

TOWN OF BUCKFIELD

NORTH POND WATERSHED PROTECTION ORDINANCE

SECTION 1: FINDINGS AND PURPOSE

A. Findings

The town finds that the quality of water in North Pond is directly related to the use and condition of the land in its watershed. When land use changes and disturbs the natural cycling of nutrients, particularly phosphorus, degradation of water quality results. Development increases phosphorus runoff in the short term through disturbance of the ground cover and resulting soil erosion and sedimentation. Long term, permanent increases in phosphorus runoff result from land use changes which cause changes in the surface runoff patterns allowing more runoff to reach the pond laden with more phosphorus from lawn and garden fertilizers, detergents, and fine soil particles. Phosphorus runoff from development can exceed natural levels from forested areas by a factor of ten.

B. Purpose

It is the purpose of this Ordinance to control phosphorus export to North Pond from new development and other land use activities resulting from erosion and changes in runoff in order to protect North Pond's water quality.

SECTION 2: AUTHORITY AND ADMINISTRATION

A. Authority

1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., Section 3001.
2. This Ordinance shall be known as the "North Pond Watershed Protection Ordinance" of the Town of Buckfield, Maine, adopted and effective by vote of the Town Meeting of June 26, 1996. Sections 7.C and 7.D shall become effective on the date(s) that the procedures established in Title 12 M.R.S.A. Section 8869.8 and Title 17 M.R.S.A. Section 2805.4 have been met.

B. Administration

The Planning Board of the Town of Buckfield shall administer this Ordinance.

SECTION 3: APPLICABILITY

A. The following development and land use proposals shall require a permit from the Planning Board whenever located in that portion of the direct watershed of North Pond, located in Buckfield, except where noted under C below. For the purposes of this Ordinance the boundaries of the North Pond Watershed shall be as delineated on the North Pond Watershed Map dated May 1995 and on file at the Buckfield Town Office. When the boundaries of the watershed are disputed due to lack of sufficient detail on the North Pond Watershed Map, the applicant or agent may submit evidence prepared by a professional engineer, geologist or individual agreed on by the Planning Board which identifies actual field locations of the watershed.

1. New commercial, retail, industrial, institutional and recreational building(s), structure(s) and uses not exempted under Section 3.C.

2. The expansion in any five- (5) year period of any structure or building in excess of twenty-five (25%) percent of its gross finished living space for residential uses and in excess of twenty-five (25%) percent of its gross floor space for all other uses or by an expansion, structural or building, in excess of 1,000 square feet of gross floor space, whichever is less.
 3. The expansion in any five- (5) year period of any existing land use which will result in land not being re-vegetated if such expansion is greater than twenty-five (25%) percent of the existing non-vegetated land area or 1,500 square feet of gross non-vegetated land area, whichever is less.
 4. Campground, motels and hotels, and rental cottages or cabins.
 5. Subdivisions as defined in Title 30-A, M.R.S.A., Section 4401 except as provided for in Section 3.C.2 of this Ordinance.
 6. Timber Harvesting
 7. Agriculture
 8. Road construction or reconstruction greater than 200 linear feet and/or driveway construction greater than 550 linear feet.
- B. The following activities and development proposals shall qualify for a Simplified Review Procedure (Section 4A) and shall require a permit from the Planning Board whenever located in the direct watershed of North Pond except where noted under C below.
1. Construction of one detached single-family dwelling, the placement of one manufactured home, or one duplex dwelling on a lot and accessory structures for the use of the residents thereof.
 2. Road construction and reconstruction involving less than 200 linear feet and driveways between 200 and 550 linear feet unless associated with any of the activities defined in paragraphs A.1 through A.6 above.
 3. Any of the proposals listed under Section 3.A which involve no more than 20,000 square feet of clearing or land disturbance including but not limited to areas cleared for lawns, buildings, and driveways.
- C. This Ordinance does not apply to:
1. Legally existing buildings, structures, and uses of land existing at the time of adoption of this Ordinance.
 2. Subdivisions and lots within subdivisions approved by the Planning Board prior to the effective date of this Ordinance provided the review and approval of the subdivision considered limits to phosphorus export pursuant to "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development," Maine Department of Environmental Protection et al., September 1989 with revisions in 1992 and as may be amended.

