



## COMPILED FINAL SHORELAND ZONING ORDINANCE

### **Part III (Land Development Regulations), Article XIV (Shoreland Zoning Ordinance):**

#### **Section 1. Purposes.**

The purposes of this ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

#### **Section 2. Authority.**

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435--449 of the Maine Revised Statutes Annotated (M.R.S.A.).

#### **Section 3. Applicability.**

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or freshwater wetland; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; within 250 feet, horizontal distance, of the normal high water line of Swan Pond Brook, and its tributaries specifically depicted on the Official Zoning Map; and within 100 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to a land area greater than 250 feet, horizontal distance, of the upland edge of the coastal wetland located on the west side of Granite Point Road, as depicted on the Official Zoning Map. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

## **Section 4. Effective Date.**

### **A. Effective Date of Ordinance and Ordinance Amendments.**

This Ordinance, which was adopted by the Biddeford City Council on February 2, 2010, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance, or Ordinance Amendment, within 45 days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the City of Biddeford within the 45-day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

### **B. Section 15(O).**

**1. Repeal of Municipal Timber Harvesting Regulations.** The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

- Section 14, Table 1, *Land Uses in the Shoreland Zone*, Item 3 (Forest management activities except for timber harvesting & land management roads), Item 4 (Timber Harvesting), and Item 28 (Land management roads);
- Section 15(O) in its entirety; and
- Section 3. Definitions, the definitions of "Cross-sectional area", "DBH", "Disruption of Shoreline Integrity", "Forest management activities", "Forest Stand", "Harvest Area", "Land management road", "Licensed forester", "Residual Basal Area", "Residual Stand", "Skid Road or Skid Trail", "Slash", "Timber harvesting", "Timber harvesting and related activities", and "Windfirm".

NOTE: The statutory date established under 38 M.R.S.A. section 438-B(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2<sup>nd</sup> year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-A(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

**Section 5. Availability.**

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

**Section 6. Severability.**

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

**Section 7. Conflicts with Other Ordinances.**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, Regulation or Statute administered by the City of Biddeford, the more restrictive provision shall control, except that where there are conflicts or inconsistencies between Section 12 (Nonconformance) of this Ordinance and any other Ordinance, Regulation or Statute administered by the City of Biddeford, Section 12 (Nonconformance) of this Ordinance shall prevail.

**Section 8. Amendments.**

This Ordinance may be amended by majority vote of the Biddeford City Council. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Biddeford City Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved.

Any application for a permit submitted to the City of Biddeford within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

**Section 9. Overlay Districts and Zoning Map.**

A. Official Zoning Map.

The areas to which this Ordinance is applicable are hereby divided into the following overlays as shown on the Official Zoning Map which is made a part of this Ordinance:

1. Resource Protection (RP)
2. Resource Protection-1 (RP-1)
3. Limited Residential (LR)
4. Limited Commercial (LC)

5. General Development 1 (GD-1)
6. General Development 2 (GD-2)
7. Commercial Fisheries/Maritime Activities (CFMA)
8. Stream Protection (SP)

B. Scale of Map.

The Official Zoning Map shall be drawn at a scale of not less than: one inch = 2,000 feet. Overlay boundaries shall be clearly delineated and a legend indicating the symbols for each overlay shall be placed on the map.

C. Certification of Official Zoning Map.

The Official Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in Biddeford City Hall.

D. Changes to the Official Zoning Map.

If amendments, in accordance with Section 8, are made in the overlay boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

**Section 10. Interpretation of overlay boundaries.**

Unless otherwise set forth on the Official Zoning Map or in this Ordinance by written description, overlay boundary lines are property lines, the centerlines of streets, roads and rights-of-way, and the boundaries of the shoreland area as defined herein (subject to field verification). Where uncertainty exists as to the exact location of overlay boundary lines, the Board of Appeals shall be the final authority as to location.

**Section 11. Land use requirements.**

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the overlay in which it is located, unless a variance is granted.

**Section 12. Nonconformance.**

A. Purpose.

It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that existed before the effective date of this Ordinance, or amendments thereto, shall be allowed to continue, subject to the requirements set forth in Section 12. Except as

otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General.

1. Transfer of Ownership: Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.
2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

C. Nonconforming structures.

1. Expansions: A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with subparagraphs a. and b. below.
  - a. After January 1, 1989 if any portion of a structure is less than the required setback from the upland edge of a wetland as defined herein, or the normal high water line of a water body or tributary stream, that portion of the structure shall not be expanded in floor area or volume, by more than 30 percent, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12.C.3., and is less than the required setback from a water body, tributary stream, or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 has been expanded by 30% in floor area and volume since that date.
  - b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board basing its decision on the criteria specified in Section 12.C.2. (Relocation) below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12.C.1.a . above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
2. Relocation: A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the

Planning Board and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
  - b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
3. Reconstruction or Replacement: Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland which is removed, or damaged or destroyed, regardless of the cause by more than 50 percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be

replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12.C.2. above.

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one (1) year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the ~~water~~ setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 12.C.2. above, the physical condition and type of foundation present, if any.

4. Change of Use of a Nonconforming Structure. The use of a nonconforming structure may not be changed to another use unless the Planning Board, after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### D. Nonconforming uses.

