

Shore Land Zoning Ordinance for the Municipality of

Town of Eustis

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 freshwater 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shore land 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 or river, the upland edge of a freshwater wetland and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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 municipal legislative body on March 07 2009, 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 forty-five (45) days of its receipt of the Ordinance or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (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) Sections 15 (0) and 15 (0-i). Section 15 (0) is repealed on the statutory date established under 38 M.R.S.A. Section 438-B(5), at which time Section 15 (0-1)

shall become effective. Until such time as Section 15 (0) is repealed, Section 15 (0-1) is not in effect. *Note: The statutory date established under 38 MRS.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 Y¹ 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 MR.S.A. section 438-B(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 of 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 any other Ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

Section 8. Amendments

The Ordinance may be amended by majority vote of the municipal legislative body. Copies of amendments, attested and signed by the Municipal Clerk shall be submitted to the Commissioner of Department of Environmental Protection following adoption by the municipal legislative body 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 municipality within the forty-five (45) day period shall be governed by the terms of the amendment if the Commissioner approves such amendment.

Section 9. Districts and Zoning Map

(A) Official Shore Land Zoning Map(s)

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shore Land Zoning Map(s) which is (are) made part of the Ordinance

- * Resource Protection District
- * Limited Residential
- * General Development
- * Stream Protection District

(B) Scale of Map(s)

The Official Shore Land Zoning Map(s) shall be drawn at a scale of not less than: 1 inch= 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map(s).

(C) Certification of Official Shore Land Zoning Map(s)

The Official Shore Land Zoning Map(s) shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

(D) Changes To Official Shore Land Zoning Map(s)

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

Section 10. Interpretation of District Boundaries

Unless otherwise set forth on the Official Shore Land Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shore land area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Section 11. Land Use Requirements

Except in 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 the regulations herein specified for the district 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 in non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth here in Section(12). Except as otherwise provided in this Ordinance, a non-conforming condition, shall not be permitted to become more non-conforming.

(B) Definitions

- (1) **Non-Conforming Condition** - 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.
- (2) **Non-Conforming 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.
- (3) **Non-Conforming 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.
- (4) **Non-Conforming Use** - use of buildings, structures, premises, land, or parts there of 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.

(C)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 non-conforming 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 non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building safety codes may require.

Eustis Shoreland Zoning Ordinance
Proposed Amendment to Allow Expansion of Non-Conforming Structures
Amended 2003

1. Amend Section 12 C as Follows:

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 subparagraph a and b below.

Further Limitations:

- a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more during the lifetime of the structure.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided.
 - i. The structure and new foundation are placed that the setback requirements is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in subsection 2 Relocation below:
 - ii. The completed foundation does not extend beyond the exterior dimensions of the structure; and
 - iii. The foundation does not cause the structure to be elevated by more than three (3) additional feet.

- c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland, shall be expanded towards the water body, tributary stream, or wetland.

2. Amend Section 17, Definitions as follows:

Basement- any portion of a structure with a floor-to-ceiling height of 6 feet or more having more than 50% of its volume below the existing ground level.

Increase in non-conformity of a structure- any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body, tributary streams, wetland setback, or other setback distance, increase in lot coverage, or increase in height of structure. Property changes or structure expansions which either meet the dimensional standard or which causes no further increase in the linear extent of the non-conformance of the existing structure shall not be considered to increase the non-conformity with the setback requirement for water bodies, tributary streams, wetlands, or other setback distances if the expansion extends no farther into the required setback area than does any portion of the existing non-conforming structure. Hence a structure may be expanded laterally along a setback provided that the expansion extends no closer to the water body, stream, wetland, or other protected entity. Including in this allowance are expansions which in-fill irregularly shaped structures.

(D) Non-conforming Structures

- (1) **Expansions.** A non-conforming 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 non-conformity of the structure and is in accordance with subparagraphs (a) and (b) following.
 - (a) After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(0)(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, had 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 or its designee, basing its decision on the criteria specified in section 12(d)(2) below. If completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12 (D)(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 the original ground level to the bottom of the first floor still it shall not be considered an expansion of the structure.
- (2) **Relocation.** A non-conforming 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 or its designee, 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 non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee 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 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:

- (i) Trees removed in order to relocate a structure must be replanted with at least one (1) native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one (1) species of tree shall make up more than fifty percent (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 re-established 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.