SECTION 4: APPLICATION PROCEDURES:

A. Simplified Review Permits

1. Any person requiring review under this subsection shall submit an application addressed to the Planning Board at least seven (7) days prior to a scheduled meeting of the Planning Board. A complete application shall consist of an application form together with all submissions listed in Section 5 herein, and a fee of \$25.00 payable to the Town of Buckfield.
2. Within thirty (30) days of receiving an application, the Planning Board shall notify the applicant in writing that the application is complete or incomplete, and shall specify additional material that may be needed to make a complete application. After the Planning Board has determined that a complete application has been filed, the applicant shall be notified and the review shall commence.
3. Within thirty (30) days of receiving a completed application, the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement with the applicant.

B. Standard Review Permits

1. Pre-application Meeting:

- a. Prior to submitting an application, the applicant or authorized agent should appear informally at a regular or special meeting of the Board to discuss the proposed development.
- b. The applicant shall present to the Planning Board at this time, for informal review and comment, a sketch plan of the proposed activity. The sketch plan shall consist of a rough outline of the proposed activity and may be freehand, penciled sketch of the parcel showing the proposed layout of buildings, roads and other features which may be of assistance to the Planning Board in making its determinations.
- c. The Board may request that the applicant arrange for an inspection of the site with the Planning Board or an individual appointed by the Board Chairman to act as the Board's representative.
- d. No binding commitments shall be made between the applicant and the Planning Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable. There shall be no fee for a pre-application review and such review shall not cause the Plan to be a pending application.

2. Application:

Any person requiring review under this section shall submit an application for approval at least seven (7) days prior to a scheduled meeting of the Planning Board. A complete application shall consist of an application form together with fees and all submissions listed in Section 5 herein. The applicant or his duly authorized agent shall attend the meeting of the Planning Board to discuss the application. A determination of completeness shall be made within thirty (30) days of receipt of the application.

3. Fees:

- a. All applications shall be accompanied by an application fee payment of \$25.00. Said application fees shall be made by check payable to the Town of Buckfield, Maine.
- b. There shall be an additional payment of \$150.00. This portion of the application fee shall be known as the planning Board Review Escrow Account. The monies shall be made by check payable to the Town of Buckfield, Maine. These funds or portion thereof may, from time to time, be used by the Town, at the request of the Planning Board, for purposes to be determined by the Planning Board in order to make payments for reasonable costs, expenses and services incurred by, or contracted for by the Town through the Planning Board at its discretion which relates directly to the review of the Application. Such services may include, but not be limited to, consulting engineering fees, land use planner fees and attorney fees. All such fees must relate to the review of the application pursuant to the review criteria of this Ordinance and the laws of the State of Maine. If the balance in the applicant's portion of the Review Escrow Account shall be drawn down by 75 percent, the Planning Board shall require that an additional 50 percent of the original Planning Board Review Escrow Account Fee be deposited. The Planning Board shall continue to notify and require an additional 50 percent of the original Planning Board Review Escrow Account Fee be deposited as necessary whenever the balance of the account is drawn down by 75 percent of the original deposit. The Town, at the request of the Planning Board, shall refund all the remaining monies in the account upon payment of all costs and services related to the Planning Board review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval, denial, or approval with conditions of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Planning Board for any enforcement purposes.

4. Public Hearing:

- a. The Board may, at its discretion, schedule a public hearing for the next available time on the Board's agenda but not more than thirty (30) days from the time of determination that the application is complete. Public notice of the hearing shall be placed in a newspaper of general circulation with the town at least twice, the date of the first notice to be at least seven (7) days prior to the date of the hearing. The Board shall also send notice to the CEO, Buckfield Village Corporation and to all abutters provided that failure of those notified to receive such notice shall not invalidate the decision of the Board.