1. Expansions: Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in section 12.C.1.a. above.
2. Resumption Prohibited: A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five-year period.
3. Change of Use: An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in

the CFMA (Commercial Fisheries-Maritime Activities) overlay, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in section 12.C.4. above.

E. Nonconforming lots.

1. Nonconforming lots: A nonconforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width, and shore frontage can be met. Variances relating to setback or other requirements not involving lot area or shore frontage shall be obtained by action of the Board of Appeals.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

- a. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of Section 12.E.3.a. are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

### **Section 13. Establishment of Overlay Districts.**

- A. Resource Protection (RP) District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development 1, General Development 2 or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District. For further clarification of those areas not included in RP under this definition, refer to the Official Zoning Map and the descriptions of other Districts provided in this Section.
1. Areas within 250 feet, horizontal distance, of the upland edge of salt marshes and salt meadows that are rated “moderate” or “high” value by Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973; and areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the MDIF&W that are depicted on a GIS layer maintained by either MDIF&W or the Maine Department of Environmental Protection as of December 31, 2008. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.
  2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100-year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
  3. Areas of two or more contiguous acres with sustained slopes of 20 % or greater.
  4. Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
  5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

6. The land area located on the west side of Granite Point Road, as depicted on the Official Zoning Map.

For clarification of the Granite Point area to the west side of Granite Point Road, the RP District is as depicted on the Official Zoning Map and in no case extends east of the centerline of Granite Point Road. The northern extent of the RP District in Granite Point includes Biddeford Tax Map 67, Lot 2; Tax Map 67, Lot 2-2; Tax Map 5, Lot 5; and part of Tax Map 5, Lot 9-4 extending west along the same bearing as the northern lot boundary of Tax Map 5, Lot 5, to the Little River. The southern extent of the RP District in Granite Point is to the southern tip of Timber Point as depicted on the Official Zoning Map.

For clarification of the Fortunes Rocks area on the west side of Fortunes Rocks Road, the RP District is as depicted on the Official Zoning Map and in no case extends east of the centerline of Fortunes Rocks Road or north of the centerline of Bridge Street.

For clarification of the Mile Stretch area on the west side of Mile Stretch Road, the RP District is as depicted on the Official Zoning Map and includes all lots northeast of, and including, Biddeford Tax Map 62, Lot 26-1 and in no case extends east of the centerline of Mile Stretch Road.

- B. Resource Protection-1 District (RP-1). The RP-1 District is specific to the Swan Pond Brook corridor. The City of Biddeford recognizes the critical nature of limiting development that would adversely affect water quality, productive habitat and biological ecosystems in the Swan Pond Brook corridor, due to its proximity to the intake pipe of the City's public water supply. The RP-1 district shall include areas within 250 feet, horizontal distance of the normal high water line (as determined in the field) of Swan Pond Brook and tributaries as specifically depicted on the Official Zoning Map.
- C. General Development 1 (GD-1) District. The General Development 1 District includes the following types of existing, intensively developed areas:
  1. Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
    - a. Areas devoted to manufacturing, fabricating or other industrial activities;
    - b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
    - c. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

2. Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.
3. Portions of the General Development District 1 may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

D. General Development 2 (GD-2) District. The General Development 2 District includes the same types of areas as those listed for the General Development 1 District. The General Development 2 District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development 1 District.

Portions of the General Development District 2 may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

E. Stream Protection (SP) District. The Stream Protection District includes all land areas within one-hundred (100) feet, horizontal distance, of the normal high-water line of a stream (as determined in the field), exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two-hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland. The beginning (furthest upstream extent) of a stream is as depicted on the Official Zoning Map of the City of Biddeford, unless determined to be otherwise by the Zoning Board of Appeals as per Article XIV, Section 10.

F. Limited Residential (LR) District. The limited residential district includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, Stream Protection Districts, and areas, which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries/Maritime Activities District. The Limited Residential District includes the following:

1. The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond, river, or freshwater wetland; and within 250 feet of the upland edge of a coastal or freshwater wetland as depicted on the Official Zoning Map and field verified, unless otherwise described below;
  - a. For clarification along the interior of "The Pool", the LR District is as depicted on the Official Zoning Map and follows property line boundaries away from "The Pool" except for the following:

i. Hills Beach Area:

For clarification around the northwest coastal wetland associated with “The Pool” starting and including Tax Map 9, Lot 3-5 and running clockwise around the coastal wetland, the LR District boundary is the upland edge of the coastal wetland until Tax Map 54, Lot 97. Starting at and including Tax Map 54, Lot 97 all lots southwest of Hills Beach Road to Tax Map 54, Lot 85 are designated within an LR District except Tax Map 54, Lots 93, 98, and 99 and Tax Map 55, Lot 47-1 (which are designated as RP).

G. Limited Commercial (LC) District. The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district may include commercial lots in existence prior to January 1, 1989 as defined below. Industrial uses are prohibited.

For clarification purposes, the LC Districts includes the shoreland zone (as determined in the field) that overlays the W3 Zone.

