

2017 Annual Town Meeting Warrant with Explanations

To: Lisa Huestis, a resident of the Town of Berwick in the County of York and the State of Maine.

In the name of the State of Maine, you are hereby required to notify and warn the inhabitants of the Town of Berwick qualified by the law to vote in Town affairs, to assemble at the Town Hall on Tuesday, the 9th day of May, 2017, at 8:00 a.m. until 8:00 p.m. to act on Article 1 through 46 as set out below:

ARTICLE 1

To elect a Moderator to preside over the meeting.

ARTICLE 2

To elect by secret ballot, two Selectman (who also serves as Assessor and Overseer of the Poor) for three years and one School Board Member for MSAD #60 for three years.

ARTICLE 3

Shall the Town vote to adopt the proposed amendments to the Land Use Ordinance? (Exhibit A attached hereto).

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 3:1

ARTICLE 4

Shall the Town vote to use up to **\$2,174,608** from estimated revenues to reduce the amount to be raised by taxation in Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 5

Shall the Town vote to raise and appropriate the sum of **\$267,690** for the General Expense Account for Fiscal Year 2017/18, which begins July 1, 2017?

NOTE: This Account will be used to fund a variety of general expenses which are not easily classified from an accounting perspective under other departments, including a variety of required insurance premiums, audit services, legal services rendered by the Town Attorney, streetlights, traffic signals, interest on returned escrow balances, and miscellaneous expenditures requested from the Board of Selectmen.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 6

Shall the Town vote to raise and appropriate the sum of **\$340,463** for the Town Administration Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 7

Shall the Town vote to raise and appropriate the sum of **\$261,836** for the Town Clerk Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 8

Shall the Town vote to raise and appropriate the sum of \$151,289 for the Planning & Ordinance Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 9

Shall the Town vote to raise and appropriate the sum of \$77,000 for the Assessor's Office Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 10

Shall the Town vote to raise and appropriate the sum of \$112,627 for the Town Hall Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 11

Shall the Town vote to raise and appropriate the sum of \$10,000 for the General Assistance Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 12

Shall the Town vote to raise and appropriate the sum of \$1,625,942 for the Police Department Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 13

Shall the Town vote to raise and appropriate the sum of \$760,842 for the Fire Department Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 14

Shall the Town vote to raise and appropriate the sum of \$755,060 for the Public Works Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 15

Shall the Town vote to authorize the expenditure of all revenues received from the State of Maine Urban/Rural Initiative Program for Fiscal Year 2017/18 for road improvements as authorized by the Program with unspent balances to be carried forward each year?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 16

Shall the Town vote to raise and appropriate the sum of **\$457,835** for the Refuse Disposal Account for Fiscal Year 2017/18, which begins July 1, 2017?

NOTE: This Account will be used to fund the operations of the Berwick Transfer Station during Fiscal Year 2017/18.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 17

Shall the Town vote to raise and appropriate the sum of **\$111,865** for the Recreation Account for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 18

Shall the Town vote to appropriate the sum of **\$40,000** for Debt Service with funds coming from the Fire Pumper Replacement Reserve account and the Lena Clark Trust to cover this appropriation for Fiscal Year 2017/18, which begins July 1, 2017 and as authorized by the passage of Article 31 & 32 at the 2016 Annual Town Meeting?

NOTE: The voters approved the issuance of general obligation bonds up to \$1,000,000 for two fire trucks and up to \$125,000 for new windows in the Town Hall auditorium and repair of the Town Hall clock. The sum of \$40,000 is just interest expense as the first principal payment will not be due until November 2018.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 19

Shall the Town vote to raise and appropriate the sum of **\$14,036** for the Community/Agency Appropriations Account for Fiscal Year 2017/18, which begins July 1, 2017?

NOTE: This account will be used to make contributions to and at the request of the following outside agencies or purposes: COAST Bus Service, Memorial Day, Holiday Decorations, and the Seacoast Shipyard Association.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 20

Shall the Town vote to raise and appropriate the sum of **\$196,388** for the annual Fire Protection costs for Fiscal Year 2017/18, which begins July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 21

Shall the Town vote to raise and appropriate the sum of **\$36,578** to the Berwick Sewer District for Fiscal Year 2017/18, which begins July 1, 2017?

