

Land Use Ordinance Amendment Suggestions

To be reviewed on September 9, 2021

Red words are differences from the July 8, 2021 recommendations

Purpose: The intent for this document is outlining several items in the new 2020 Land Use Ordinance that became issues that require to be addressed and codified due to events in 2021. These items are pointed out by Max Johnstone and are suggestions that should not be considered the final language. Each suggested area includes a preamble to explain why the amendments are being brought up. Planning Board members and residents are welcome to make their own suggestions for improving the Land Use Ordinance as long as it complies with State statutes.

Amend the following Sections on Page 3-2

Note: These suggestions are made because of issues that have come up this past year relating to private agreements with property owners and occasions where State agencies did not grant approval to businesses that chose to operate/ make purchases without permits.

Section 3.3.4 Conditions of Approval:

A condition may not be imposed to regulate an item not specifically addressed in this Ordinance ~~nor an item that is outside the scope of the proposal.~~ (Note: After talking with MMA, this item can be left alone).

Section 3.3.5 Permit Issued After Municipal Review:

If approved, or approved with conditions, the Code Enforcement Officer shall issue a permit for the proposed activity. Municipal approval does not exempt the applicant from other regulatory bodies or private agreements.

Amend the following Section on Page 3-3

Note: There were some instances where private roads were used for access to project sites. While notices were sent to abutters, others in the subdivision believe they should receive a notice as well since they pay for maintenance/ upkeep.

Section 3.4 Public Hearing Requirements (this is before the second to last paragraph before Section 3.5):

For applications that require using private roads, a notice must be sent out to the relevant correlated Road Association. If there is no Road Association, then a letter must be sent to each property owner (resident) that benefits from the private road.

The second to last paragraph before Section 3.5:

Failure of ~~an abutter~~ an abutter/ resident to receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.

Add the following Section on page 6-19

Note: There has been a long standing precedent by the CEO (dating back to John Black) where a private road would be treated like a property line and use the “Side, Rear Setbacks” requirement instead of the Road Setback requirement. This item was never codified in the Land Use Ordinance and would likely create cause confusion if it is not addressed. The Planning Board may either add this Section (worded however they please) or leave it as is and have buildings on private roads follow the Road Setbacks for their location.

~~6.9.8 All residential structures that are built on parcels that use a private road shall have their measured setback based on the standards of the Side, Rear Setbacks as opposed to the Road Setbacks. The measurement shall be made by the edge of the traveled way.~~

~~(Note: The impression Max received was that this would be an item best left to have private roads follow the standards for public roads. Alternative language will be proposed at a future meeting.~~

Make correction on Page 7-8

Note: Section 7.10.3.3.14 did not have the titled boldened. This doesn't need Town approval, but this is just a minor item being pointed out.

Numbering starting at 7.10.3.3.10 needs to be corrected since 7.10.3.3.10 should be 7.10.3.3.9.1

Add the following on Page 7-12

Note: Chief Smeltzer asked for clarity this past year if all items were required or if he could grant a waiver. This language is being recommended for future Fire Chiefs.

Section 7.12 Emergency Services:

All applicants will speak with the Waldoboro Fire Chief for the following items. The Waldoboro Fire Chief will make recommendations for each item under this Section at their discretion, which the Municipal Authority may choose to accept or deny has the decision to accept.

Amend the following on page 9-8

Note: This came up due to a dispute over the construction standards for a private road. Residents seemed troubled about the lack of requirements for Major Private Street standards while there are minimal standards in place for Intermediate Private Street standards.

Section 9.2.14.9 Design Standards:

The “N/A” standards under Major Private Street standards will adopt the minimum standards under Intermediate Private Street standards (Minimum Tangent between curves of reverse alignment will be

60', Roadway Crown will be ¼" per foot, and the Minimum curb radii at intersections will be 15'). This will make Major Private Street standards consistent with the remaining private road standards.

Add the following on page 10-29

Note: The issue of repurposed shipping containers came up during a Planning Board meeting. To avoid confusion about repurposing shipping containers, this item may be included:

Section 10.23.2.4 Shipping containers that are significantly repurposed to change the primary function from storage to a commercial or residential use shall be exempt from the restrictions of this Section. This exemption ~~does not apply is revoked~~ if the shipping container is used primarily for storage altered to outdoor storage.

Amend the following starting on Page 10-29 for Section 10.24

Note: These are amendments proposed due to housing concerns that arose this past year. The change to the title will also be made in the Table of Contents and Land Use Matrix

9/9 Note: Smallest Ralph's has sold is 672 square feet. The smallest inventory home at Ralph's is 780. The size is recommended by the State. If we go smaller than 750 sq ft, we would need to adopt language stating that the smaller home still complies with certain HUD regulations. Max would suggest changing the 600 to 650 if the Town is allowing smaller manufactured homes. Max also suggests placing Tiny Homes under a new specific standard.

Section 10.24 Single-Wide Manufactured Homes ~~/Tiny Homes~~

Section 10.24.2.1.2 Living Space:

At least ~~750~~ 600 650 square feet.

Section 10.24.4.3.2 Size:

Have a minimum of ~~seven hundred fifty (750)~~ six hundred and fifty feet (650) ~~(600)~~ square feet of living area;

Section 10.24.5 Travel Trailers:

A travel trailer shall in no case be used as a manufactured home or tiny home, and any travel trailer in use as a temporary dwelling (i.e. not more than three (3) months) shall have adequate health and sanitation facilities provided.