H. Commercial Fisheries/Maritime Activities (CFMA) District. The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

1. Shelter from prevailing winds and waves;
2. Slope of the land within 250 feet, horizontal distance, of the shoreline;
3. Depth of the water within 150 feet, horizontal distance, of the shoreline;
4. Available support facilities including utilities and transportation facilities; and
5. Compatibility with adjacent upland uses.

For clarification purposes, the CFMA District includes the following area:

1. The shoreland zone (as determined in the field) that overlays Tax Map 47, Lot 1 (Marblehead Boat Launch).

## **Section 14. Table of Land Uses.**

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The overlay designation for a particular site shall be determined from the official zoning map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited.

PB - Requires permit issued by the Planning Board.

CEO - Requires permit issued by the Code Enforcement Officer.

LPI - Requires permit issued by the Local Plumbing Inspector.

Abbreviations:

RP - Resource Protection

RP-1 - Resource Protection-1

LR - Limited Residential

LC - Limited Commercial

GD-1 - General Development 1

GD-2 - General Development 2

CFMA - Commercial Fisheries/Maritime Activities

SP - Stream Protection

TABLE 1. LAND USES IN THE SHORELAND ZONE  
TABLE INSET:

LAND USES	OVERLAY DISTRICT							
	SP	RP	GD-1	GD-2	RP-1	LR	LC	CFMA
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO1	yes	yes	CEO1	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO1	yes	yes	CEO1	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes	yes	yes	yes
8. Soil and Water conservation practices	yes	yes	yes	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes2	yes2	yes2	yes2	yes2	yes2	yes2
10. Mineral extraction including sand and gravel extraction	no	PB3	PB	PB	PB3	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes	yes	yes	yes
12. Emergency Operations	yes	yes	yes	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes	yes	yes	yes
14. Aquaculture	PB	PB	yes	yes	PB13	PB	yes	yes
15. Principal structures and uses								
A. One and two-family residential, including driveways	PB4	no	CEO 14	CEO	no	CEO	CEO	no

B. Multi-unit residential	no	no	PB	PB	no	PB	PB	no
C. Commercial	no	no <sup>10</sup>	PB <sup>5</sup>	PB	no	no <sup>10</sup>	PB	PB <sup>5</sup>
D. Industrial	no	no	PB <sup>5</sup>	PB	no	no	no	PB <sup>5</sup>
E. Governmental and Institutional	no	no	PB <sup>5</sup>	PB	no	PB	PB	PB <sup>5</sup>
F. Small nonresidential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	PB	PB	PB	CEO	CEO	PB <sup>5</sup>
16. Structures accessory to allowed uses	PB <sup>4</sup>	PB	yes	yes	PB	CEO	CEO	yes
17. Pier docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland								
A. Temporary	CEO <sup>11</sup>							
B. Permanent	PB	PB	PB <sup>5</sup>	PB <sup>5</sup>	PB	PB	PB	PB <sup>5</sup>
18. Conversions of seasonal residences to year-round residences	LPI	LPI	no	no	no	LPI	LPI	no
19. Home occupations	PB	PB	yes	yes	no	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI							
21. Essential services								
A. Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>12</sup>	yes <sup>12</sup>	CEO <sup>6</sup>	yes <sup>12</sup>	yes <sup>12</sup>	yes <sup>12</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	CEO	CEO	PB <sup>6</sup>	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB <sup>6</sup>	PB	PB	PB
D. Other Essential Services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB <sup>6</sup>	PB	PB	PB

22. Service drops, as defined, to allowed uses	yes							
23. Public and private recreational areas involving minimal structural development	PB	PB	CEO	CEO	PB	PB	CEO	CEO5
24. Individual, private campsites	CEO							
25. Campgrounds	no	no7	no	no	no	PB	PB	no
26. Road & driveway construction	PB	no8	PB	PB	no8	PB	PB	PB5
27. Land management roads	yes	PB	yes	yes	PB	yes	yes	yes
28. Parking facilities	no	no7	PB	PB	no	PB	PB	PB5
29. Marinas	PB	no	PB	PB	no	PB	PB	PB
30. Filling and earth moving of less than 10 cubic yards	CEO	CEO	yes	yes	CEO	yes	yes	yes
31. Filling and earth moving of greater than 10 cubic yards	PB	PB	CEO	CEO	PB	CEO	CEO	CEO
32. Signs	yes							
33. Uses similar to allowed uses	CEO							
34. Uses similar to uses requiring a CEO permit	CEO							
35. Uses similar to uses requiring a PB permit	PB							
36. Recreational Trails								
A. Primitive Trails	CEO							
B. Category 2 Multiple Use Non-Motorized Trails	CEO14							
C. Category 1 Multiple Use Non-Motorized Trails	PB							
D. Category 2 Multiple Use Trails, Including Motorized Uses	PB							

E. Category 1 Multiple Use Trails,  
Including Motorized Uses

PB

PB

PB

PB

PB

PB

PB

PB

Table 1 Notes:

- 1 In RP not allowed within 75 feet horizontal distance of the normal high-water line of great ponds, except to remove safety hazards.
- 2 Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- 3 In RP not allowed in areas so designated because of wildlife value.
- 4 Provided that a variance from the setback requirement is obtained from the Zoning Board of Appeals.
- 5 Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
- 6 See further restrictions in section 15(L)(2).
- 7 Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
- 8 Except as provided in Section 15.H.3.
- 9 [Reserved.]
- 10 Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
- 11 Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- 12 Permit not required but must file a written “notice of intent to construct” with CEO.
- 13 Allowed only if no development, as defined in Article II of this Ordinance, is required to pursue this use.
- 14 Planning Board review required if a setback waiver is necessary.