5. Complete Application:

The applicant shall be notified by certified mail that the application is complete, of the timetable for review, and any additional requirements or questions associated with the application.

6. Decision:

- a. Within thirty (30) days of the public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application and approve, approve with conditions, or deny the application. The Board shall specify in writing its findings of fact and reasons for any conditions or denial.
- b. Conditions of the Board's approval shall be intended to ensure conformance with the performance standards contained for this Ordinance. They may include but are not limited to increased setbacks, specifications for type of sewage and water supply facilities, off-site improvements, vegetative or structural buffers and screens, location of buildings, docks, or parking areas, and deed restrictions.

7. Performance Guarantees:

- a. Types of Guarantees: Where improvements for the construction of phosphorus and erosion control structures have been approved, the applicant shall provide one of the following performance guarantees committing one hundred (100%) percent of the estimated cost of said improvements:
 - 1) Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner for the establishment of an escrow account;
 - 2) A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers; or
 - 3) An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision or site plan, from which the Town may draw if construction is inadequate, approved by the Municipal Officers.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Road Commissioner, Municipal Officers, and/or Town Attorney.

- b. Contents of Guarantee: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the applicant, and a date after which the applicant will be in default and the Town shall have access to the funds to finish construction.
- c. Escrow Account: A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant.

- d. Performance Bond: A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant and the procedures for collection by the municipality. The bond documents shall specifically reference the application for which approval is sought.
 - e. Letter of Credit: An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the project and may not be used for any other project or loan.
 - f. Release of Guarantee: Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
 - g. Default: If upon inspection the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Municipal Officers, the Board, and the builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.
8. Notice to CEO:
The Board shall send copies of the approval to the CEO and the Buckfield Village Corporation. The CEO shall issue no (building or occupancy) permit until conditions of the approval have been carried out.
9. Permit Expiration:
The approval of the Board shall expire if work on the development is not commenced within six (6) months or substantially completed within one (1) year. The Board may, by formal action, grant an extension of the completion deadline for a period of no more than one (1) additional year.

SECTION 5: SUBMISSION REQUIREMENTS

- A. Submission Requirements for Simplified Review Permits
- 1. A map showing the location of the proposed use and indicating the tax map and lot numbers.
 - 2. A map or set of maps of the proposed use drawn at a scale of 1"=50' unless otherwise approved by the Planning Board showing:
 - a. the location and dimensions of all existing and proposed structures and driveways;
 - b. existing ground cover and wetlands;
 - c. areas to be cleared for construction or landscaping;
 - d. proposed location of the septic system if on-site waste disposal is proposed;
 - e. drainage features and patterns including the location and drainage directions of any intermittent or perennial water bodies, drainage swales, road ditches, and culverts, and overland drainage from the site; and

- f. vegetative buffer strips or runoff infiltrations systems proposed for phosphorus control in accordance with the standards set forth in Section 6 of this Ordinance.
3. An erosion and sedimentation control plan.
4. A subsurface wastewater disposal plan prepared by a registered site evaluator which meets the standards set forth in Section 6.4 of this Ordinance.
5. Documentation of the applicant's legal interest in the property.

B. Submission Requirements for Standard Review Permits

The following information is required of all applicants. Additional requirements may be specified in Section 6, Performance Standards.

