

## **1313. SHORELAND ZONING ORDINANCE FOR THE TOWN OF LINCOLN, MAINE**

### **1313.1 Purposes**

The purposes of this Ordinance is 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 space; and to anticipate and respond to the impacts of development in shoreland areas.

### **1313.2 Authority**

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435 – 449 of the Maine Revised Statutes Annotated (MRSA)

### **1313.3 Applicability**

This Ordinance applies to all land areas within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any great pond, or river; within two hundred fifty (250) feet, horizontal distance of the upland edge of a freshwater wetland; and within seventy-five (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 below the normal high water line of a water body or within a wetland.~~

### **1313.4 Effective Date and Repeal of Formerly Adopted Ordinance**

This ordinance was repealed and reenacted in its entirety February 14, 2000, effective March 13, 2000. On June 8, 2009 the entire ordinance was reviewed and changed to match DEP regulations by the Town Council. Revised on March 12, 2012, effective April 11, 2012.

### **1313.5 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 a reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

### **1313.6 Severability**

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

### **1313.7 Amendments**

- 1. Initiation** - An amendment to this Ordinance may be initiated by the Town Council or by petition of the Planning Board to the Town Council,

or by written petition by the registered voters of the Town as provided for in the Town Charter. Any amendment may be submitted to the Planning Board for review and comment.

2. **Hearings** - If in the judgment of the Planning Board a public hearing is warranted, the Planning Board shall hold a public hearing on the proposed amendment at least fourteen (14) days prior to the Town Council Meeting. Notice of the hearing shall be posted at least (10) days prior to such hearing. The Planning Board shall make known its recommendation on the proposed amendment, in writing, before the vote of the Town Council.
3. **Majority Vote** - This ordinance may be amended or repealed by a majority vote at a duly constituted Town Council Meeting if the Planning Board approves the amendment or repeal. If the Planning Board does not approve, the amendment or repeal may be enacted by a minimum of two-thirds (2/3) vote of the Town Council.
4. **State Notification Shoreland Zoning** - The appropriate State Agency shall be notified of amendments to this Ordinance within thirty (30) days after the effective date of such amendments to determine conformance with State and Shoreland Zoning Laws and Guidelines. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection, if the Commissioner of the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Commissioner's 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 such amendment is approved by the commissioner.

## 1313.8 Districts and Zoning Map

### A. Official Shoreland Zoning Map

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

1. Shoreland Development zone 1 (SD1)
2. Shoreland Development zone 2 (SD2)
3. Shoreland Development zone 3 (SD3)
4. Shoreland Development zone 4 (SD4)
5. Shoreland Development zone 5 (SD5)

### B. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office, and shall be filed with the Penobscot County Registry of Deeds.

**C. Changes to the Official Shoreland Zoning Map**

If amendments, in accordance with Section 1313.7, are made in the district boundaries or other matters portrayed on the Official Shoreland Zoning Map such changes shall be on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department Environmental Protection.

**1313.9 Interpretation of District Boundaries**

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerline of streets, roads and right of ways, and the boundaries of the shoreland 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.

**1313.10 Land Use Requirements**

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

**1313.11 Non-Conformance**

**1313.11.1 Purpose**

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 1313.12, except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

**1313.11.2 General**

- 1. Transfer of Ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue 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 which 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 and safety codes may require.

### 1313.11.3 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.~~

**Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 1313.13 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) below.

#### 1313.11.3.1 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 tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by thirty (30) percent or more during the lifetime of the structure. If a replacement structure conforms with the requirements of Section C (3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by thirty (30) percent in floor area and volume since that date.~~

(a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

~~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 Code Enforcement Officer, basing his/her decision on the criteria specified in Section C (2). The Code Enforcement Officer may consult with the Planning Board to determine the greatest practical extent of the law determination. If the completed foundation does not extend beyond the exterior dimensions of the structure, and that the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to~~

~~the bottom of the first-floor sill), then it shall not be considered to be an expansion of the structure.~~

(b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 1313.11(i).