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 or coastal wetland, great pond, river, stream or brook and operates it 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.

**Section 15. Land Use Standards.**

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards.

1. [Table.]

TABLE INSET:

Minimum Lot Area (Sq. Ft.)	Minimum Shore Frontage
----------------------------	------------------------

		(ft.)
Residential Per Dwelling Unit		
A. Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
B. Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
C. Within the General Development 1 District (within existing structures only)	None	None

Governmental, Institutional, Commercial or Industrial Per Principal Structure

A. Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
B. Within the Shoreland Zone adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	None	None
C. Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
D. Within the General Development 1 District (within existing structures only)	None	None

Public and Private Recreational Facilities

A. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal areas	40,000	200
B. Within the General Development 1 District	None	None

2. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.
3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
4. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
5. If more than one residential dwelling unit, ~~or more than one~~ principal governmental, institutional, commercial or industrial structure, or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, ~~or~~ principal structure, or use, except as provided in the above Table in the General Development District.

B. Principal and Accessory Structures.

1. All new principal and accessory structures shall be set back at least one-hundred (100) feet, horizontal distance from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and one-hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development 1 and 2 Districts the setback from the normal high water line of the wetland shall be at least 25 feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District and Resource Protection-1 District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirement specified above shall apply.

In addition:

- a. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
  - b. [Reserved]
  - c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Zoning Board of Appeals.
  - d. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection and Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed 35 feet in height. This provision

shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

3. The lowest floor elevation or openings of all buildings and structures including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that Ordinance and need not meet the elevation requirements of this paragraph.
4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in a General Development District adjacent to tidal waters and rivers that do not flow to great ponds classified GPA, and in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - a. The site has been previously altered and an effective vegetated buffer does not exist;
  - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - d. The total height of the wall(s), in the aggregate, is no more than 24 inches;
  - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
  - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
    - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

- ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
- iii. Only native species may be used to establish the buffer area;
- iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- v. A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

56. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

8. Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

D. Campgrounds.

Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

1. Campgrounds shall contain a minimum of five-thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and 100 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a resource protection district shall be limited to one thousand 1,000 square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the

Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

1. Auto washing facilities.
2. Auto or other vehicle service and/or repair operations, including body shops.
3. Chemical and bacteriological laboratories.
4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms.
5. Commercial painting, wood preserving, and furniture stripping.
6. Dry cleaning establishments.
7. Electronic circuit assembly.
8. Laundromats, unless connected to a sanitary sewer.
9. Metal plating, finishing, or polishing.
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas.
11. Photographic processing.
12. Printing.

G. Parking Areas.

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be setback at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in districts other than the General Development 1 District and Commercial Fisheries/Maritime

Activities District, shall be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - b. Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than 20 percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15.H.1. does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15.H.1. except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15.Q.
5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

TABLE INSET:

Grade (Percent)	Spacing (Feet)
0--2	250
3--5	200--135
6--10	100--80
11--15	80--60
16--20	60--45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
  - c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
  - d. Ditches relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- I. Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:
- 1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
  - 2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
  - 3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
  - 4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
  - 5. Signs relating to public safety shall be allowed without restriction.
  - 6. No sign shall extend higher than twenty (20) feet above the ground.
  - 7. Signs may be illuminated only by shielded, non-flashing lights.
- J. Stormwater Runoff.
- 1. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and

wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

2. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

#### K. Septic Waste Disposal.

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

#### L. Essential Services.

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety. Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15.M.4. below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal

high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.

3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - b. The final graded slope shall be a two and one-half to one (2 1/2:1) slope or flatter.
  - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

#### N. Agriculture.

1. All spreading of manure shall be accomplished in conformance with *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone, shall require a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber harvesting.

1. Timber harvesting shall conform with the following provisions:
  - a. Selective cutting of no more than 40 percent of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten-year period is permitted. In addition:
    - i. Within 100 feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within 75 feet, horizontal distance, of the normal high-water line other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
    - ii. At distances greater than 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than 100 feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
  - b. Timber harvesting operations exceeding the 40% limitation in 15.O.1.a above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of the Planning Board's decision.
  - c. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be

removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

- d. Timber harvesting equipment shall not use stream channels as travel routes except when:
  - i. Surface waters are frozen; and
  - ii. The activity will not result in any ground disturbance.
- e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

**2. Repeal of Municipal Timber Harvesting Regulations.** The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

- Section 14, Table 1, *Land Uses in the Shoreland Zone*, Item 3 (Forest management activities except for timber harvesting & land management roads), Item 4 (Timber Harvesting), and Item 28 (Land management roads);
- Section 15(O) in its entirety; and
- Section 3. Definitions, the definitions of "Cross-sectional area", "DBH", "Disruption of Shoreline Integrity", "Forest management activities", "Forest Stand", "Harvest Area", "Land management road", "Licensed forester", "Residual Basal Area", "Residual Stand", "Skid Road or Skid Trail", "Slash", "Timber harvesting", "Timber harvesting and related activities", and "Windfirm".

