

This first documentation is from the 04/18/23 Select Board Meeting. Updated documentation (pg. 6+) from after the meeting follows.



# Town of Waterboro

## Code Enforcement Office

24 Townhouse Road

East Waterboro, Maine 04030

(207) 247-6166 x120

[ceo@waterboro-me.gov](mailto:ceo@waterboro-me.gov)

## Ordinance Change Checklist

- ☒ Town Planner Edit & Endorsement *1-10-2023*
- ☒ Legal Endorsement & Verbage Approval *2-7-2023*
- ☒ Planning Board Workshop & Endorsement *3-1-2023 5-0*
- ☐ Presentation to Select Board & Schedule Hearing
- ☐ Post Proposed Change / Copy Available to Public
- ☐ Hold Public Hearing
- ☐ Select Board Approval

## **Article 2 General Provisions**

### **Section 2.01 Jurisdiction**

The jurisdiction of this ordinance shall include all lands and water within the corporate limits of the Town of Waterboro as shown on the official zoning map (see Section 3.02 of this ordinance) which is on file in the Town Clerk's office.

### **Section 2.02 Actions Requiring Compliance**

The use of land, water, or structures and the location, erection, movement, reconstruction, extension, enlargement, conversion, or structural alteration of structures or parts thereof shall hereafter be in conformance with the provisions of this ordinance.

### **Section 2.03 Building, Occupancy and Change of Use Permits Required** (Amended 06/4/1994)

A building permit, designed to insure compliance with state law, this ordinance, other local land use ordinances or regulations, and conditions (if any) attached to an approved project, must be obtained from the Code Enforcement Officer prior to constructing, locating, erecting, moving, reconstructing, extending, enlarging, converting, or structurally altering any permanent or temporary structure or use. A building permit shall be granted or denied by the Code Enforcement Officer as promptly as possible, but no more than 10 working days from the time the application is found complete. A building permit shall expire one (1) year from the date of its issue unless substantial work (actual construction) has commenced. Work commenced must be completed within two (2) years. A building permit shall not be valid for a longer period of time but may be renewed for an additional two (2) years if the nature of the project has been continuous. (Amended 03/7/2006 by board of selectmen vote)

Prior to the construction or installation of any building or structure, the property owner or contractor shall provide to the Code Enforcement Office a certification from a land surveyor demonstrating that the placement of the foundation meets the required setbacks. For purposes of this provision, a foundation shall be defined as any base material that provide frost protection for habitable space located above it.

An occupancy/use permit must be obtained from the Code Enforcement Officer prior to actually using or occupying a permanent or temporary structure upon which work contemplated in a building permit has been completed. An occupancy permit shall be granted or denied as promptly as possible after a physical inspection of the structure and project site by the Code Enforcement Officer but no more than 3 days after the final satisfactory inspection has been completed.

The Code Enforcement Officer shall be notified of any change in use of building or premises, and a permit shall be secured for such change. (Amended 06/24/1994)

Permits may also be subject to other codes or ordinances adopted by the Town.

**Dwelling:** One or more rooms arranged for complete, independent housekeeping purposes with space for eating, living, and sleeping; facilities for cooking; and provisions for sanitation. (2009 NFPA 101/3.3.61)

**Family:** One or more persons occupying a dwelling and living as a single housekeeping unit. Such unit shall not exceed five persons not related by blood, adoption, or marriage.

**Farming:** A tract of land used for growing or cultivation of produce or crops, the propagation or raising of livestock or poultry, tree farms similar to Christmas trees. Farming does not include timber harvesting, growing and/or processing and/or selling marijuana.

**Farm, animal:** A parcel of land that contains at least the following land area used for the keeping of horses, mules, cows, goats, sheep, hogs and similar sized animals for the domestic use of the residents of the parcel, provided that adequate land area is provided for each animal unit, excluding water bodies of one-quarter acre surface area or larger.

- (1) Cattle: one bovine animal unit per acre of cleared hay-pasture.
- (2) Horse: 2 animal units per acre of cleared hay-pasture land.
- (3) Sheep: three animal units per acre of cleared hay-pasture land.
- (4) Swine: two animal units per acre of cleared land.
- (5) Animal farms not mentioned here will be determined by the municipal officer charged with enforcement and shall conform to the lot size for similar sized animals.

**Farmers market:** The outdoor display and sale of locally grown farm products which may involve one or more vendors displaying and selling products.

**Farm stand:** The seasonal, incidental sale of fresh fruits, vegetable, nursery plants and farm products which were produced on the premises or other land in the same control as the farm stand.

**Footprint:** The entire area of ground covered by the structure(s) on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**Flea market:** A shop or open market customarily involving table or space rented to vendors selling antiques, used and new household goods, curios, and the like. For the purpose of this ordinance, any Yard/Garage Sales conducted for more than 3 days during a week's time period shall be defined as a Flea Market. "Flea Markets" as distinguished from Yard & Garage Sales, must require a Conditional Use Permit in all districts.(Amended 6/5/93)

**Foundation:** Any base material that provides frost protection for habitable space.

**Foundation Certification:** Any base for a habitable structure requires a licensed surveyor to locate and produce a document verifying setbacks and location on said lot.