NOTE: The District indicates that their focus for the funds at this time is on assisting in repayment of the District's debt service as a result of repairing both pump stations.

THE BOARD OF SELECTMEN RECOMMENDS NO VOTE 3:2

ARTICLE 22

Shall the Town vote to appropriate the sum of **\$330,000** from Unassigned Fund Balance for Fiscal Year 2017/18 and authorize its use for road, bridge, and sidewalk construction and repairs, as well as Town parking lots and public ways, and including expenses for curbing, drainage and engineering fees when required, with the funds to be used in conjunction with the State of Maine Urban/Rural Initiative Program, and with unspent balances to be carried forward each year?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 23

Shall the Town vote to appropriate the sum of **\$25,000** from Unassigned Fund Balance for the purpose of investing in the capital purchase and replacement of Police Department equipment for Fiscal Year 2017/18, which begins July 1, 2017, and place this amount into the Police Department Capital account established for this purpose, with unspent balances carried forward each year until fully expended?

NOTE: The intent is to purchase a Watch Guard cruiser camera wireless download with server system, which will automatically download and save cruiser video data, and a video monitoring DVR which is a replacement for an antiquated and malfunctioning system.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 24

Shall the Town vote to appropriate the sum of **\$20,000** from Unassigned Fund Balance to purchase a hydraulic rescue tool and place this amount into the Fire Capital Equipment Reserve Account for Fiscal Year 2017/18, which begins July 1, 2017 with unspent balances to be carried forward each year until fully expended?

NOTE: The current rescue tool is over 14 years old and inoperable and beyond repair.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 25

Shall the Town vote to appropriate the sum of **\$5,000** from Unassigned Fund Balance for Fiscal Year 2017/18, which begins July 1, 2017, and authorize its use to invest in capital repairs, maintenance, and renovations of the Berwick Fire Station, and place this amount into the Fire Department's Capital account established for this purpose, with unspent balances carried forward each year until fully expended?

NOTE: The item to be address during fiscal year 2018 is the station's ventilation. With 24/7 coverage, this needs to be addressed for the health and safety of the firefighters.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 26

Shall the Town vote to appropriate the sum of **\$70,000** from Unassigned Fund Balance for Fiscal Year 2017/18, which begins July 1, 2017, and authorize its use to do a design build plan for a new Fire Station and place this amount into the Fire Department's Capital account established for this purpose, with unspent balances to be carried forward each year until fully expended?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 27

Shall the Town vote to appropriate the sum of **\$50,000** from Unassigned Fund Balance to provide additional funding to the MS4 outfall project for the repairs to outfalls 5 and 6 off Moulton Street and place this amount into the Planning Capital Reserve Account for Fiscal Year 2017/18, which begins July 1, 2017 with unspent balances to be carried forward each year until fully expended?

NOTE: The voters approved an appropriation of \$60,000 at the May 2015 Town Meeting to address the Maine DEP audit finding and the engineering work has been completed. However, the repair costs associated with the outfalls is higher than originally anticipated and the additional funding is required to complete the project.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 28

Shall the Town vote to appropriate the sum of **\$13,000** from the Lena Clark Trust account for the purpose of beginning the electrical upgrades necessary at the Town Hall and place this amount into the Town Building Capital Reserve account for Fiscal Year 2017/18, which begins July 1, 2017 with unspent balances to be carried forward each year until fully expended?

NOTE: This is phase one of the electrical upgrades needed at Town Hall and will address the replacement of the main electrical panels located in the boiler room.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 29

Shall the Town vote to raise and appropriate the sum of **\$11,665** as the first lease payment for the purchase of two new police cruisers for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount into the Police Capital Equipment account established for this purpose with unspent balances to be carried forward each year until fully expended and authorize the Board of Selectmen to enter into a lease purchase agreement on terms it deems appropriate with the balance to be repaid over a period of no longer than five (5) years?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 30

Shall the Town vote to raise and appropriate the sum of **\$25,000** for the purpose of equipping the two new police cruisers for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount into the Police Capital Equipment account established for this purpose with unspent balances to be carried forward each year until fully expended?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 31

Shall the Town vote to raise and appropriate the sum of **\$13,500** to purchase a Cellebrite Cell Phone Autopsy System for use by the Police Department for Fiscal Year 2017/18, which begins July 1, 2017 with unspent balances to carry forward each year until fully expended?