NOTE: The statutory date established under 38 M.R.S.A. section 438-B(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2<sup>nd</sup> year following the year in which the Commissioner of Conservation

determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards.” 38 M.R.S.A. section 438-A(5) further provides that “the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards.”

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that District.

2. Except in areas as described in Section P.1., above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - a. There shall be no cleared opening greater than two hundred and fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
  - b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15.P.2.b. a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot square (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4 1/2 feet Above Ground Level (inches)	Points
2-<4 in.	1
≥4-<8 1/2 in.	2
8-<12 in.	4
≥12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but not overlap a previous plot;
- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15.P.2.b. "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15.P. paragraphs 2 and 2.a. above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15.P.2. does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured four and one-half (4 ½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development or Commercial Fisheries/Maritime Activities Districts.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15.P.

Q. Erosion and Sedimentation Control.

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - a. Mulching and revegetation of disturbed soil.
  - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - c. Permanent stabilization structures such as retaining walls or rip-rap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the

activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
    - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
    - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
    - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
  5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.
- R. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- S. Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream, or wetland.
- T. Archaeological Sites. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National

Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the commission prior to rendering a decision on the application.

#### U. Recreational Trails.

##### 1. Standards Applicable to All Recreational Trails

- a. Recreational trails shall be designed and constructed consistent with the Maine Trails Manual *Guidelines for Recreational Trail Construction in Maine*, published by the Maine Department of Conservation, Bureau of Parks and Lands, dated October 2002, or the American Association of State Highway and Transportation Officials (AASHTO) *Guide for the Development of Bicycle Facilities, 1999*, except where stricter standards are contained in this Ordinance.
- b. Where a recreational trail is permitted within 100 feet of a great pond or within 75 feet of another water body or wetland, tree cutting associated with the recreational trail construction shall be limited to the minimum amount necessary and, to the extent practical, tree canopies over the trail shall be preserved.
- c. All portions of a recreational trail, including any trail spurs, shall be designed and constructed to shed water, avoid erosion, and minimize channelized flow to surface waters.
- d. A trail that exceeds the limitations contained in this section shall meet all of the standards for Roads and Driveways, found in Section 15.H.

##### 2. Standards Applicable to Primitive Trails

- a. Primitive trails shall be set back at least ten (10) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland, except for water body and wetland crossings, and water access sites. Water access sites are limited to one site per 500 feet of shore frontage, excluding canoe portage locations and allowed footpaths pursuant to Section 15.P(2)(a), and shall be limited to the width of the trail. Private water access sites shall not be located closer than 200 linear feet from a footpath allowed by Section 15.P(2)(a).
- b. Primitive trails shall be constructed using hand tools only, including power hand tools.
- c. The trail must be designed and constructed such that soil erosion will be prevented. Such prevention measures may include steps, water bars, drainage dips, and minor side-sloping of trails, in addition to lining of the trail with crushed rock, pea stone, or other natural material.
- d. Where necessary, wooden walkways, bridges, and similar installations no more than four feet in width, are allowed in wet, rocky or unstable areas.

### 3. Standards Applicable to Category 2 Multiple Use Non-Motorized Trails

- a. A Category 2 Multiple Use Non-Motorized Trail, including its base, shall set back at least twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland, except for water and wetland access sites, and except where an existing trail base or developed area is present, including but not limited to a discontinued rail bed, roadway, parking area or industrial site. The Planning Board may waive the setback requirement when the applicant demonstrates that there is no other reasonable alternative for the location of the trail. Examples include, but are not limited to, the avoidance of rail, road and wetland crossings, the circumvention of bridge abutments, ledges and steep slopes, and the need to meet required safety standards. Where necessary, elevated walkways/platforms no more than 7 feet in width over a water body or wetland resource may be permitted.
- b. Trail spurs, no more than five feet in width, may be constructed to the water or wetland. No spur, however, shall be located less than 500 linear feet from another spur. Clearing of vegetation for a trail spur shall not exceed 200 square feet per 25 linear feet of trail length.
- c. Where necessary to prevent erosion of surface materials, trail surfaces shall be paved, graveled, mulched, or otherwise stabilized.

### 4. Standards Applicable to Category 1 Multiple Use Non-Motorized Trails

- a. Category 1 Multiple Use Non-Motorized Trails shall meet the same shoreline or wetland setback requirement as that required of structures in the applicable district, except as follows:
  - i. A trail may be permitted over an existing base, such as a discontinued rail bed, roadway, berm, dike, parking lot or industrial site. The trail may be expanded within a road or rail right-of way existing on the effective date of this ordinance, provided that no part of the expanded trail is less than 25 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland.
  - ii. The setback requirement of the trail may be reduced to no less than 25 feet for up to one-quarter (25%) of the length of the trail, upon demonstration by the applicant that: water quality will not be degraded; there will be no unreasonable impacts on natural beauty or wildlife populations, including effects on habitat; and that the trail will be designed and constructed in a manner consistent with the purposes of this Ordinance.
  - iii. Notwithstanding the limitations in paragraphs 1.a, and 1.b, above, the Planning Board may waive the water or wetland setback requirement when the applicant demonstrates that there is no other reasonable alternative for the location of the trail. Examples include, but are not limited to, the avoidance

of rail, road, and wetland crossings, the avoidance of permanent structures, ledges, and steep slopes, and the need to meet required safety standards. When the applicant demonstrates the need, an elevated walkway/platform over the water or wetland resource may be permitted provided that it is no larger than necessary.