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

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

(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by this section.

(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 1313.13 and Section 1313.11.3.1 above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal

high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 1313.11.C(i) above.

- (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) **Foundations.**

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 Code Enforcement Officer or Planning Board, basing its decision on the criteria specified in Section 1313.11.3.2 Relocation, below.

**1313.11.3.2**

**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 the relocation conforms to all setback requirements to the greatest practical extent, as determined by the Code Enforcement Office, and provided that the applicant demonstrates that the present subsurface sewage disposal systems Wastewater Disposal 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 Code Enforcement Officer and or Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(s). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall require as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than fifty (50) percent of the

number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

### **1313.11.3.3**

#### **Reconstruction or Replacement:**

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or upland edge of a wetland and which is removed, damaged or destroyed regardless of the cause, by more than fifty (50) percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal and provided such reconstruction or replacement is in compliance with the water body, tributary stream, or wetland setback requirements to the greatest practical extent as determined by the Code Enforcement Officer or Planning Board in accordance with the purposes of this 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 less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section C 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 C 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, damaged or destroyed by fifty (50) percent or less of the market value of the structure, excluding normal maintenance and repair, may be

reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one (1) year of such damage, destruction, or removal.

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

#### **1313.11.3.4**

##### **Change of Use of a Non-Conforming Structure**

The use of 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, vegetation cover, visual and actual points of public access to waters, natural beauty, floodplain, archeological and historic resources, and functionally-water dependent uses.

#### **1313.11.4**

##### **Non-Conforming Uses**

##### **1313.11.4.1**

###### **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 permitted in Section C above. Whenever a provision of the Lincoln Shoreland Zoning Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

##### **1313.11.4.2**

###### **Resumption Prohibited:**

A lot, building, or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board, for good cause shown by the applicant, grant up to a one (1) year extension to that period of time. This provision shall not apply to the resumption of a use of residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

##### **1313.11.4.2**

###### **Change of Use:**



An existing non-conforming use may be changed to another non-conforming use 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 C above.

**1313.11.5 Non-Conforming Lots**

**1313.11.5.1 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 the Ordinance, except lot area and frontage, can be met. Variance relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.

**1313.11.5.2 Contiguous Built Lots:**

If two (2) or more contiguous lots or parcels are in a single or joint ownership of record at the time of the adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if the 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 and Subsurface Wastewater Disposal Rules are complied with.

If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

**1313.11.5.3 Contiguous Lots-Vacant and Partially Built:**

If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of, or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one (1) or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements. However, the permitting authority may not treat as a single lot, two (2) or more contiguous lots, at least one (1) of which is non-conforming, owned by the same person or persons on March 16, 1992 and recorded in the registry of deeds if the lots are served by public sewer or can accommodate a subsurface sewage disposal system in conformance with state 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.
- c. Any lots that do not meet the frontage and lot size requirements of subparagraph (1) 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 lot area.

## **1313.12 Establishment of Zones**

### **A. Shoreland Development Zone One (SD1)**

Shoreland Development One (SD1) shall include areas of two (2) acres or more devoted to intensive residential, recreational, commercial or industrial activities or a combination of such activities to include:

1. Those lots directly abutting the Western end of Mattanawcook Lake extending from **Map 137 Lots 109-110;140-161;123-137**
2. From river through **to the former** Haskell Lumber Company following stream to **Stump** Pond will be deemed SD1.
3. Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses. Portions of the SD1 Zone may also include residential development. However, no area shall be designated as an SD1 Zone based solely on residential use.
4. In areas adjacent to great ponds the designation of an area as SD1 Zone shall be based upon the uses existing at the time of the adoption of this Ordinance. There shall be no newly established SD1 Zone or expansion in areas of existing SD1 Zones adjacent to great pond.