NOTE: This system allows the Police Department to retrieve valuable information from a cell phone after receiving a warrant allowing them to do so.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 32

Shall the Town vote to raise and appropriate the sum of **\$30,000** to purchase new capital equipment for the Fire Department for Fiscal Year 2017/18, which begins July 1, 2017 with unspent balances to carry forward each year until full expended?

NOTE: This Account will be used to fund the purchase of personal protective equipment, continue the replacement of the SCBA bottles and fire hose.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 33

Shall the Town vote to raise and appropriate the sum of **\$36,500** as the first lease payment for the purchase of a 10-Wheeler for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount into the Public Works Capital Vehicle account established for this purpose with unspent balances to be carried forward each year until fully expended and authorize the Board of Selectmen to enter into a lease purchase agreement on terms it deems appropriate with the balance to be repaid over a period of no longer than five (5) years?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 34

Shall the Town vote to raise and appropriate the sum of **\$31,000** as the first lease payment for the purchase of a sidewalk snow removal machine for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount into the Public Works Capital Equipment account established for this purpose with unspent balances to be carried forward each year until fully expended and authorize the Board of Selectmen to enter into a lease purchase agreement on terms it deems appropriate with the balance to be repaid over a period of no longer than five (5) years?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 35

Shall the Town vote to raise and appropriate the sum of **\$21,634** for Debt Service in Fiscal Year 2017/18 as authorized by the passage of Article 37 at the 1997 Annual Town Meeting?

NOTE: This Account will be used to fund one-half the cost for repayment of the Water Department Bond issued by the Federal Rural Development Agency for the new Water Treatment Plant in 1999. There are ten more years of payments on this bond.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 36

Shall the Town vote to raise and appropriate the sum of **\$10,000** and authorize the Board of Selectmen to hold it in a Contingency Account and to use it to meet unanticipated expenses and emergencies that might occur during the Fiscal Year 2017/18, which begins July 1, 2017 and with unspent balances to be carried forward each year?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 37

Shall the Town vote to raise and appropriate the sum of **\$30,000** and authorize the Board of Selectmen to hold it in a Career Firefighter/EMT Vacancy Contingency Account and to use it to cover expenses related to backfilling of shifts, as well as hiring, training, and equipping a new career firefighter when a vacancy is created through separation from service that might occur during the Fiscal Year 2017/18, which begins July 1, 2017 and with unspent balances to be carried forward each year?

NOTE: This funding will allow the Department to avoid a lapse in service due to the unbudgeted expense incurred by hiring a new career employee when a full-time vacancy occurs.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 38

Shall the Town vote to raise and appropriate the sum of **\$99,000** as a contribution to the Berwick Library Association for Fiscal Year 2017/18, which begins on July 1, 2017?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 3:1

ARTICLE 39

Shall the Town vote to raise and appropriate the sum of **\$19,700** for the Federal Stormwater Program for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount into the account established for this purpose with unspent balances to be carried forward each year until fully expended?

NOTE: This Account will be used for the purpose of implementing State and Federal permitting requirements for discharges from municipal separate stormwater sewer systems (MS4s).

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 40

Shall the Town vote to raise and appropriate the sum of **\$15,000** for Economic Development purposes for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount into the account established for this purpose with unspent balances to be carried forward each year until fully expended?

NOTE: The Envision Berwick Committee working through the Town's Planning Department will contract for technical assistance, grant writing assistance, consultant assistance to develop financial options, purchase site amenities, allowance for printing and mailings, match grant funds, and to leverage other funding that the Town is eligible to apply for. Also, any grant match or any funds used to advance the implementation of the Comprehensive Plan, as Amended, will be approved by the Board of Selectmen.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 41

Shall the Town vote to raise and appropriate the sum of **\$500** for Emergency Management for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount into the account established for this purpose with unspent balances to be carried forward each year until fully expended?