Note: Elevated walkways must comply with local floodplain management ordinances, and may require a permit from the DEP pursuant to the Natural Resources Protection Act.

- b. When a trail is permitted within the structure setback area, any significant areas of exposed mineral soil present between the trail and the water body or wetland, shall be planted with native vegetation or be otherwise stabilized, to prevent erosion and protect water quality.
  - c. Trail spurs, no greater than eight (8) feet in width, may be established at distances no less than 500 linear feet apart. Clearing of vegetation for a trail spur shall not exceed 250 square feet per 25 feet of spur length. Trail spurs that extend to the shoreline shall not include any structural development except that necessary for shoreline stabilization or trail hardening, and except for the placement of a bench or similar object for sitting purposes. No trail spur shall be permitted on sustained ground slopes of greater than 15%.
  - d. Trail surfaces must either be paved, graveled, mulched or otherwise stabilized/surfaced to prevent erosion of surface materials. Trail banks and side slopes steeper than a 50% slope, and retaining walls greater than four (4) feet in height, shall be designed by a professional engineer, and shall be stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q.
5. Standards Applicable to Category 2 Multiple Use Trails, Including Motorized Uses
- a. Category 2 Multiple Use Trails, Including Motorized Uses shall meet the same shoreline or wetland setback requirement as that required for structures in the district in which such trails are located, except for water and wetland crossings, and except as follows:
    - i. A trail may be permitted over a legally existing base, such as a discontinued rail bed, roadway, berm, dike, parking lot or industrial site. No portion of the base shall be expanded closer to the normal high-water line of a water body or upland edge of a wetland.
    - ii. The Planning Board may waive the setback requirement when the applicant demonstrates that there is no other reasonable alternative for the location of the trail. Examples include the avoidance of road and wetland crossings, ledges, and steep slopes. Any portion of the trail that is less than 75 feet from

a water body or wetland shall be paved or similarly hardened to prevent erosion.

- iii. A trail that is limited exclusively for winter use need not meet setback requirements provided that the trail is chained, gated or otherwise blocked to motorized access, except during frozen ground conditions.
  - iv. All crossings of flowing water shall require a bridge or culvert, except in areas with low, hardened banks and channel beds which are composed of gravel, rock or similar hard surface which will not be eroded or otherwise damaged.
  - v. Trails are prohibited within the shoreland zone of a Significant River Segment, except for water crossings, and in a Resource Protection District so designated because of wildlife habitat value or the presence of sustained slopes greater than 20%.
  - vi. When a trail is permitted within the setback area, any exposed mineral soil between the trail and the water body or wetland, shall be planted with native vegetation, or be otherwise stabilized, in order to prevent erosion and protect water quality.
  - vii. Where trail stability is of concern the Planning Board may require hardening or compacting of the trail tread to prevent erosion. Examples include wet or steeply sloped areas, and trail switchback sites.
  - viii. Trail banks and side slopes steeper than a 50% slope, and retaining walls greater than four (4) feet in height, shall be designed by a professional engineer, and shall be stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q.
6. Standards Applicable to Category 1 Multiple Use Trails, Including Motorized Uses
- a. Category I Multiple Use Trails, including Motorized Uses, shall meet the same standards as those for a Category II Multiple Use Trail, including Motorized Uses except that the Planning Board may waive the setback requirement only where existing roads and similar obstructions require the trail to be located within the setback area. In such case the trail shall not extend into the setback area for more than 200 linear feet on each side of the obstruction. All portions of the trail permitted within 75 feet of a water body or wetland shall be paved or otherwise hardened or compacted to prevent erosion.

## **Section 16. Administration.**

### **A. Administering Bodies and Agents.**

1. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
  2. Zoning Board of Appeals. A Zoning Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
  3. Planning Board. A Planning Board shall be created in accordance with the provisions of State law.
- B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the overlay in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to the Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.
1. A permit is not required for the replacement of an existing road culvert as long as:
    - a. The replacement culvert is not more than twenty-five (25) percent longer than the culvert being replaced;
    - b. The replacement culvert is not longer than seventy-five (75) feet; and
    - c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.
  2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
  3. Any permit required by this Ordinance shall be in addition to any other permit required by other laws and ordinances.
- C. Permit Application.
1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
  2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

3. All applications shall be dated, and the Code Enforcement Officer or Planning Office, as appropriate, shall note upon each application the date and time of its receipt.
  4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- D. Procedure for Administering Permits. Within thirty-five (35) days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as appropriate, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality.

E. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

F. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

G. Appeals.

1. Powers and Duties of the Zoning Board of Appeals. The Zoning Board of Appeals shall have the following powers:

- a. Administrative Appeals: To hear and decide administrative appeals, on an appellare basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance, is not appealable to the Zoning Board of Appeals.
- b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals. Variances may be granted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:

1. The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the nonconformity and from which relief is sought; and
  2. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
    - i. That the land in question cannot yield a reasonable return unless a variance is granted;
    - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - iii. That the granting of a variance will not alter the essential character of the locality; and
    - ~~(iv).~~ That the hardship is not the result of action taken by the applicant or a prior owner.
  - d. Notwithstanding Section 16.H.2.c.ii. above, the Zoning Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
  - e. The Zoning Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
  - f. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Zoning Board of Appeals. Any comments received from the Commissioner prior to the action by the Zoning Board of Appeals shall be made part of the record and shall be taken into consideration by the Zoning Board of Appeals.
3. Administrative Appeals

When the Zoning Board of Appeals reviews a decision of the Code Enforcement Officer the Zoning Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Zoning Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Zoning Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Zoning Board of Appeals may only review the record of the proceedings before the Planning Board. The Zoning Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Zoning Board of Appeals may receive and consider written or oral arguments. If the Zoning Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Zoning Board of Appeals may remand the matter to the Planning Board for additional fact finding.

#### 4. Appeal Procedure.

##### a. Making an Appeal.

- i. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16.G.1.a. above. Such an appeal shall be taken within thirty (30) days of the date of the official written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- ii. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes.
  - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- iii. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

- iv. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
- b. Decision by the Board of Appeals.
- i. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
  - ii. The person filing the appeal shall have the burden of proof.
  - iii. The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
  - iv. The Zoning Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Zoning Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
5. Appeal to Superior Court. Except as provided by 30-A M.R.S.A. Section 2691(3)(F), Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
6. Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

#### H. Enforcement.

- 1. Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
- 2. Code Enforcement Officer.

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.
  - b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
  - c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
3. Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Municipal Official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
4. Fines. Any person, including but not limited to a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. Section 4452.

## **Section 17. Definitions.**

**Accessory Structure or Use.** A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Aggrieved Party:** An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**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.

**Aquaculture:** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Basal Area:** The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

**Basement:** Any portion of a Structure with a floor-to-ceiling height of six (6) feet or more and having more than 50% of its volume below the existing ground level.

**Boat Launching Facility:** A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Bureau:** State of Maine Department of Conservation's Bureau of Forestry.

**Campground:** Any area or tract of land to accommodate two (2) or more parties in temporary living quarters for a fee, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy:** The more or less continuous cover formed by tree crowns in a wooded area.

**Category 2 Multiple Use Non-Motorized Trails:** A public trail, or a private trail open to the public, with a tread path no more than five (5) feet in width and an overall clearance of seven (7) feet wide, established for walking, hiking, non-motorized biking, snow-shoeing, or cross-country skiing. Electrically operated bicycles, wheelchairs, and similar transportation related equipment used only by persons with disabilities are permitted. (CEO, unless setback waiver is necessary, in which case a permit is required from the Planning Board)

**Category 1 Multiple Use Non-Motorized Trail :** A public trail or a private trail open to the public, established for walking, hiking, non-motorized biking, snow-shoeing, or cross-country skiing, with a tread path no more than twelve (12) feet in width [fourteen (14) feet in an urban

area] and an overall width, including trail side-slopes, of twenty (20) feet or less. No motorized vehicles except electrically operated bicycles, wheelchairs, and similar transportation related equipment used only by persons with disabilities, and vehicles necessary for maintenance and emergency purposes are permitted. (Planning Board permit required)

Category 2 Multiple Use Trail, Including Motorized Uses: A public trail, or a private trail open to the public, with a tread path no more than 5 feet wide, and an overall clearance of seven (7) feet wide, established for recreational vehicles, equestrian activities, mountain biking, hiking, ATVing, off-road motorcycling, snowmobiling, snow-shoeing, or cross-country skiing. (Planning Board permit required)

Category 1 Multiple Use Trail, Including Motorized Uses: A public trail or a private trail open to the public, with a tread path no more than twelve (12) feet wide [fourteen (14) feet in an urban area], and an overall clearance of twenty (20) feet wide, established for recreational vehicles, equestrian activities, mountain biking, hiking, ATVing, off-road motorcycling, snowmobiling, snow-shoeing, cross-country skiing. (Planning Board permit required)

Coastal Wetland: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables generated by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes and may consist of rocky ledges, sand and cobble beach, mud flats, etc. in addition to salt marshes and salt meadows. The Atlantic Ocean is a large coastal wetland.

Commercial Use: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Cross-sectional area: The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH: The diameter of a standing tree measured 4.5 feet from ground level.

Development: A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability:** Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Disruption of Shoreline Integrity:** The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

**Driveway:** A vehicular access-way less than five hundred (500) feet in length serving no more than one lot.

**Emergency Operations:** Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**Essential Services:** Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services, telecommunications facilities, or small wind energy systems.

**Expansion of a Structure:** An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

**Expansion of Use:** The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

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

**Floodway:** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Floor area:** The sum of the 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.

**Footprint:** The total number of square feet of horizontal surface covered by a building and/or structure, including steps, porches, and decks.

**Forest Management Activities:** Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Forested wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Forest Stand:** A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

**Foundation:** The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other bases consisting of concrete, block, brick or similar material.