- (ii) 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 non-conforming structure, which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged, or destroyed, regardless of the cause, by more than fifty percent (50%) 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 or its designee in accordance with the purposes of the Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

If the reconstructed or replacement structure is to be located less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section (12)(0)(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 (D)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged, or destroyed, regardless of the cause, by fifty percent (50%) 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 said damage, destruction, or removal.

In determining whether the building whether the building reconstruction or replacement meets the setback the to greatest practical extent, the Planning Board, or its designee, shall consider in addition to the criteria in Section 12(0)(2) above, the physical condition and type of foundation present, if any.

(4) Change Of Use of Non-conforming Structure. The use of a non-conforming 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 other functionally water-dependent uses.

(E) Non-conforming Uses

(1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(D)(1)(a) above.

(2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming 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 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 (5) year period.

(3) **Change of Use.** An existing nonconforming use may be changed to

another nonconforming provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, 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(0)(4).

(F) Non-conforming Lots

1. **Non-conforming Lots.** A non-conforming 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 that of lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width 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 laws 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 the 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 the 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 dimension requirements.

This provision shall not apply to two (2) 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 on March 2, 1991, 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 one hundred (100) feet of shore frontage and at least twenty thousand (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 one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

Section 13. Establishment of Districts

(A) Resource Protection District. The Resource Protection District includes areas i]l 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 Shore Land Zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development Districts need not be included within the Resource Protection District.

(I) Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate to high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department (what department?) as of May 1, 2006. 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.

The Natural Resources Protection Act, 38 MRS.A. Sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife.

(2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers defined by the one hundred (100) year floodplain 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 and/or local knowledge.

(3) Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

(4) Areas of two (2) or more contiguous acres support wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water. *NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.*

(5) Land areas along rivers subject to sever bank erosion, undercutting, or riverbed movement.

(6) Other such areas as depicted on the Town of Eustis Official Land Use Map.

(B) **Limited Residential District** the Limited Residential District includes those areas suitable for residential development. It includes areas other than those in the Resource Protection, or Stream Protection Districts, and areas which are used less intensively than those in General Development District.

(C) **General Development District.** The General Development District includes the following types of existing, intensively developed areas:

(1) Areas of two (2) 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 use.

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

(D) Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream, 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 wetland. Where a stream and its associated shore land area is located within two-hundred (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shore land district associated with that water body or wetland.

Added 6/16/2022:

(E)Limited Commercial 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 includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited. ~~Setback for structures will be 25 feet from HWM.~~

Section 14. Table of Land Uses

All land use activities, as indicated in the table titled Land Uses in The Shore Land Zone, shall conform to all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shore Land Zoning Map.

