members, including Alternate Members, present for a decision that requires Board signatures shall sign all copies of approved plans.
- ~~b. The Chairperson shall sign all approved Minutes and Findings of Fact. In the event that the Chairperson is absent, the Vice Chairperson will sign the approved minutes and Findings of Fact.~~

It is the policy of the Planning Board of Winthrop to ensure that Board members:

- Are aware of their responsibilities as Board Members and representatives of the Town of Winthrop;
- Are aware of and avoid what constitutes a conflict of interest or breach of trust; and
- Are aware of and avoid what constitutes an “Ex Parte (outside) communication”.

A. Board Member Responsibilities:

i. To Serve the Public Interest:

- a. The Planning Board’s purpose is to implement the Comprehensive Plan and to foster coordinated and harmonious development of the Town of Winthrop that will, in accordance with present and future needs, best and most efficiently promote the public health, safety, and general welfare.
- b. Appointment to the Planning Board, therefore, represents a public trust, giving a Board member a responsibility to care for the general welfare of the Town and an opportunity to help in shaping the present and future quality of life in the Town of Winthrop.
- c. Each Board member's primary responsibility is to represent the best interests of the Town as a whole. Board members are therefore expected to keep consideration of the general public interest foremost during their deliberations. They should consider the interests of particular individuals or groups only in the context of their relationship to the general public interest.
- d. Board members are also expected to retain an open mind to all viewpoints. They should not act as delegates of the particular neighborhoods, occupations, interest groups, or socio-economic groups of which they are a part.
- e. Furthermore, the Planning Board often serves as a public forum for citizen participation and discussion of planning issues important to the community. At such times, the Board should attempt to draw out and clarify the positions of people on all sides of the issue, and to identify the relationship of such positions to the public interest.

ii. To Acquire Adequate Information and Knowledge:

- a. Each Planning Board member has the responsibility to acquire whatever information and knowledge is necessary to fully understand and make wise decisions and recommendations in the interest of the Town. To this end, a Board member is expected to depend on both his or her own personal background, experience, expertise, and familiarity with the Town (especially that part of the Town in which he or she

- resides), as well as the expertise and knowledge of, and information available to, Town staff members.
- b. Board members are expected to have a full understanding of the Town's Comprehensive Plan. They are expected to be familiar with the general scope, applicability, and organization of the Town's Land Development Regulations (Zoning Ordinance), Subdivision Regulations and review procedures.
 - c. Members are encouraged to expand their knowledge and understanding of planning issues through such means as attending planning workshops and conferences and reading planning-related literature. Board members may join the American Planning Association, which offers a number of workshops and conferences and provides the monthly Planning magazine. Furthermore, Board members may review books, periodicals, and other documents located in the Planning Office's small reference library.
 - d. Members are also encouraged to improve their understanding of current applications and issues by discussing them individually with Planning Staff, either over the phone or in person.
 - e. At Board meetings, members have the responsibility to insist that they are provided (by an applicant, interested party, or the staff) information of sufficient scope and depth to allow them to fully understand the issues before the Board and the alternative actions available to the Board. If the application, staff report, and other documents submitted to the Board regarding a particular item are insufficient to enable a Board member to fully understand the issues immediately before the Board, that Board member has the responsibility to ask questions of, or request additional information from, the applicant, other interested parties, and the staff (as appropriate) to acquire the necessary understanding.
- iii. To Be Fair:
- a. The Board also has the responsibility to ensure that its decision making process is fair. This means that persons likely to be interested in a particular subject coming before the Board must be provided adequate and timely notice of the meeting at which the Board will review the subject, an opportunity to attend that meeting and present views and information concerning the subject, and an opportunity to know the information and considerations on which the Board bases its action concerning the subject.
 - b. Fairness also requires that Board members avoid any bias or the appearance of any conflict of interest in their decisions, that the Board act in a timely manner, that the Board keep full and accurate records of its proceedings, and that the Board establish and make available the ground rules under which it conducts business (I.e., Rules of Procedure).
- iv. To Make Rational Decisions:
- a. The Planning Board has the responsibility to ensure that the decision-making process it applies to any issue before it is not only rational, but is also perceived as rational. This means the Board's decision should consist of conclusions that are based on findings related to the

standards, policies, and considerations applicable to the particular type of decision.

- b. Furthermore, such findings should be supported by information available to the Board, whether it is information contained in an application, staff report, or other document submitted to the Board, or included in any testimony presented before the Board, or explicitly stated by a Board member from his or her personal observations, knowledge, or experience.
- v. To Take a Broad Perspective:
- a. Board members have the responsibility to recognize the comprehensive and long-range nature of many of the Board's decisions. They must consider, as well as balance and integrate, not only the many physical aspects of the issue being decided, but often also its economic and social aspects. They must consider not only the decision's immediate impacts on those persons most affected, but also its future and secondary impacts on the Town as a whole. The Board should thus explicitly evaluate all facts, alternatives, means, and consequences relevant to its decisions.
 - b. As the Town's body of elected officials, the Town Council is principally occupied with resolving pressing current problems that usually demand immediate action and that often involve the need to balance competing interests. The Town Council, therefore, rely on the Planning Board to give them advice that reflects a broader and longer-range viewpoint than that demanded of them.