1. A completed application for standard review shall consist of seven (7) copies of required plans on sheets measuring no smaller than 11" x 17" and no larger than 24" x 36" and ten (10) sets of attachments. Plans shall be drawn to a scale of no greater than 1"=30' for development under ten (10) acres, and 1"=50' for all or as may be approved by the Planning Board.
2. The submission shall contain the following items unless the Planning Board waives specific requirements as set forth in Section 5.C.
 - a. A title block in the lower right-hand corner containing the name and address of the applicant and property owner, the name and address of the preparer of the plan, with professional seal, if applicable, location of the property according to municipal tax maps, the date of plan preparation or revision, and an identification number unique to the plan.
 - b. A standard boundary survey conducted by a surveyor licensed in the State of Maine, with sufficient information to identify and locate interior and exterior boundaries, rights-of-way and street alignments.
 - c. An arrow showing true north and the magnetic declination, a graphic scale, and a signature block for members of the Planning Board.
 - d. A location map showing the property in relation to other properties and roads in the general vicinity.
 - e. A land cover map showing existing and proposed areas in forest, fields, wetlands, water bodies, and developed areas. Acreage must be indicated for each of the following: delineated wetlands over one acre in size, road ditch, road surface, lawns, and impervious surfaces including buildings and paved areas which are not road surfaces.
 - f. A drainage map, showing all intermittent and perennial water bodies, diversion ditches, and swales; and drainage areas and patterns before and after development. Culverts and road ditches shall be clearly shown and the drainage patterns thereto and therefrom indicated. Where drainage areas extend beyond the proposed project property boundaries, the size, in acres, of off-site drainage areas entering the property must be indicated.
 - g. A copy of the county soil survey map of the area (SCS medium intensity survey).

- h. Existing contours and finished grade elevations within the site together with proposed landscaping and buffering treatments. Areas of sustained slopes exceeding twenty-five (25%) percent and covering more than one (1) acre must be indicated.
- i. A plan for the control of erosion and sedimentation meeting the standards set forth in Section 6 of this Ordinance.
- j. A phosphorus impact analysis and control plan conducted using the procedures set forth in "Phosphorus Control in Lake Watersheds: A technical Guide to Evaluating New Developments" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended) and meeting the standards set forth in Section 6 of this Ordinance including a long-term maintenance plan for all phosphorus control measures.
- k. Description of the type and placement of subsurface wastewater disposal facilities:
 - 1) Where disposal will be by an engineered private system, prior approval by the Department of Human Services.
 - 2) Where subsurface waste disposal is to be used, a registered site evaluator's plan which meets the standards defined in Section 6.3 of this Ordinance and a signed permit from the Local Plumbing Inspector.
- l. Documentation of the applicant's legal interest in the property.
- m. Text of all encumbrances currently on the property and all deed restrictions or encumbrances proposed to be placed on the property.
- n. A list containing names and mailing addresses of all abutters and copies of letters to the abutting landowners and selectmen notifying them of the proposed development by certified mail.

In its consideration of an application, the Board may require the applicant to submit such additional materials, studies, analyses and proposals as it may deem necessary for a complete understanding of the development.

C. Submission Waivers

Where the Planning Board makes written findings of fact that there are special circumstances of a particular application, it may waive portions of the submission requirements, unless otherwise indicated in this Ordinance, provided that the applicant has demonstrated that the standards of this Ordinance have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and this Ordinance.

SECTION 6: PERFORMANACE STANDARDS

A. Erosion and Sedimentation Control

The requirements of the Subsection shall be met by employing the best management practices (BMPs contained in Section(s) 1.0 – 14.0 of the publication, "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, "Cumberland County SWCS, Department of Environmental Protection, March 1991 and as amended. The terms of Sections 1.0 – 14.0 of the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" are hereby specifically incorporated herein and shall be enforced in accordance with this Ordinance.

B. Phosphorus Control

1. Phosphorus Export Standards

Projects proposed within the direct watershed of North Pond shall be designed to limit phosphorus runoff to the levels defined below. The board shall keep an accurate record of permits issued and shall review actual development rates and recommend adjustments to the Table at five- (5) year intervals subject to a reasonable appropriation by the Town to conduct such a reassessment or the availability of adequate State or regional grant programs or technical assistance programs. Adjustments shall be made by amendment of this Ordinance and Town's Comprehensive Plan.