NOTE: This Account will be used for the purpose of funding expenses like provision of shelter, food supplies and other associated costs during emergencies which occur within the Town.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 42

Shall the Town vote to raise and appropriate the sum of **\$13,000** for the Unfunded Liabilities Account for Fiscal Year 2017/18, which begins July 1, 2017 and place this amount in the account established for this purpose with unspent balances to be carried forward each year until fully expended?

NOTE: This Account will be used to satisfy existing obligations to employees who have accrued compensated absences such as vacation time or sick time, if and when such entitlements must be paid out upon employee departure from the Town's staff. The current balance in this account is \$92,000 and the Town's compensated absences balance as of June 30, 2016 was \$204,589.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 43

Shall the Town vote to authorize the use of interest money from the Lena Clark Trust Fund Interest Account when there are major repairs or maintenance needs at the Town Hall?

NOTE: The Trust Fund was established to take care of the Town Hall. Interest from the Trust Fund is in an Investment Account with LPL Investments through Kennebunk Investment Services. The interest balance as of June 30, 2016 was **\$51,603**, which was the close of the prior Fiscal Year. Interest funds are not used for every day repair or maintenance costs but instead are being allowed to accumulate for one time or major unforeseen repairs or expenses. Approval of this Article will authorize these kinds of expenditures from the Interest Account should it become necessary to make them during Fiscal Year 2017/18.

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 44

Shall the Town vote to reallocate the remaining \$1,612.31 from the funds raised and appropriated for the purchase of Map U-1, Lot 74 as authorized by the passage of Article 34 at the 2016 Annual Town Meeting and instead authorize its use for the MS4 stormwater project – the repair of Outfalls 5 and 6 located off Moulton Street & Saw Mill Hill?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 45

Shall the Town vote to charge interest on unpaid taxes at the rate of **7.00%** per annum, and to set the date when taxes committed for Fiscal Year 2017-2018 (July 1, 2017 through June 30, 2018) become due and payable as October 16, 2017 and April 17, 2018, with said interest to be collected after October 17, 2017 and April 18, 2018, and allow the Tax Collector to accept prepayment of taxes prior to the Tax Commitment Date?

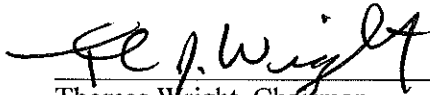
THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

ARTICLE 46

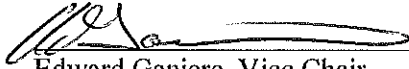
Shall the Town Vote to set an interest rate of **3.00%** as allowed by state law as the rate to be paid to taxpayers who pay amounts in excess of amounts finally assessed and authorize any such interest paid or abatements granted to be charged against the annual overlay?

THE BOARD OF SELECTMEN RECOMMENDS YES VOTE 4:0

The May 9, 2017 Town Meeting Warrant is signed and approved as presented/amended by the Berwick Board of Selectmen at its meeting on the 21st day of March 2017.



Thomas Wright, Chairman



Edward Ganiere, Vice Chair

Rebecca England



Mark Pendergast



Joshua Plante

Board of Selectman, Town of Berwick, Maine

ATTEST:



Patricia Murray, Town Clerk

EXHIBIT A

ARTICLE II DEFINITIONS OF TERMS USED IN THIS ORDINANCE

2.2 Definitions.

Drive-Up Window, Drive-Up or Drive-Through: A portion of a business or a structure which allows the distribution of product(s) or services through an access point to serve client(s) in motor vehicle(s)

Drug store: means an establishment primarily engaged in the retail dispensing of prescription drugs and may offer nonprescription drugs, medical aids and convenience goods, but shall not permit the sale or distribution of medical or retail marijuana. The definition of drug store includes a pharmacy

Inn: A building which contains a dwelling unit occupied by an owner or resident manager in which up to ten lodging rooms and meals are offered to the general public for compensation and in which entrance to bedrooms is made through a lobby or other common rooms. "Inn" includes such terms as "guest house" and tourist house or "Bed and Breakfast."