C. Conflict of Interest:

- To preserve public confidence in the integrity of the Planning Board and the Town's governmental process, each Board member shall have the duty to avoid even the appearance of a conflict of interest. A Board member, therefore, shall ask to be excused from participation in any matter before the Board in which the member's impartiality might reasonably be questioned, including, but not limited to, instances where:
 - a. Maine Statutory Conflict of Interest (Title 30-A, Section 2605): The Board member (1) is an "officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity" which is making the application to the board and (2) is "directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity"; or
 - b. The Board member has a personal bias or prejudice concerning any interested party, or representative of a party, to a matter before the Board; or
 - c. The Board member has a close personal or financial relationship with any party or party representative; or
 - d. The Board member, or a member of the member's household, has a personal or financial interest that may be substantially affected (directly or indirectly) by the Board's action on the matter.
- If a Planning Board member feels that they may have a conflict of interest on a particular item or issue, they shall declare the nature of such conflict and ask to be

excused from participating on the item or issue related to the conflict. The remaining Planning Board members, by majority vote, shall determine whether such a conflict exists and whether said member may excuse themselves from further deliberations on the item or issue. iii. If any other person questions the impartiality of a Board member before or during the Board's consideration of a matter, the Chairperson shall treat this as a request that the member be excused from participation. Any request that a Board member be excused from participation must disclose the basis for the request. The remaining Planning Board members, by majority vote, shall determine whether such a conflict exists and whether said member may excuse themselves from further deliberations on the item or issue. If the Board finds that an actual or apparent conflict of interest does not exist, the member shall be allowed to fully participate in the matter. No actual or apparent conflict of interest shall be deemed to exist where the matter would similarly affect all citizens of the Town of Winthrop, or where Maine Statutory Conflict of Interest does not exist or that the Board member's bias, prejudice, relationship, or interest is so insignificant or so remote that it is unlikely to affect the member's actions in any way.

- If excused from participation in a matter, a Board member may not sit with the Board during its consideration of the matter, and may not vote on the matter, but may take a seat in the audience and participate as a member of the public.
- In no instance shall a Planning Board member be excused from deliberations and voting on an item or issue merely due to unwillingness to vote on the issue at hand and where no conflict of interest is found to exist.

D. Ex Parte (Outside) Communications:

- i. To preserve public confidence in the fairness of Planning Board deliberations and decisions, the Board should ensure that the public and interested parties have the opportunity to know, and respond to, all information the Board considers in making its decisions. The Board should also ensure that each Board member has the opportunity to know and consider the information available to other Board members.
- ii. When considering items or issues in the public process, the Board deals with parties who are directly affected by the Board's decision (such as the applicant and neighbors of a proposed project). Each of these interested parties need the assurance that other interested parties will not have unfair advantage in presenting their version of the relevant facts or concerns to the Board. In such cases, therefore, Board members shall avoid communicating with applicants or other interested parties about the proposal except at the Board meetings (I.e., an "Ex Parte communication") at which the proposal is being considered.
- iii. Ex Parte communications can occur in person, via telephone, fax, e-mail, or other method of communication.
- iv. A Board member who is approached with an Ex Parte communication should actively discourage the person from doing so and encourage the person to submit the information to the board in writing or through oral testimony at a board meeting. The board member should explain that, by providing information outside the public meeting, the person may be causing constitutional due process problems with the board's process and that the board may not legally be able to consider the information the person is trying to present.

- v. If a Board member receives unsolicited communications about an item or issue, outside of a Board meeting, the member has the duty to reveal the communications during the Board's consideration of the proposal. This ensures that the communicated information will become part of the record and that other Board members and interested parties will have an opportunity to consider and refute the information.
- vi. Comprehensive Plan, Zoning Ordinance, or Subdivision Regulation amendments are legislative determinations to be made by the Town Council, and when considering such matters the Planning Board's role is purely advisory. When the Board considers such issues it often finds access to a broad range of public input helpful in making a decision on the issue. In such cases, therefore, Board members may communicate with interested persons outside of the meetings at which the issue is being considered, but each member has the duty to reveal the general nature and scope of relevant information and opinions gleaned from such communications during the Board's consideration of the issue. To ensure that each Board member's decision is based on the full range of information and public opinion available to the Board, members should avoid committing themselves to a position on the issue during any outside communications.
- vii. Under no circumstances should Board members meet with someone representing just one side of an item or issue outside a Public Meeting setting. Further, Board members should not discuss an application with a Code Enforcement Officer, Town Engineer, or other Town of Winthrop Staff Member, other than Planning Staff, outside a Public Board meeting in order to avoid due process problems. If a Board member has questions that involve Town of Winthrop Staff Members, other than Planning Staff, they shall only be directed through Planning Staff.
- viii. Planning Staff shall ensure that any communications between Board members and themselves that constitutes an Ex Parte communication is revealed to the entire Planning Board at the next available Public Meeting for which that item is discussed.



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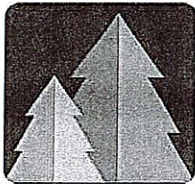
REGISTRATION OPEN! MMA's Local Planning Boards & Boards of Appeal Workshop

1 message

Maine Municipal Association <training@memun.org>
Reply-To: Maine Municipal Association <training@memun.org>
To: demerson@winthropmaine.org

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MAINE MUNICIPAL ASSOCIATION SINCE 1936

WHY WAIT? REGISTER TODAY!

LOCAL PLANNING BOARD & BOARD OF APPEALS WORKSHOP

Thursday, May 30
Bangor Hilton Garden Inn

DATE, TIME, LOCATION and COST

Date: Thursday, May 30th
Time: * Registration: 4:00-4:30 pm
* Workshop: 4:30 pm - 8:30 pm
(Dinner will be provided midway through the workshop)
Location: Bangor Hilton Garden Inn
250 Haskell Rd., Bangor
Cost: MMA Members: \$70; Non-Members: \$140
Presenters: Attorneys from the MMA Legal Services Department

WHO SHOULD ATTEND

This workshop is a basic introduction to the rules and procedures governing municipal planning boards and board of appeals. It is designed primarily for new