**Frontage:** That portion of a lot or parcel of land abutting a public or private right-of-way or a waterbody.

**Front yard setback:** The minimum horizontal distance from the edge of a public or private right-of-way to the nearest part of a structure. (Amended 6/4/94)



## Mike Gilpatrick

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**From:** Natalie L. Burns <[nburns@jensenbaird.com](mailto:nburns@jensenbaird.com)>  
**Sent:** Tuesday, February 7, 2023 10:35 AM  
**To:** Mike Gilpatrick  
**Cc:** Angela Chute  
**Subject:** RE: Definitions

Mike,

Since building permits impose an ongoing obligation to comply with zoning, I agree that having a foundation certification or any other pause to confirm setback compliance is an excellent idea. While you could put something in the Ordinance, it would need to include a substantive provision in addition to the definitions below. I do think that you can require people to do this in the absence of an ordinance requirement, but recognize that some people could challenge the requirement if it isn't in the Ordinance.

I'll try to get something to you later today or tomorrow.

Thanks,

Natalie

Natalie L. Burns, Esq.  
Attorney



10 Free Street	T: <a href="tel:(207)775-7271">(207) 775-7271</a>
P.O. Box 4510	F: <a href="tel:(207)775-7935">(207) 775-7935</a>
Portland, ME 04112	Email: <a href="mailto:nburns@jensenbaird.com">nburns@jensenbaird.com</a>
<a href="http://www.JensenBaird.com">www.JensenBaird.com</a>	Bio: <a href="#">Natalie L. Burns   Jensen Baird</a>

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**From:** Mike Gilpatrick <[mgilpatrick@waterboro-me.gov](mailto:mgilpatrick@waterboro-me.gov)>  
**Sent:** Monday, February 6, 2023 10:02 AM  
**To:** Natalie L. Burns <[nburns@jensenbaird.com](mailto:nburns@jensenbaird.com)>  
**Cc:** Angela Chute <[achute@waterboro-me.gov](mailto:achute@waterboro-me.gov)>  
**Subject:** Definitions

A few years ago we Glen had started a procedure for foundation certifications. I do understand the need for this process and it works very well however I do not see anything in our ordinance that gives us the authority to require it.

I thought that perhaps the easiest way to require it by ordinance was to simply add the definitions below, th is what I came up with please let me know if this is appropriate and or adequate. I would like to present to the planning board on Wednesday evening if possible.

Foundation Certification - A certification provided by a land surveyor indicating that the appropriate setbacks have been accomplished for the placement of the foundation.

### Section 3.03 Summary of Dimensional Regulations Contained in Article 3

		MINIMUM	MINIMUM	MINIMUM		
	MINIMUM	ROAD &	FRONT	SIDE &	MINIMUM	MAXIMUM
ZONING	LOT	<del>SHORELAND</del>	YARD	REAR*	<del>SHORELAND</del>	BUILDING
DISTRICT	SIZE	FRONTAGE	SETBACK	SETBACK	<del>SETBACK</del>	HEIGHT
Village	20,000	100'	25'	20'	<del>100'</del>	35'
	40,000	100'	50'	20'	<del>100'</del>	35'
Village & Residential	20,000 50' a cul-de-sac	100' except on	40'	20'	<del>100'</del>	35'
Residential	40,000	150'	50'	35'	<del>100'</del>	35'
<u>Agriculture /</u> Residential	80,000	150'	75'	35'	<del>100'</del>	35'
<u>Forest /</u> Agriculture	5 acres	200'	100'	50'	<del>100'</del>	35'
Conservation	10 acres	200'	100'	50'	<del>100'</del>	35'
General Purpose	40,000	150'	50'	35'	<del>100'</del>	35'
	80,000	150'	50'	35'	<del>100'</del>	35'

(Amended 03/11/2000 and 04/27/2002).

**\*NOTE:** In any case where structures are in existence at the time of the enactment of this ordinance, additions may be made to within ten (10) feet of the side or rear lot line but in no case should the buildings on one lot be closer than twenty (20) feet to a building on an abutting lot.

**Lots divided by district boundaries:** When a lot is divided by a land use district boundary, other than the boundary to an overlay zone, the following rules shall apply:

A. On lots two acres or less in area, the lot shall be used as if the entire lot were in the district which comprises the larger portion.

B. On lots larger than two acres, the applicable district regulations shall be followed in the portion of the lot located in that district. (Amended 04/26/2003).

**"Wheelchair ramps** are exempt from the side, rear, and front yard setbacks, but not from the shoreland setback, providing they meet the performance standards in Article 7 and Article 4 as determined by the Planning Board" (Amended 03/09/1991).

One (1) standard size entry deck (4' x 4') and steps are exempt from the sideline and front yard setback in all districts. (Amended 03/11/2000).

Accessory structures 100 square feet or less in size are not required to meet setback requirements. No more than two sheds which do not meet setback requirements may be constructed on any lot.



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April 13, 2023

To: Board of Selectmen, Town of Waterboro

From: Michael Gilpatrick, Code Enforcement Officer

Re: Waterboro Zoning Ordinance Changes

The proposed changes are very basic in nature to the Town of Waterboro Zoning Ordinance. The requested changes are to simply insert the definitions of Foundation & Foundation Certification. This comes from a policy that was developed several years ago and not defined in our ordinance. Included in the attached documents you will see the opinion of the Town's Attorney Natalie Burns regarding this change. Also attached, you will find see a modification to our existing setback table. These proposed changes will need to be made if the pending shoreland changes are to be approved.

Sincerely,

Michael Gilpatrick  
Code Enforcement Office

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