<u>Waterbody</u>	<u>Water Quality Category</u>	<u>Lake Protection Level</u>	<u>Projected Watershed Development (50 yr) (Acres)*</u>	<u>Allowable Phosphorus Export per Acre*</u>
North Pond	Good	High	40	0.025 lbs.

*If the proposed development is greater than twenty-five (25%) percent of the projected area of watershed development, the allowable phosphorus export per acre must be adjusted using Appendix F of the manual "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Developments" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended).

2. Phosphorus Control Plans for Simplified Review Permits

A permit shall be issued for a proposed activity if it complies with the standards contained in Chapter 4 of the manual "Phosphorus Control in Lake Watersheds: A technical Guide to Evaluating New development" (September 1989 with revision in 1992 or as may be amended) to calculate appropriate vegetative buffer depths and other phosphorus control measures required for roads, driveways, and other developments subject to the simplified review procedures according to Section 3.B.3 of this Ordinance.

a. Maintenance and use restrictions for phosphorus control measurers shall meet the standards set forth in Section 6.B.3.c of this Ordinance.

3. Phosphorus Control Plans for Standard Review Permits

The following standards are to be used by the Board in reviewing permit applications and shall serve as a minimum requirement for approval. An application shall be approved unless in the judgement of the Board the applicant is not able to reasonable meet one or more of these standards. In determining that the application reasonably meets the standards, the Board shall review the site constraints and shall determine that the applicant has presented a plan which maximizes phosphorus control within the constraints of the site. The Board shall not make such a determination if the applicant can redesign the proposal to include less impervious surface area or road length, or more vegetative buffer areas; or can include additional structural controls; or can support some other use with less phosphorus export, except that the Board shall not deny an application for a single family residence due to site constraints which limit the ability to control phosphorus runoff. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

a. Phosphorus Export

Phosphorus export from a proposed development shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" Maine DEP et al, September 1989 with revisions in 1993 or as may be amended). Copies of all worksheets and calculations shall be made available to the Board. Supporting documentation shall include:

- 1) Copies of DEP worksheets A-1 to A-5 ("Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et al, September 1989 with revisions in 1992 or as may be amended) showing phosphorus export permitted and expected from the proposed development.
- 2) For residential developments:
 - a) A map showing the hydrologic soil class of all areas to be cleared or where will be permitted with the area indicated in square feet for each lot. Do not include driveways in excess of 150 feet. (Map scale not greater than 1"=100'.)
 - b) Calculated road length including driveways in excess of 150 feet.
 - c) If the development utilizes on-site septic systems, test pit analyses of proposed septic system sites. If sites will not be designated, test pit analyses must be submitted for all soil types on the site.
- 3) For multi-unit housing, commercial, and industrial developments:
 - a) A map showing the area in acres and hydrologic soil class of all proposed land surfaces including lawns, road ditches, road surfaces, and impervious surfaces (drawn at a scale of not more than 1"=100').
 - b) If the development utilizes on-site septic systems, test pit analyses as defined in Subsection b.(3) above.

b. Phosphorus Control Measures

Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et al, September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing road lengths, and shall encourage other non-structural measures such as clustering or reduction in the number of lots prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds. The following supporting documentation shall be submitted to the Board.

- 1) Engineering calculations and worksheets, detailed construction specifications and diagrams for all control measures.