Land Uses in the Shore Land Zone Key

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

No.....Prohibited

PB..... Allowed with permission issued by Planning Board

CEO... Allowed with Permit issued by the Code Enforcement Officer

LPI...Allowed with permit issued by the local Plumbing Inspector

Abbreviations

RP... Resource Protection

LP... Limited Residential

GD... General Development

SP.... Stream Protection

Land Uses in the Shore land Zone

Land Uses		SP	RP	LR	GD	LC
1	Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking.	Yes	Yes	Yes	Yes	Yes
2	Motorized Vehicular traffic on existing roads	Yes	Yes	Yes	Yes	Yes
3	Forest management activities except for timber harvesting and land management roads	Yes	Yes	Yes	Yes	Yes
4	Timber Harvesting	Yes	CEO 1	Yes	Yes	Yes
5	Clearing or removal of vegetation for activities other than timber harvesting.	CEO	CEO 1	Yes	Yes	Yes
6	Fire Prevention Activities	Yes	Yes	Yes	Yes	Yes
7	Wildlife management practices	Yes	Yes	Yes	Yes	Yes
8	Soil and water conservation practices	Yes	Yes	Yes	Yes	Yes
9	Mineral Exploration	No	Yes 2	Yes 2	Yes 2	Yes 2
10	Mineral Extraction including sand and gravel extraction	No	PB 3	PB	PB	PB
11	Surveying and resource analysis	Yes	Yes	Yes	Yes	Yes
12	Emergency Operations	Yes	Yes	Yes	Yes	Yes
13	Agriculture	Yes	PB 3	Yes	Yes	Yes
14	Aquaculture	PB	PB 3	PB	Yes	Yes
15	Principal structures and uses					
	A. One and two family residential	PB 4	No	CEO	CEO	CEO
	B. Multi-Unit residential	No	No	PB	PB	PB
	C. Commercial	No	No	No	PB	PB
	D. Industrial	No	No	No	PB	NO
	E. Governmental and institutional	No	No	No	PB	PB
	F. Small non-residential facilities for educational, scientific or nature interpretation purposes	PB 4	PB	CEO	CEO	CEO
16	Structures accessory to allowed uses	PB 4	PB	CEO	CEO	CEO
17	Piers, docks, wharfs, bridges over twenty (20) feet in length and other structures and uses extending over or below the normal high water line or within a wetland					
	A. Temporary	CEO	CEO	CEO	CEO	CEO
	B. Permanent	PB	PB	PB	PB	PB
18	Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19	Home occupations	PB	No	PB	Yes	Yes
20	Private sewage disposal systems for allowed uses	LPI	No	LPI	LPI	LPI
21	Essential Services	PB 6	PB 6	PB	PB	PB
	A. Roadside distribution lines (34.5Kv and lower)	CEO 6	CEO 6	Yes 12	Yes 12	Yes 12
	B. Non-roadside or cross country distribution lines involving ten (10) poles or less in the shore land zone	PB 6	PB 6	PB	PB	PB
	C. Non-roadside or cross country distribution lines involving eleven (11) poles or less in the shore land zone	PB 6	PB 6	PB	PB	PB
	D. Other essential services	PB 6	PB 6	PB	PB	PB
22	Service drops, as defined, to allow uses	Yes	Yes	Yes	Yes	Yes

Land uses		SP	RP	LR	GD	LC
23	Public and Private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24	Individual, Private campsites	CEO	CEO	CEO	CEO	CEO
25	Campgrounds	No	No 7	PB	PB	PB
26	Road Construction	PB	No 8	PB	PB	PB
27	Land Management road	Yes	PB	Yes	Yes	Yes
28	Parking Facilities	No	No 7	PB	PB	PB
29	Marinas	PB	No	PB	PB	PB
30	Filling and earth moving of < 10 cubic yards	CEO	CEO	Yes	Yes	Yes
31	Filling and earth moving of > 10 cubic yards	PB	PB	CEO	CEO	CEO
32	Signs- new or replacement	Yes	Yes	Yes	Yes	Yes
33	Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34	Uses similar to uses requiring CEO permit	CEO	CEO	CEO	CEO	CEO
35	Uses similar to uses requiring PB permit	PB	PB	PB	PB	PB

- 1 In RP not allowed within seventy-five (75) feet, horizontal distance, of the normal high water line of great ponds, except to remove safety hazards
- 2 Requires permit form the Code Enforcement Officer if more than one hundred (100) square feet of surface area, in total, is distributed
- 3 In RP not allowed in areas so designated because of wildlife value.
- 4 Provided that a variance from the setback requirements is obtained from the Board of Appeals
- 5 Functionally water dependent uses and uses accessory to such water dependent uses only.
- 6 See further restrictions in Section 15(L)(2)
- 7 Except when area is zoned for Resource Protection due to flood plain criteria in which case a permit is required from the Planning Board
- 8 Except as provided in Section 15(H)(3)
- 9 No reference in our Ordinance
- 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.

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 in such

a manner that material or soil may be washed into them:

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

Section 15. Land Use Standards

All land use activities within the Shore Land Zone shall conform to the following provisions, if applicable.

(A) Minimum Lot Standards

	Minimum Lot Area (square feet)	Minimum Shore Frontage (feet)	Minimum Road Frontage (feet)
Residential per Dwelling Unit	40,000	200	
Governmental, Institutional, Commercial or Industrial Per Principal Structure	60,000	300	
Public and Private Recreational Facilities	40,000	200	

- (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 (2) 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 one hundred (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 established on a single parcel, !!! dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

(B) Principal And Accessory Structures

- (1) All new principal 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 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, except that in the General Development District the setback from the normal high water line shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements 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) All principal structures along Significant River Segments as listed in 38 M.R.S.A. Section 437 (see Appendix B), shall be set back a minimum of one hundred twenty-five (125) feet, horizontal distance, from the normal high water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- (c) The Planning Board may increase the required setback of a proposed

structure, as a condition to permit approval, if necessary to accomplish the purposes of this Ordinance. Instances where a greater setback may be appropriate include but are not limited to: areas of steep slope, areas of shallow soil susceptible to erosion, or where an adequate vegetative buffer does not exist.