Light Intensity Industry: Includes all manufacturing, assembly, and processing activities which are conducted solely within the walls of a structure, involving no outside storage of materials or equipment; and is not considered a high hazard use under the MUBEC Maine Unified Building and Energy Code, current edition. Light intensity industrial uses include, but are not limited to: software or computer development, electronics assembly, book publishing, science and research facilities, and micro-breweries.

LOW IMPACT INDUSTRIAL: Industrial activity involving the manufacturing, assembly, packaging, repairing, or processing of goods. Including custom activities usually involving individual or special design, or handiwork and most high technology production. Low impact industrial uses include, but are not limited to the following: aerospace electronics, bakeries, breweries, distilleries, electronics assembly, jewelry, musical instruments, photonics, pottery, packaging of foods, pharmaceuticals, printing and publishing, science and research facilities, software, sporting & recreation equipment and woodworking. LOW IMPACT INDUSTRIAL uses are compatible, due to their size and nature of impact, with residential, commercial and other LOW IMPACT INDUSTRIAL uses because of the level of traffic generated, emissions levels, lighting and odors generated. See Applicable Performance Standards of the Berwick Land Use Ordinance Article 8.35 Low Impact Industrial.

Marijuana: Marijuana means the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

Medium Intensity Industry: Includes all manufacturing, assembly, and processing activities which are conducted solely within the walls of a structure, involving no outside storage of materials or equipment; and is not considered a high hazard use under the BOCA Basic Building Code, current edition.

EXHIBIT A

Medical Marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Medical Marijuana Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical Marijuana Dispensary: A not-for-profit entity registered pursuant to Section 6 of the *State of Maine 10-144 CMR Chapter 122 Rules Governing the Maine Medical Use of Marijuana Program* that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients.

Medical Marijuana Cooperative: Two or more medical marijuana caregivers claiming a location as a primary residence in order to conduct medical marijuana home production. Medical marijuana cooperatives are considered medical marijuana production facilities under the Berwick Land Use Ordinance.

Medical Marijuana Home Production: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

Medical Marijuana Production Facility: A facility used for cultivating, processing, and/or storing medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence.

5.2 Non-Conformance

C. Non-Conforming Structures. (Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.)

5. Replacement. A nonconforming structure on a non-conforming lot of record may be replaced or reconstructed provided that:

a. The new structure is reconstructed or replaced within the footprint of the previous structure, or that the new structure is located on the lot so that the existing non-conformity is improved upon and not increased in any way.

b. In order to replace or reconstruct a non-conforming structure on a non-conforming lot of record a permit must be obtained from the Code Enforcement Officer prior to any demolition or building removal and the structure must be replaced no less than 180 days from receipt of the permit.

EXHIBIT A

c. Any manufactured housing proposed for replacement must be a HUD-code home as defined under Manufactured Housing in the Berwick land use ordinance.

8.3 **Hotels/ and Motels ~~and Inns.~~**

For traffic safety on and immediately adjoining each motel or hotel and to assure health, safety and welfare of hotel occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be complied with.

A. The minimum lot size for any motel; ~~or hotel or inn~~ shall contain not less than three acres of total area. The minimum frontage shall be ten times the posted speed limit of the most traveled way serving the development but not less than 200 feet lot width at the street and throughout the first 200 feet of depth of said lot back from the street. Access driveways into the development shall be at an angle no less than 30 degrees and no more than 45 degrees to facilitate movement of traffic off the public way and onto the property. Driveways shall be separated by a minimum of 100 feet. The curb radius of the intersection of the driveway to public way shall be no less than 30 feet. Access and egress drives shall not exceed a slope of six percent for less than 60 feet onto the property.

I. Location Restrictions

In Districts R1, R2 & R3 Hotels are allowed only on major highways (Route 236 or Route 9) and subdivisions approved for commercial use.

8.5 **Mobile Home Parks.**

H. Location Restrictions

In the SC/I district mobile homes are only allowed on major highways (Route 236 or Route 9), or where public water and sewer services are available within 2,000 ft. of the property line.

8.9 **Restaurants.**

A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.

B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners.

C. Location Restrictions

In the R3 district Restaurants are allowed only on major highways (Route 236 or Route 9) and subdivisions approved for commercial use.