- 2) For areas designated as vegetative buffer strips, a map showing:
 - a) Contours with elevation intervals of five (5') feet;
 - b) Locations and dimensions of designated buffer strips;
 - c) Classifications of the buffer vegetation as wooded or non-wooded, as defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et al, September 1989 with revisions in 1992 or as may be amended).
 - d) Soil types, hydrologic class and boundaries as determined by a medium intensity soils survey, or ground-confirmed SCS soil map.
- 3) For runoff infiltration systems:
 - a) A map locating the infiltration systems and showing setbacks from water bodies, wastewater disposal areas, ditches, slopes greater than 3:1; floodplains, wetland, and property lines.
 - b) A contour map showing two (2') foot contours before and after construction of all areas to be served by infiltration systems.
 - c) A high intensity soils analysis of proposed infiltration areas specifying hydrologic class, depth to bedrock or restrictive layer, seasonal high water table, and depth to sand or gravel layers.
- 4) For wet ponds:
 - a) A map showing the drainage area and number of acres served by the wet pond.
 - b) A high intensity soils analysis of the wet pond site specifying soil type, hydrologic class; depth to seasonal high water table; depth to bedrock; and presence or absence of fractured bedrock.
 - c) A contour map showing elevations at two (2') foot intervals for the wet pond site both before and after construction including all areas to be regraded in association with its construction and areas designated for disposal of dredge spoils resulting from its maintenance.
 - d) An analysis of the impact of wet pond discharges on receiving waters noting the presence or absence of a cold water fishery (as determined by the regional biologist from the Maine Department of Inland Fisheries and Wildlife) and measures taken to avoid adverse impacts.
 - e) Outlet structure specifications designed and certified by a licensed professional engineer including design calculations, cross-sectional plans and construction specifications.

c. Maintenance and Inspections

Provisions for adequate monitoring inspections, and maintenance of phosphorus control measures shall be included in the application.

1) “No Disturbance” Wooded Buffers

Where buffers are located within 250 feet of North Pond or tributary and in hydrologic Class D soils, or where slopes in the buffer area are predominately over twenty (20%) percent, the following standards shall apply:

- a) Buffers must be inspected annually for the evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.
- b) All existing undergrowth (vegetation less than four (4') feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact except that one winding walking path, no wider than six (6') feet is allowed through the buffer. This path cannot be a straight line to the lake as it would allow water to channelize. This path must remain stabilized.
- c) Pruning of live tree branches that do not exceed twelve (12') feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- d) No cutting is allowed of trees except for normal maintenance of dead, windblown, or damaged trees.
- e) Buffers shall not be used for all-terrain vehicle or vehicular traffic.

2) “Limited Disturbance” Wooden Buffers

In all other cases the clearing of trees and other vegetation within the buffer strip is limited to the following:

- a) There shall be no cleared openings and an evenly distributed stand of trees and other vegetation shall be maintained.

For the purposes of this Section, an “evenly distributed stand of trees and other vegetation” shall be defined as maintaining a minimum rating score of twelve (12) in any 25 by 25 foot square (625 square feet) area within one hundred (100') feet of the normal high-water line of a water body as determined by the following rating scheme:

<u>Diameter of Tree at 4'1/2 Feet Above Ground Level (Inches)</u>	<u>Points</u>
2" – 4"	1
4' – 12"	2
> 12"	4

- b) Activity within the buffer shall be conducted so as to minimize disturbance of existing forest floor, leaf litter and vegetation less than four (4') feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized as soon as possible to avoid soil erosion.

- c) Removal of vegetation less than four (4') feet in height is limited to that necessary to create a winding footpath no wider than six (6') feet. This path cannot be a straight line to the lake. The path must remain stabilized.
- d) Pruning of live tree branches that do not exceed twelve (12') feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- e) Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening being created, those openings shall be replanted with native trees at least three (3') feet in height unless existing new tree growth is present.
- f) Buffers shall not be used for all-terrain vehicle or vehicular traffic.

3) Non-Wooded Buffer Standards

Non-wooded buffers, as defined in "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Developments" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended) shall be maintained as follows:

- a) Non-wooden buffers, (i.e., fields or reverting fields) may be allowed to revert or to be planted to forest in which case the standards applicable to "No Disturbance" or "Limited Disturbance" wooded buffers shall apply.
- b) A buffer must maintain a dense, complete and vigorous cover of "non-lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.
- c) Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.
- d) Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

4) Infiltration Systems

Applicants shall be responsible for maintenance of individual infiltration systems according to the standards specified in the manual "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). Alternatively the applicant may designate some other entity to be contracted to take the responsibility. Any such contractual agreement shall include the above referenced maintenance provisions.