- (d) On a non-conforming lot of records 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 will 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, Limited Residential, and Stream Protection Districts, shall not exceed thirty-five (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 (1) foot above the elevation of the 100 year flood, the flood of record, or in the absences of these, the flood as defined in soil types identifies 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 the paragraph.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shore land zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shore land zone, including land area previously developed, except in the General Development District adjacent to rivers that do not flow to great ponds classified GPA, where lot coverage shall not exceed seventy (70) percent.
- (5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shore land access in areas of steep slopes or unstable soils provided; that the structure is limited to maximum of four (4) 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, Wharves, 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 fish habitat.
- (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.
- (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 do not feasible, and a permit has been obtained from the Department Environmental Protection pursuant to the Natural Resources Protection Act.
- (7) No existing structures build 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 twenty (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

shall not

vegetation, and land below the normal high water line of a water body

be included in calculating land area per site.

{2) The areas intended for placements 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 shore land zone, whichever is less, may be permitted.

(2) Campsite replacement 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 PGA, 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.

(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(s) except a canopy shall be attached to the recreational vehicle.

(4) The clearing of vegetation for the site of the recreation 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 landowner 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 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 Land Uses. The following new commercial and industrial uses are prohibited within the Shore Land Zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- Auto washing facilities
- Auto or other vehicle service and/or repair operations, including body shops
- Chemical and bacterial laboratories
- Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individuals' households or farms
- Commercial painting, wood preserving, and furniture stripping
- Dry cleaning establishments
- Electronic circuit assembly
- Laundromats, unless connected to a sanitary sewer
- Metal plating, finishing, or polishing
- 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
- Photographic processing
- Printing

(G) Parking Areas.

- (1) Parking areas shall meet the shore land and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than the General Development 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.

- (1) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on site.
- (2) 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.

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 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 twenty (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.

- (2) New permanent roads are not allowed within the Shore Land Zone along Significant River Segments except:
 - (a) To provide access to structures or facilities within the Zone; or
 - (b) When the applicant demonstrates that no reasonable alternative route exists outside the Shore Land Zone. When roads must be located within the Shore Land Zone they shall be set back as far as practicable from the normal high water line and screened from the river by existing vegetation.
- (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 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 in Section 15(Q).

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- (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 and wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two (2) 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 long the road or driveway at intervals no greater than indicated in the following table:

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 down slope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch 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.

(9) Ditches, culverts, bridges, dips, water turnouts and other storm water 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, and Limited Residential 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. Signs relating to goods and 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) Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water 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 storm water.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

(K) Septic Waste Disposal. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

- (1) 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
- (2) A holding tank is not allowed for a first-time residential use in the Shore Land Zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

(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 roadside distribution lines, is not allowed in a Resource Protection, Limited 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 used 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 pennit 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 public health and safety. NOTE: This includes mining of topsoil and loam.

(1) Definitions

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 produce removed. away from the extraction site.

Mineral Extractions may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved 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)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) square feet, horizontal distance, of the normal high-water line of a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet of any property line, without written permission of the owner of such adjacent property.
- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shore land zone exists. When gravel pits must be located within the zone, they shall beset back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing

vegetation.

- (4) 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. *NOTE: The State of Maine Solid Waste Laws, 1301 and the Solid Waste Management Rules, Chapters 400-419 of the Department of Environmental Protection's Regulations may contain other applicable provisions regarding disposal of such materials.*
 - (b) Then final graded slope shall be two and one half to one (2 ½:1) slope or flatter
 - (c) Topsoil 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 stabilization project.
 - (5) 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.** Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District Office.

- (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 GPÄ. or within seventy five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shore Land Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agriculture activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the Shore Land Zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance. *NOTE: Assistance in preparing a*

Conservation Plan may be available through the local Soil and Water Conservation District office.

(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 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, nor; within twenty (25) feet, horizontal distance, of tributary streams and 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.

(0-1) Timber Harvesting. Statewide Standards effective on effective date established in Section 4(B).

(1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of **water**, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

(2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(0-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this Section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than four (4) feet above the ground.