8.18 **Wireless Communication Facilities and Communications Towers.**

K. Location Restrictions

Within the R1, LR, and SC/I Zoning Districts Wireless Communication Facilities must be installed on any existing tower, pole or structure capable of supporting such equipment.

EXHIBIT A

8.25 Medical Marijuana

8.25.1. Purpose: The purpose of this section of the ordinance is to ensure that all cultivation, processing, storage, and distribution of medical marijuana does not have an adverse impact on the health, safety, and general welfare of the residents of the Town of Berwick, ME, while still allowing for treatment and alleviation of a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

8.25.2. Exemptions: As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every base zone and overlay zone.

8.25.3. Location:

Medical Marijuana Production Facilities and Dispensaries cannot be within 1,000 feet of:

- Any school – as measured from the nearest property line of the land used for the school to the nearest portion of the proposed business's building, via straight line measurement.
- Drug or Alcohol Treatment Facilities – as measured from the nearest property line of the land used for the treatment facility to the nearest portion of the proposed business's building, via straight line measurement.
- Child Care Centers – as measured from the nearest property line of the land used for child care purposes to the nearest portion of the proposed business's building, via straight line measurement.
- Other Marijuana Production Facilities – as measured from the nearest portion of the existing or pending center or store's building to the nearest portion of the proposed business's building, via straight line measurement.

8.25.4. Odor Control

All Marijuana Production Facilities and Dispensaries must submit an odor control plan with the conditional use application.

A. Odor Control Plans shall consist of the following:

1. Specific Odor-emitting activity(ies) – This section should describe the odor-emitting activities or processes (e.g., cultivation) that take place at the facility, the source(s) (e.g., budding plants) of those odors, and the location(s) from which they are emitted (e.g., flowering room)
2. Odor Mitigation Practices – For each odor-emitting source/process outlined in Section 1 of the odor control plan, specify the administrative and engineering controls the facility implements or will implement to control odors.
 - The best control technology for marijuana cultivation facilities is carbon filtration.

EXHIBIT A

8.25.5. Security

A. All growing of medical marijuana within a commercial production facility shall occur inside and only within a completely enclosed structure. This does not apply to home growing of medical marijuana.

B. Prior to granting approval, the Planning and/or Code Enforcement Department shall receive a written statement from the Berwick Chief of Police or designee that security measures are acceptable and also consistent with State requirements.

8.26 Automobile Service/Motorcycle Repair Business

A. Location Restrictions.

Within the R1 and R3 Zoning Districts Automobile Service/Motorcycle Repair Businesses are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

8.27 Wholesale Business

A. Location Restrictions.

Within the R1 and R3 Zoning Districts Wholesale Businesses are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

8.28 Commercial Mini-Storage

A. Location Restrictions.

Within the R3 Zoning Districts Commercial Mini-Storage are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

8.29 Retail Business

A. Location Restrictions.

Within the R3 Zoning Districts Retail Businesses are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

8.30 Vehicle Sales

A. Location Restrictions.

Within the R3 Zoning Districts Vehicle Sales are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

8.31 Congregate Housing

A. Location Restrictions.

EXHIBIT A

Within the SC/I District Congregate Housing is allowed only on major highways (Rt. 236 and Rt. 9), or where public water and sewer services are available.

8.32 Clearing or removal of vegetation for activities other than timber harvesting

A. In the Resource Protection District, Clearing or removal of vegetation for activities other than timber harvesting requires a permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

8.33 Outdoor Wood Furnace

A. Must comply with Maine Department of Environmental Protection Chapter 150.

8.34 Fringe Financial

A. Subject to all parking and landscaping requirements established in Article 6.4

8.35 Low Impact Industrial

A. All Low Impact Industrial shall conform to the following standards:

1. All manufacturing, processing, or fabrication shall occur within a building or fully enclosed structure.

2. Activities shall be limited to the processing or fabrication of materials which does not involve basic processes such as the mechanical or chemical transformation of materials or substances into new products unless such basic processes do not result in any noxious noise, odors, or vibrations that are perceptible at the property line of the parcel on which the use is located.