**Freshwater wetland:** Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or ground water 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.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally Water-dependent Uses:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.

**Great pond:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially

formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA: Any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground Cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area: The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a structure: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in Nonconformity of a Structure as related to Shoreland Zoning (Section 12 of this Ordinance): Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual Private Campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

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

**Lot area:** The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Institutional:** A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Land Management Road:** A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

**Licensed Forester:** A forester licensed under 32 M.R.S.A. Chapter 76.

**Marina:** A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**Market value:** The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**Mineral exploration:** Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral extraction:** Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction-site.

**Minimum lot width:** The closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Multi-unit residential:** A residential structure containing three (3) or more residential dwelling units.

**Native:** Indigenous to the local forests.

**Non-conforming condition:** A non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Nonconforming Lot:** A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Nonconforming Structure:** A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Nonconforming Use:** Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Normal High-water Line (Non-tidal Waters):** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**Person:** An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

**Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-water Line or Within a Wetland:**

**Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Primitive Trail** – a public or private path or trail, with a tread path no more than three (3) feet in width and an overall clearance of four (4) feet in width, established for walking, hiking, non-motorized biking purposes, snow-shoeing, or cross-country skiing. (CEO permit required)

**Principal Structure:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**Principal Use:** A use other than one which is wholly incidental or accessory to another use on the same premises.

**Public Facility:** Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent Floodplain Soils:** The following soil series as described and identified by the National Cooperative Soil Survey: Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Alluvial, Cornish, Charles, Podunk, Rumney, Saco, Suncook, Sunday, Winooski.

**Recreational Facility:** A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

**Recreational Trail:** A thoroughfare or way across land or snow, used primarily for recreational purposes including, but not limited to, such uses as bicycling, Nordic (cross-country) skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long distance backpacking, roller skating, in-line skating, dog sledding, running, snowmobiling, canoe and kayak portaging, and vehicular travel by motorcycle, four-wheel drive or all terrain, off-road vehicles. Recreational trail use may be limited to foot, horse, or other non-motorized means of transportation or motorized means of transportation or a combination of any of them.

Recreational trails include Primitive Trails, Multiple Use Non-motorized Trails, and Multiple Use Trails, Including Motorized Uses. A recreational trail is not a structure.

**Recreational Vehicle:** A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Replacement System:** A system intended to replace:

1. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. Any existing overboard wastewater discharge.

**Residential Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time-period rented.

Recreational vehicles are not residential dwelling units.

**Residual Basal Area:** The average of the basal area of trees remaining on a harvested site.

**Residual Stand:** A stand of trees remaining in the forest following timber harvesting and related activities.

**Riprap:** Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

**Road:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**Salt Marsh:** Areas of coastal wetlands (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

**Salt Meadow:** Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common three square occurs in fresher areas.

**Service Drop:** Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service:
  - a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. The total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service:
  - a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback:** The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore Frontage:** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**Shoreland Zone:** The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within two hundred and fifty

(250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred and fifty (250) feet of the upland edge of a or freshwater wetland; within 250 feet, horizontal distance, of the normal high water line of Swan Pond Brook, and its tributaries specifically depicted on the Official Zoning Map; or within one-hundred (100) feet, horizontal distance, of the normal high-water line of a stream; the land area greater than 250 feet, horizontal distance, of the upland edge of the coastal wetland located on the west side of Granite Point Road, as depicted on the Official Zoning Map.

**Shoreline:** The normal high-water line, or upland edge of a freshwater or coastal wetland.

**Skid Road or Skid Trail:** A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

**Slash:** The residue, e.g., treetops and branches, left on the ground after a timber harvest.

**Stream:** A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. In addition, for the purposes of this Ordinance, a stream is also as depicted within an SP District on the Official Zoning Map of the City of Biddeford.

**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, including stacks and antennae, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors, as well as sidewalks, driveways, and parking lots. For the purposes of Shoreland Zoning, the term also includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

**Substantial start:** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface sewage disposal system:** Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained slope:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal Waters:** All waters affected by tidal action during the maximum spring tide.

**Timber Harvesting:** The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

**Timber harvesting and related activities:** Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Trail spur:** A pathway, extending toward the shoreline from a primary non-motorized trail. Such pathways shall extend, generally, perpendicular from the primary trail but shall be constructed as a winding pathway.

**Tributary Stream:** Means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland Edge of a Wetland:** The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

In the event that it is not possible to determine the upland edge in the above manner, this elevation shall be measured relative to NGVD29. Current tidal benchmarks and tidal datum information shall be obtained from the data developed by the National Ocean Service (NOS). As of September 2001, the maximum spring high tide elevation is 6.9 feet above NGVD29, and will be the figure used to determine setback. When used as a reference for setback, all benchmark data, locations, calculations, delineation, and posting of the maximum spring high tide elevation must be presented to the Code Enforcement Officer for review and approval

**Vegetation:** All live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at 4 1/2 feet above ground level.

**Velocity Zone:** An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**Volume of a Structure:** The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water Body:** Any great pond, river, or stream.

**Water Crossing:** Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wetland:** A freshwater or coastal wetland.

**Windfirm:** The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

**Woody Vegetation:** Live trees or woody, non-herbaceous shrubs.