(b) Adjacent to great ponds, rivers and wetlands:

(i) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high water line or upland edge of a

wetland; and

- (ii) Between fifty (50) and two hundred fifty (250) feet, horizontal distance, of the normal high water line or upland edge of a wetland, all slash larger than three (3) inches in diameter must be disposed of in such a manner that no part thereof extends more than four (4) feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well distributed stand of trees is retained. This requirement may be satisfied by following one of the following three (3) options:
 - (a) Option 1 -Forty:Percent (40%)Volume Removal as follows:
 - (i) Harvesting of no more than forty percent (40%) of the total volume on each acre of trees 4.5 inches DBH or greater in any ten (10) year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well distributed stand of trees which is wind firm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within seventy-five (75) feet, horizontal distance, of the normal high water line of rivers, streams, and great ponds, within seventy-five (75) feet, horizontal distance of the upland edge of freshwater wetlands, there must be no cleared openings. At distances greater than seventy-five (75) feet, horizontal distance, of the normal high water line of a river, stream, great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
 - (b) Option 2-Sixty (60) Square Foot Basal Area Retention as follows:
 - (i) The residual stand must contain an average basal area of at least sixty (60) \ square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which forty (40) square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well distributed stand of trees which in wind firm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within seventy-five {75} feet, horizontal distance, of the normal high water line of rivers, streams, and great ponds, within seventy-five {75} feet, horizontal distance of the upland edge of freshwater wetlands, there must be no cleared openings. At

distances greater than seventy five (75) feet, horizontal distance, of the normal high water line of a river, stream, great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

- (c) Option 3- Outcome Based, which requires an alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry for review and approval, which provides equal or better protection of the shore land area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12

M.R.S.A. Chapter 805, Subchapter 5, which option they choose to use. If landowners

choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau of Forestry has approved the alternative method.

The Bureau of Forestry may verify that adequate tree cover and a well distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. The requirement applies to the construction, maintenance and use of skid trails and yards in shore land areas.
- (a) Equipment used in timber harvesting and related activities shall not use river, stream, or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

- (i) Equipment must be operated to avoid the exposure of mineral soil within twenty-five (25) feet, horizontal distance, of any water body, tributary stream or wetland. On slopes of ten percent (10%) or greater, the setback for equipment operation must be increased by twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above ten percent (10%). Where slopes fall away from the resource, no increase in the twenty-five (25) foot setback is required.
- (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) Land management roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15 (0-1)(7) of this rule.

- a. Land management roads and associated ditches, excavation, and fill must be set back at least:
 - i. One hundred (100) feet, horizontal distance, from the normal high water line of great pond, river or freshwater wetland;
 - ii. Fifty (50) feet, horizontal distance, from the normal high water line of streams, and;
 - iii. Twenty-five (25) feet, horizontal distance, from the normal high water line of tributary streams.
- b. The minimum one hundred (100) foot setback specified in Section 15 (0-1)(5)(a)(i) above may be reduced to no less than fifty (50) feet, horizontal distance, and the fifty (50) foot setback specified in Section 15 (0-1)(5)(a)(ii) above may be reduced to no less than twenty-five (25) feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrate to the Planning Board's satisfaction that no reasonable alternative exists and 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 to avoid sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- c. On slopes often percent (10%) or greater, the land management road setback must be increased by at least twenty (20) feet horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above ten percent (10%).
- d. New land management roads are not allowed within the shore land area along Significant River Segments as identified in 38 M.R.S.A. Section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shore land zone, and that the new road must be set back as far as practicable from the normal high water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with road must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an non-scarified filter strip no less than the width indicated in the setback requirements in Section 15 (O-1X7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity oceans, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15 (0-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provision of Section 15 (0-1). Any nonconforming existing road may continue to exist and to be maintained, if the nonconforming conditions are not made more nonconforming.

- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15 (0-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and 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 to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (i) Additional measures. In addition to the foregoing minimum requirements, person undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measure to avoid sedimentation of surface waters.
- (6) Crossings of water bodies. Crossings of rivers streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows
- (i) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the ten (10) year and twenty-five (25) year frequency water flows and thereby determining water crossing sizes as required in Section 15 (0-1): The United States Geological Survey (USGS) Methods; specifically, Hodgkins, G. 1999, Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals; US Geological Survey Water Resources Investigations Report 99- 4008, 45pp.
 - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15 (0-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however any maintenance or repair work done below the normal high water line must conform to the provisions of Section 15 (0-1).
 - (c) Other agency permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a river, stream or tributary stream may require a pennit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Anny Corps of Engineers.

- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction) maintenance, alteration and replacement activities in shore land areas must be given to the Bureau prior to the commencement activities. Such notice must contain all information required by the Bureau, including:
- (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(4)

- (f) Water crossings standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15 (0-1)(6Xg) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
- (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided.
 - (iii) there is no substantial disturbance of the b• or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,
 - (v) water flow is not unreasonably impeded
- (g) Bridge and culvert sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply;
- (i) bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross sectional area at least equal to two and one half (2 ½) time the cross sectional area of the river, stream or tributary stream channel,
 - (ii) temporary bridge and culvert sizes may be smaller than provided in Section 15 (0-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or

bridge failure, the natural course of water flow is maintained and sedimentation of the water body, or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
 2. removing culverts prior to the onset of frozen ground conditions;
 3. using water bars in conjunction with culverts;
 4. using road dips in conjunction with culverts.
- (iii) culverts utilized in river, stream and tributary stream crossings must:
1. be installed at or below river, stream or tributary stream bed elevation;
 2. be seated on firm ground;
 3. have soil compacted at least halfway up the side of the culvert;
 4. be covered by soil to a minimum depth of one (1) foot or according to the culvert manufacturer's specifications, whichever is greater; and
 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosions of material around the culvert.
- (iv) river, stream and tributary stream crossings allowed under Section 15(0-1), but located in flood hazard areas (ie A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be requested to pass a 100 year flood event.
- (v) exceptions - skid trail crossings of tributary streams within shore land areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided person conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - (i) bridges and culverts installed for river, stream and tributary streams crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15 (0-1)(6)(i) below,
 - (ii) water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt,
 - (iii) river, stream and tributary stream channels, banks and approaches to crossings to water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - (i) effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface
 - (ii) water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream,
 - (iii) any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 1. it shall be designed to provide an opening sufficient in size and structure to accommodate twenty-five (25) year frequency water flows;
 2. it shall be designed to provide an opening with a cross-sectional area at least three and one half (3 ½) times the cross-sectional area of the river, stream or tributary stream channel; or
 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation or the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (7) Slope table. Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15 (0-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed Mineral soil and shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

(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.

- (5) 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 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 strips 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, shall be defined as maintaining a rating score of twenty-four (24) or more in each twenty-five (25) foot by fifty (50) foot rectangular (twelve hundred fifty (1250) square feet) **area as** determined by the following rating system.

See following

TOWN OF EUSTIS
FRANKLIN COUNTY
SHORELAND ZONING ORDINANCE
FILE#08-09

)MANDATORY SHORELAND ZONING ACT
) 38 M.R.S.A., SECTION 438-A (3)
) ORDINANCE APPROVAL WITH
) CONDITIONS

- (a) There shall be no cleared opening greater than 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.
- i. 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 or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (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 in.	2
8 - < 12 in.	3
12 in. or greater	4
	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.

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

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$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points ($36 - 24 = 12$) may be removed from the plot provided that no cleared openings are created.

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 Ordinacne
- 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 ($4 \frac{1}{2}$) 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 40% of the total volume of trees four (4) inches or more in diameter, measured at $4 \frac{1}{2}$ feet above ground level may be removed in any ten (10) year period.

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.

TOWN OF EUSTIS)MANDATORY SHORELAND ZONING ACT
FRANKLIN COUNTY) 38 M.R.S.A., SECTION 438-A (3)
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(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 or a river flowing to a great pond, 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 4 1/2 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, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development 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).

2. Section 16(G)(2)(c)(2) shall read as follows:

(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;

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- (i) That the granting of a variance will not alter the essential character of the locality; and
- (ii) That the hardship is not the result of action taken by the applicant or a prior owner.

In addition to this Order of Conditional Approval #08-09, the Order of Conditional Approval #-07-04, issued on June 23, 2004 remains in effect.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

C 

This pennit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M.R. S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2009.04.21 07:42:23 -04'00'

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES ...

(Q) **Erosion and Sediment Control**

(1) All activities which involve filling, grading, excavation, or other similar activities which result in unstable 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 re-vegetation 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 riprap.

(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 measure 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 riprap, 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 use it shall be applied at a rate of at least one (I) 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 bay 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. Drainage ways 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 riprap.