3. Assembly, processing, and fabrication activities not involving basic processes shall be conducted so that they will not result in objectionable noise, glare, vibration, odor, or electrical interference that will disturb or endanger adjacent properties.

4. No outside storage of raw materials, products, and wastes are permitted with Low Impact Industrial uses.

5. Truck loading and material handling areas shall be located to the side or rear of the building. No overhead doors or other service or material delivery facilities shall be allowed on the side of the building facing a public street unless the Planning Board determines that there is no practical alternative.

8.36 Drug Store

A. Location Restrictions.

Within the R3 Zoning Districts Drug Stores are allowed only on major highways (Rt. 236, Rt. 9) and subdivisions approved for commercial use.

ARTICLE X BOARD OF APPEALS

10.5 Appeals to the Board of Appeals.

A. Making an Appeal

1. An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer. Such appeal shall be taken within 30 days of the

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decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the 30 day requirement.

EXHIBIT A

	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP
RESIDENTIAL										
*Single-Family Dwelling, including driveways	P	P	P	P	C	P	P	X	X	P
Cluster Development	X	C	C	X	X	X	X	X	X	X
Community Living Arrangement	P	P	P	P	C	P	X	X	X	X
Congregate Housing	C	C	C	C	C	X	X	C(4)*	X	X
Elderly Housing	C(43)*	C(43)*	X	C(43)*	X	X	X	X	X	X
Mobile Home Parks	C	C	X	X	X	X	X	C(4)*	X	X
Multi-Family Dwelling	C	C	X	C	C	X	X	X	X	X
Owner Occupied Apartment	P	P	P	P	C	C	C	X	X	X
Two-Family Dwelling, including driveways	P	P	P	P	C	P	P	X	X	P
Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	LPI	LPI	LPI	LPI	LPI
INSTITUTIONAL/PUBLIC										
Cemetery	C	C	C	X	X	X	X	X	X	X
Church, Parish House	C	C	C	C	C	X	X	C	X	X
Club Facility	C	C	C	C	C	C	C	C	X	X
Educational Facility	C	C	C	C	C	X	C	C	X	X
Daycare Home	C	C	C	C	C	C	X	C	X	X
Medical Care Facility	C	C	C	C	C	X	X	C	X	X
Municipal Facility	C	C	C	C	C	C	C	C	X	X
Museum	C	C	C	C	C	C	C	C	X	X
Public Facility	C	C	C	C	C	C	C	C	X	X
Public Utility Facility	C	C	C	C	C	C	C	C	C	C
Essential services										
A. Roadside distribution lines (34.5kV and lower)	A	A	A	A	A	A	A(4)*	A(4)*	P(4)*	P(4)*
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	A	A	A	A	A	A	P	P	C(4)*	C(4)*

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	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	A	A	A	A	A	A	C	C	C(+) *	C(+) *
D. Other essential services	A	A	A	A	A	A	C	C	C(+) *	C(+) *
Service drops, as defined, to allowed uses	A	A	A	A	A	A	A	A	A	A
COMMERCIAL										
Automobile Service/Motorcycle Repair Business	C(+) *	C	C(+) *	C	C	X	X	C	X	X
Bed and Breakfast	C	C	C	C	C	C	X	C	X	X
Boardinghouse	C	C	C	C	C	X	X	C	X	X
Bottle Club	X	C(+) *	X	eX	C	X	X	eX	X	X
Campground	X	C	C	X	X	C	C	X	X	C
Commercial Mini-Storage	X	X	C(+) *	X	C	X	X	X	X	X
Communication Tower(s) *	X	C	C	C	C	C	X	X	X	X
Daycare Center	C	C	C	C	C	X	X	C	X	X
Drug Store	C *	C *	C *	C	C	X	X	C	X	X
Finance, Insurance and Real Estate	C	C	C	C	C	C	X	C	X	X