5) Wet Ponds

The applicant shall be responsible for maintaining any wet ponds, private entity agrees or is contracted to assume inspection and maintenance duties. Documentation establishing an agreement or contact with another entity shall include the maintenance standards specified in the manual "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Developments" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended).

C. Timber Harvesting

The requirements of this Subsection shall be met by employing the best management practices (BMPs) contain in the publication *Best Management Practices for Erosion Control and Water Quality Protection in Timber Harvesting Operations*, Bureau of Forestry, June 1991 and as amended. The terms are hereby specifically incorporated herein and shall be enforced in accordance with this Ordinance.

D. Agriculture

The requirements of this Subsection shall be met by employing the best management practices (BMPs) contained in the publication *Strategies for Managing Nonpoint Source Pollution from Agricultural Spaces and Best Management Practices System Guidelines*, NPS Agricultural Task Force, October 1991 and as amended. The terms are thereby specifically incorporated herein and shall be enforced in accordance with this Ordinance.

SECTION 7: ENFORCEMENT

A. Violation and Enforcement

The Code Enforcement Officer, upon finding that any provision of this Ordinance or the condition(s) of a permit issued under this Ordinance is being violated, is authorized to issue notices of violations, orders and schedules to correct, and to institute legal proceedings to enjoin violations of this Ordinance and to recover fines and costs.

B. Fines

Any person including but not limited to a landowner, a landowner's agent or a contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A MRSA Section 4452.

SECTION 8: VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHERS VARIANCES

A. Validity and Separability

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

B. Conflict with Other Ordinances

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements shall apply.

SECTION 9: APPEALS

An appeal from a decision of the Planning Board or Code Enforcement Officer may be taken to Superior Court pursuant to Rule 80K, Maine Rules of Civil Procedure.

SECTION 10: AMENDMENTS

This Ordinance may be amended by a majority vote at any Town Meeting. Amendments may be initiated by a majority vote of the Planning Board or by a request of the Board of Selectmen to the Planning Board or by a petition containing the names of registered voters equal to at least ten (10%) percent of the votes cast in the last gubernatorial election in the Town. The Planning Board shall conduct a Public Hearing on any proposed amendment.

SECTION 11: DEFINITIONS

Abutter: One whose property abuts, is contiguous, or joins at a border or boundary including the property across the street, road, public way or private way.

Accessory Use or Structure: A subordinate use of a building, other structure or land, or a subordinate building or other structure.

1. Whose use is customary in connection with the principal building, other structure or use of land;
2. Whose use is clearly incidental to the use of the principal building, other structure or use of land; and
3. Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

Agriculture: The production, keeping or maintenance for sale or lease of plants and/or animals including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Amusement Center: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games whether activated by coins, tokens, or discs or whether activated through remote control by the management.

Area of Special Flood Hazard: Means the land in the flood plain having a one percent or greater chance of flooding in any given year.

Authorized Agent: Anyone having written authorization to act on behalf of a property owner signed by the property owner.

Basement: The enclosed area underneath a structure typically having a masonry floor and walls which comprise the structure's foundation. The clear height up to the joists supporting the floor directly above it is three (3') feet or greater.

Body of Water: Shall include the following:

1. Pond – North Pond
2. Stream or River – a free flowing drainage outlet with a defined channel and flowing water.

Building: Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multiple family dwelling.

Campground: An area devoted to overnight recreational or educational use where the land area is divided into sites or lots for which a charge is made; either on a short or long-term basis by sale, rent or lease or condominium type of financing.

Channel: A natural or artificial watercourse to confine and conduct continuously or periodically flowing water. Channel flow water within the limits of the defined channel.

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

Commercial: Connected with the buying or selling of goods or services or the provision of facilities for a fee.

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

Construction: Structural changes or additions to a building or structure other than repairs and modification in building equipment.

Developed Area: The sum of all areas of land or water subject to clearing or grading.