(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, the 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 twenty (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) **Yard Sales.**

(1) No yard sale may be conducted for more than three (3) consecutive days. Any and all left over items shall be removed from the site at the end of the sale.

(2) No person, firm, corporation or other entity shall conduct more than six (6) non-consecutive yard sales from residential, other premise or location in any one (1) calendar year.

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) Board of Appeals. A 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 district 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 this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (I) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% 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 the Ordinance shall be in addition to any other permit required by other law or ordinance.

(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 Board, 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.

- (1) Within thirty-five (35) days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, what specified additional material is needed to make the application complete.
- (2) For applications which are the authority of the Code Enforcement Office, the officer shall approve, approve with conditions, or deny the application in writing within forty-five (45) days of receiving the completed application.
- (3) For applications which require Planning Board review, the Planning Board shall approve, approve with conditions, or deny the application within forty-five (45) days except that:
 - (a) if the Planning Board has a waiting list of applications, a decision on the applications shall occur within forty-five (45) days after the first available date on the Planning Board's agenda following receipt of the completed application, or
 - (b) if the Planning Board deems appropriate, a public hearing is scheduled for the application. In which case, a public hearing shall be scheduled within thirty-five (35) days of the date on which the completed application first appears on the Planning Board agenda, and a decision shall be rendered and the applicant notified in writing with thirty-five (35) days of the public hearing.
- (4) Permits shall be approved if the proposed use or structure is found to be in conformance with the purposed and provisions of the

Ordinance.

- (5) 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.
- (6) After submission of a complete application to the Planning Board, the Planning 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:
- (a) will maintain safe and healthful conditions;
 - (b) will not result in water pollution, erosion, or sedimentation to surface waters;
 - (c) will adequately provide for the disposal of all wastewater;
 - (d) will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - (e) will conserve shore cover and visual, as well as actual points of access to inland and coastal waters;
 - (f) will protect archaeological and historic resources as designated in the comprehensive plan;
- (a) will avoid problems associated with flood plain development and use; and
 - (b) is in conformance with the provisions of Section 15, Land Use Standards.
- (7) If a permit is either denied or approved with conditions, the reason 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 a statute administered by the municipality.
- (E) **Expiration of Permit.** Permits shall expire one (1) 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 (1) 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.** No public utility, water district, sanitary district, or any utility company of any kind may install services to any new structure located in the shore land 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 officers. Following installation of service, the

company or district shall forward the written authorization to the municipal officials, indicating that installation has been complete.

(G) Appeals.

(1) **Powers and Duties of the Board of Appeals.** The Board of Appeals shall have the following powers

(a) **Administrative Appeals On An Appellate Basis.** To hear and decide appeals, on an appellate 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 the Ordinance. Any order, requirement, decision or determination made or failure to act, in the enforcement of this ordinance is not able to be appealed to the Board of Appeals.

(b) **Administrative Appeals On A De Novo Basis.** To hear and decide 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 may 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 able to be appealed to the Board of Appeals.

(c) **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 the Ordinance.

(c) The Planning 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 the prior order.

(d) Notwithstanding Section 16(H)(2)(c)(i) above, the 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 of Appeals 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 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 as least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals.

(a) **Appellate Hearing.** When the Board of Appeals reviews 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 Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence, which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the Planning Board proceedings of record to be inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

- (b) **De Novo Hearing.** When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals shall hold a "De Novo" hearing. At this time the Board of Appeals may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the 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.

(4) Appeal Procedure.

(a) Making An Appeal

- (1) An aggrieved party may take an administrative or variance appeal to the Board of Appeals from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement related matters as described in Section 16(H)(1) above. Such an appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon showing of good cause, may waive the thirty (30) day requirement.
- (2) Application for appeals shall be made by filing with the Board of Appeals a written notice of appeal, which includes:
- (i) a concise written statement indicating what relief is requested and why the appeal or variance should be granted
 - (ii) 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.

) Upon receiving an application for and 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.

- (4) 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 all parties agree to extend this time period.

(b) Decision By Board of Appeals

- (1) A majority of the full voting membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.
- (2) The person filing the appeal shall have the burden of proof.
- (3) The Board of Appeals 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.
- (4) The 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 of Appeals 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 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(3XF), 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 of Appeals 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 of Appeals may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

(H) Enforcement.