Section 10.35 (Note: The number can be closer to Manufactured Homes if desired) ~~10.24.7~~ Tiny Homes:

Note: These passages are reworded entries either from LD 1981 (An act regarding the regulation of tiny homes) or from LD 1530 (An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling). The latter of the two has language that only allows municipalities to have less restrictive measures.

~~10.35.1-10.24.7.1~~ **Safety Standards** Tiny Homes must comply with American National Standards Institute standard A 119.5 on plumbing, propane, fire and life safety, and construction or the National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles.

~~10.35.2 10.24.7.2~~ **Municipal Inspection** A tiny home may be placed on a property for up to one hundred and eighty (180) days without an inspection if it is not being used for a permanent residence. If the structure becomes a permanent dwelling unit, a building permit and site inspection will be required to verify the following:

~~10.35.2.1 10.24.7.2.1~~ The structure will not be placed in a location violating setback restrictions or natural environmental habitats/ wetlands;

~~10.35.2.2 10.24.7.2.2~~ The tiny home is placed on a stable surface, ground, or footing;

~~10.35.2.3 10.24.7.2.3~~ All wastewater rules and requirements are met;

~~10.35.2.4 10.24.7.2.4~~ The home is not connected to, or near, a device or structure that would warrant a fire hazard;

~~10.35.2.5 10.24.7.2.5~~ Any siding or other exterior features shall be residential in appearance;

~~10.35.3 10.24.7.3~~ **Limit** No more than one (1) tiny home may be placed on a lot unless the combined square footage of multiple tiny homes does not exceed four hundred (400) square feet.

Add the following on Page 10-44

Note: This is just a specific standard suggested for renewable projects. Waldoboro has approved two commercial solar projects that went to the Planning Board and has seen an uptick in home-based solar projects. A decommissioning plan should be included in the event there are more large-scale projects.

Section 10.35 Renewable Energy Structures (Commercial):

~~10.35.1~~ **Decommissioning Plan** A renewable energy system used for commercial use shall submit a plan to the Waldoboro Planning Board when the area has either ceased to generate power or has been abandoned by the owner. The plan shall entail:

~~10.35.1.1~~ The parties responsible for the physical removal of the installation;

10.35.1.2 The timeline for removing the installation no more than six (6) months after the reported date of discontinued use. This timeline should include a notification to the Town of Waldoboro and abutters that provides details of the deconstruction and contact information for the project manager for emergencies or coordination. At least one (1) notice should be sent to the listed parties a minimum of fourteen (14) days prior to the start of deconstruction;

10.35.1.3 The proposed location for the disposal of all solid and hazardous materials. The applicant must also comply with all government regulations regarding waste disposal;

10.35.1.4 Remediation plans for the site to restore natural vegetation or vernal pools that were potentially impacted by the site;

10.35.1.5 A budget outlining the cost for removing the structures and restoring the area to pre-project conditions.

10.35.2 Performance Guarantee The applicant will submit a performance bond in the amount of 150% of the applicant's budgetary item as outlined in Section 10.35.1.5. This bond will either be released to the applicant or property owner upon the removal of the renewable energy system.

10.35.2.1 In the event the applicant or property owner is unable to satisfy the requirements of the Performance Bond and/or Decommissioning Plan, the Town of Waldoboro will have the right to retain the funding for the purposes of removing the renewable energy structure, which includes—but is not limited to—legal fees and rehabilitation of the site.

10.35.3 Construction The applicants will submit a timeline for their construction and maintenance phases, which includes vehicle traffic. The applicant will be responsible with providing notifications to the Town of Waldoboro and abutters that includes details of when construction is estimated to start and contact information for the project manager to voice concerns. At least one (1) notice should be sent to the listed parties a minimum of fourteen (14) days prior to the start of construction.

Amend Definitions

Note: This is just including any definitions that were not included in the previous round. This will likely just be items being added from the previous recommendations.

9/9/21 Additions:

Shoreland Zoning:

Note: This requirement was added since Chapter 1000 was adopted by the State in 2015 and the Town in 2018. The wording is based on the language found in 38 MRS Section 439-A(10).

11.7.7.1 Photographic Record An applicant must provide the municipal permitting authority preconstruction photographs and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site.

Schedule of Dimensions Requirements:

Note: The suggestion is to lessen the setbacks and minimum lot sizes to be more synchronized and allow dense development where circumstances are eligible. For example: Route 1A requires 2 acres (80,000 square feet) regardless of their connection to Town utilities; whereas Route 1B can be as small as 5,000 square feet if connected to sewer and water. There is also water that runs along the entirety of Depot Street (Rural until it gets to the train tracks) but this area also requires 80,000 square feet. Another example is Route 1A requiring 100 feet setback from the road while Route 1B requires 25 feet. Route 1A has territory that is on the right side of the Route 1 hill heading to Nobleboro, but Route 1B is on the left side. There is no amended table proposed at this time, but something for the Board to consider.

Mass Gatherings:

Note: Now that “Event Centers” are a category, this item should either be combined into “Event Centers” for events that are singular as opposed to recurring, or should be amended to acknowledge the distinction.