Direct Watershed of a Lake or Pond: Any land area which contributes storm water runoff by either surface or subsurface flow to a great pond without such runoff traveling to or through another great pond. For the purposes of this Ordinance, the lake watershed boundaries shall be delineated on a watershed map on file at the town offices. Due to the scale of the map, there may be small inaccuracies in the delineation of the watershed boundary. Where there is some dispute as to where the watershed boundary lies on a particular property, the Planning Board or its designee and the landowner shall conduct an on-site investigation to determine where the drainage divide lies. If the Planning Board and the landowner cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the landowner to provide the Planning Board with information from a registered land surveyor showing where the drainage divide lies.

Diversion Ditch: A ditch to intercept and divert surface water runoff away from a disposal area.

Drainage Ditch: A constructed ditch receiving and diverting surface water runoff.

Dwelling: Any building, mobile home or structure or portion thereof designed or used for residential purposes.

1. Single-Family Dwelling shall mean any building containing only one (1) dwelling unit for occupation by not more than two (2) families.
2. Two-Family Dwelling shall mean a building containing only two (2) dwelling units for occupation by not more than two (2) families.
3. Multi-Family Dwelling shall mean a building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another with the number of families not exceeding the number of dwelling units.

Dwelling Unit: Shall mean a room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing and mobile homes but not recreational vehicles or motel units.

Expansion: In relation to a building, expansion shall mean: enlargement of floor area or enlargement of building enclosure. In relation to use: the addition of weeks or months to a business' operating season, the addition of hours to a business day, the use of more floor area or ground area, or the provision of additional seats or seating capacity.

Family: One or more persons occupying a premise and living as a single housekeeping unit.

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

Flood Plain: The lands adjacent to a body of water which have been or may be covered by the base flood.

Forest Management Activities: Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation or maintenance of truck roads.

Gross Floor Area: The sum of horizontal areas of the floor(s) of a structure enclosed by exterior walls plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Home Occupation: An occupation or profession which is customarily carried on in a dwelling unit or structure accessory to a dwelling unit which is incidental to residential use and employs two or less full-time equivalent outside employees.

Increase of Intensity: Any modification in use which results in increase traffic flow, increased noise levels or increase in wastes generated.

Industrial: Connected with the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

Institutional: A building devoted to some public, governmental, educational, charitable, medical or similar purpose.

Intermittent Drainage Way: Any drainage way which exhibits channelized flowing water resulting from surface runoff or the position of the ground water table which occurs for a period of not more than six (6) consecutive months during the year.

Manufactured Housing Unit: A structure transportable in one or more sections by the use of its own chassis or an independent chassis which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities.

Manufacturing: The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

Mobile Home Park: An area designed or planned approved by the placement of three (3) or more manufactured homes under unified ownership.

Multiple Family Dwelling: A building(s) consisting of three (3) or more attached dwelling units.

Perennial Water Body: Standing or flowing water lasting or continuing for more than six (6) consecutive months of the year.

Persons: Means any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, state agency, educational or charitable organization or institution, or other legal entity.

Recreational Vehicle: A vehicle or vehicular attachment for temporary sleeping or living quarters for one or more persons which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer and motor home.

Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

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

Sign: A display surface, fabric or device containing organized and related elements (letters, pictures, products, or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to the public view. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign.

Street: Public and private ways such as alleys, avenues, highways, roads and other rights-of-way as well as areas on subdivision plans designated as right-of-way for vehicular access other than driveways, farm roads or non-permanent logging roads.

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 and satellite dishes.

Timber Harvesting: The cutting or removal of at least 50 cords of timber for the primary purpose of selling or processing forest products.

Truck Road: A road constructed to provide truck transport of forest products from yards or landings.

Use: Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; also any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Wetland: Swamps, bogs, marshes and similar areas that are:

- a. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- b. Not considered part of great pond, river, stream or brook.

Yard: The area between a structure and the property boundary.

Note: This Ordinance was adopted by Town Meeting on June 26, 1996 – Warrant Article #57