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	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP
Wholesale Business	C(+) *	C	C(+) *	C	C	X	X	C	X	X
Wireless Communications Facility	C(+) *	C	C	C	C	C	C(+) *	C(+) *	X	X
Vehicle Sales	C *	C	C(+) *	C	C	X	X	C	X	X
INDUSTRIAL										
Auto Graveyard/Junkyard/Auto Recycling	X	X	X	X	C	X	X	X	X	X
Laboratory	C	X	X	C	C	X	X	C	X	X
Laboratory Research Facility	X	X	X	C	C	X	X	C	X	X
Light Intensity Industry	X	C	C	C	C	X	X	C	X	X
<u>LOW IMPACT INDUSTRIAL</u>										
Industrial	X	X	X	X	C	X	X	X	X	X
Medium Intensity Industry	X	C(+) *	C(+) *	X	C	X	X	C	X	X
Mineral Industry	X	C	C	X	C	C	C	X	X	X
Mineral Exploration <u>Extraction</u>	A	A	A	A	A	A	A(+) *	A(+) *	A(+) *	X
Sawmill	X	C	C	X	C	C	X	X	X	X
Warehousing; Storage; Distribution	X	X	X	C	C	X	X	C	X	X
Waste Facility	X	X	X	X	C	X	X	X	X	X

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MISCELLANEOUS																							
Agriculture	P	P	P	P	P	P	P	P	C	C	X	C	X	C	X	C						C	
Animal Husbandry	X	C	C	P*	X	C	C	P	C	C	X	C	X	C	X	C						X	
Forest Management	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						P	
Private Pond with or without a dam	P	P	P	P	P	P	P	P	P	P	X	X	X	X	X	X						X	
Timber Harvesting(4)	P	P	P	P	P	P	P	P	P	P	X	P	X	P	X	P						P	
Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking, and non-motorized boating	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						A	
Disturbed area greater than 1 acre (46) *	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						P	
	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP													
Aquaculture	-	-	-	-	-	-	C	C	C	C	A											A	
Small, non-residential facilities for educational, scientific, or nature interpretation purposes	C	C	C	C	C	C	P	P	P	P	C											C	
Public and private recreational areas involving minimal structural development	C	C	C	C	C	C	C	P	C	C												C	
Individual private campsites	P <u>C</u>	P	P	C	P	P	P	P	P	P	P	P	P	P	P	P						P	

EXHIBIT A

Filling and earth moving of <10 cubic yards	A	A	A	A	A	A	A	A	A	A	P	P
Filling and earth moving of >10 cubic yards	P	P	P	P	P	P	P	P	P	P	C	C
Signs	A	A	A	A	A	A	A	A	A	A	A	A
**ACCESSORY USES												
Home Occupation	P	P	P	P	P	P	P	P	P	C	C	X
Outdoor Wood Furnace(8) *	C	P	P	C	C	P	P	P	P	C	C	X
Small Wind Energy System	C	C	C	C	C	C	C	C	C	C	C	C
Yard Sale	A	A	A	A	A	A	A	A	A	A	A	X

Notes:

- (1) Allowed only on major highways (Route 236 or Route 9) and subdivisions approved for commercial use.
- (2) Permit not required but must file a written "notice of intent to construct" with CEO.
- (3) State standards concerning Timber Harvesting must be adhered to.
- (4) Must be installed on any existing tower, pole or structure capable of supporting such equipment.
- (5) Allowed on major highways (Route 236 or Route 9), or where public water and sewer services are available within 2,000 ft. of the property line.
- (6) Must comply with Maine Department of Environmental Protection, Chapter 150.
- (7) In RP, not allowed within 75-foot horizontal distance of the normal high water line of Great Ponds, except to remove safety hazards.
- (8) Requires a permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- (9) Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- (10) Except when area is zoned Resource Protection due to floodplain criteria, in which case a permit is required from the Planning Board.
- (11) Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- (12) See Article 7.22 of the Land Use Ordinance.
- (13) See Article 8.24
- (14) Subject to all parking and landscaping requirements established in Article 6.4

* A use permit is not required however, performance standards in Section 8.12 must be met.

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~~** An Accessory Use of a Conditional Use shall also require Site Plan Review.~~

~~NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:~~

- ~~A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;~~
- ~~B. Draining or otherwise dewatering;~~
- ~~C. Filling, including adding sand or other material to a sand dune; or~~
- ~~D. Any construction or alteration of any permanent structure.~~

~~* Indicates this use has specific performance standards in Article VIII that must be met.~~