- (1) Nuisances. Any violation of this Ordinance shall be deemed 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 any provision of the 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 the 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, a landowner's

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agent or contractor who violates any provision or requirement of this Ordinance

shall be penalized in accordance with 30 A, M.R.S.A. Section 4452. *NOTE: Current penalties include fines of not less than one hundred dollars (\$100) and not more than twenty-five hundred dollars (\$2500) per violation/or each day that the violation continues. However, in a Resource Protection District the maximum penalty is increased to five thousand dollars (\$5000) (38 MRS.A. Section 4452)*

Section 17. Definitions

Accessory Structure or Use: a structure or use which is incidental and subordinate to the principal structure or use. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or 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

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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 ½ feet above ground level and inclusive of bark.

Basement: any portion of a structure with a floor-to-ceiling height of 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, 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.

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 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 measure 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.

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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 two single family dwellings or one two family dwelling, or less.

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 line, 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.

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 weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family: one or more persons occupying a premise 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 one hundred (100) year flood without cumulatively increasing the water surface elevation by more than one (1) 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.

Forest Management Activities: timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management plan 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, frost walls, or other base consisting of concrete, block, brick or similar material.

Freshwater Wetland: freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. often (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, inland waters and that cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, waterfront dock facilities, boatyards and boat building facilities, navigation aids, industrial uses requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site.

Great Pond: any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and 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 the 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 un-harvested areas greater than ten (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) person other than family members residing in the home.

Increase In Non-conformity of a Structure: any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity 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 structure. Property changes or structure expansions which either meet the dimensional standard(s) or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. For example, there is no increase in non-conformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback areas than does any portion of the existing non-conforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the 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, a gravel pad, parking area, fire place or tent platform.

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

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.

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 (2) lots.

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 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 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 lot lines extend into the shore land 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.

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

Non-Conforming Lot: a single lot of record which, at the effective date of adoption or amendment of the Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-Conforming 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 the Ordinance or subsequent amendments took effect

Non Conforming 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 of this Ordinance or subsequent amendments took effect.

Normal High Water Line: 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, Dock, 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.

Principal Structure: a building other than one which is used for 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, lease 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:

Alluvial	Cornish	Charles	Fryeburg	Hadley
Limerick	Lovewell	Medomak	Ondawa	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 Vehicle: a vehicle or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one (1) or more persons and which may include a pick-up campers, 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.
Recreational vehicles are not residential dwelling units.

Replacement System: a system intended to replace 1) an existing system which is either malfunctioning or being upgraded with no significant change or 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.

Residential Premise: a building or structure having at least one (1) dwelling unit and the lot of land associated therein.

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

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.

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

River: a free flowing body of water including its associated flood plain 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.

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, 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 lots lines with the shoreline.

Shore Land 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 freshwater wetland; or within seventy five (75) feet, horizontal distance, of the normal high water line of a stream.

Shoreline: the normal high water line, or upland edge of a freshwater wetland.

Significant River Segments: See Appendix B or 38 M.R.S.A. section 437.

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 require 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 (2) 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 topographical map, to the point where the body of water becomes a river or flows to another water body or wetland within the shore land area.

Structure: anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term 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.

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 shore land zone on a lot that has less than two (2) acres within the shore land 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.

Tributary Stream: 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 shore land zone of the receiving water body or wetland. *NOTE: Water setback requirements apply to tributary streams within the shore land zone.*

Upland Edge of A Wetland: the boundary between upland and wetland. For purposes of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

_ 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
Vegetation: all live trees, shrubs and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and one half (4 ½) feet above ground level.

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 as all being defined within this Ordinance.

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 wetland.

...**Wind Firm:** the ability of a forest stand to withstand strong winds and resist wind throw, wind rocking, and major breakage

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

Yard Sale: the sale of goods from a residential premise, whether advertised in local media, by sign, or otherwise as a yard sale, barn sale, garage sale, household sale, moving sale, or other sale, whether accomplished by direct sale or auction; or the sale, at the seller's place of residence, of all or part of the household goods, whether accomplished by direct sale or auction. The sale of new or used goods purchased or consigned specifically for the yard sale is prohibited. Excepted from this definition shall be sales conducted by civic groups, school groups, church groups, charitable or fraternal organizations and other similar non-profit organizations if such yard sale is held on the organization's premises.

I attest this is a true copy Rachel Williams