### **B. Shoreland Development Zone Two (SD2)**

Shoreland Development Zone Two (SD2) includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This zone shall include the following areas when they occur within the limits of the Shoreland zone, exclusive of the SD4 Zone, except the areas which are currently developed, and areas which meet the criteria for the SD1, Zone need not be included within the SD2 Zone.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associate with great ponds and rivers, which are rated “moderate” or “high”

values by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of December 1, 2008.

2. Floodplain along rivers defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, or the flood of record or in the absence of these, by soil types identified as recent floodplain soils.
3. Areas of two (2) or more contiguous acres with sustained slopes of twenty (20) percent or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not connected to a water body during the period of normal high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement.

**C. Shoreland Development Zone Three (SD3)**

Shall include those areas, which can support a limited amount of residential and recreational uses without suffering undue adverse effects. Such areas shall be depicted on the Official Zoning Maps.

1. **Reduced Setback:** The Code Enforcement Officer for proposed new dwelling units in the SD3 Zone may reduce the shoreline setback below those required in 1313.13, subsection 1&2 of this Ordinance by employing one of the following methods or calculations:
2. When only one of the adjoining lots has an existing dwelling located on it with a non-conforming setback, the reduced shoreline setback for the proposed new dwelling unit shall be established as follows:
  - a. First, establish a setback baseline on the lot of the existing dwelling by drawing a line between those two (2) corners of the lot, which are closest to the shoreline.
  - b. Second, establish a setback baseline on the lot of the proposed dwelling by drawing a line between those two corners of the lot, which are closest to the shoreline

- c. Third, establish the grandfathered setback line of the existing dwelling which is closest to the and parallel to the setback baseline C (2) (a) above.
  - d. Fourth, establish the new setback line for the proposed dwelling by drawing a line starting at the point on the common property line where a grandfathered setback line intersects, parallel to the setback baseline of the lot of the proposed dwelling; provided that
    - (1) The minimum shoreline setback line shall not be greater than the minimum shoreline setback provided in Section 1313.13 as applicable.
    - (2). The reduced shoreline setback shall not be less than seventy-five (75) feet from the shoreline in SD3
3. When both lots have existing dwellings located on those lots with non-conforming setbacks, the reduced shoreline setback for the new proposed dwelling unit shall be established as follows:
- a. First, establish a setback baseline on the lot of the existing dwelling on the right by drawing a line between those two (2) corners of the lot, which are closest to the shoreline.
  - b. Second, establish a setback baseline on the lot of the existing dwelling on the left by drawing a line between those two corners of the lot which are closest to the shoreline.
  - c. Third, establish a setback baseline on the lot of the proposed dwelling drawing a line between those two corners of the lot which are closest to the shoreline.
  - d. Fourth, establish the grandfathered setback line of the existing dwelling on the right by drawing a line touching that point of the existing dwelling which is closest to the shoreline and parallel to the setback baseline established in C(3)(a) above.
  - e. Fifth, establish the grandfathered setback line of the existing dwelling on the left by drawing a line touching that point of the existing dwelling which is closest to the shoreline and parallel to the setback baseline established in C(3)(b) above.
  - f. Sixth, draw both the grandfathered setback line of the lots on the left and the right across the lot of the proposed

dwelling and parallel to the setback baseline of the lot of the proposed dwelling.

g. Seventh, establish the new minimum setback line as either equal to the line established in C(3)(f) above, in the event both lines coincide, or as a line one half the distance between those lines established in C(3) (f) above, in the event there is a distance between them, provided that:

(1). The road or shoreline minimum setback shall not be greater than the shoreline setback provided in Section 1313.13, as applicable.

(2). The reduced shoreline setback shall not be less than seventy-five (75) feet from the shoreline in Shoreland Development Three Zone (SD3).

**D. Shoreland Development Zone Four (SD4)**

The Shoreland Development Zone Four includes land area within seventy-five (75) feet horizontal distance of the normal high-water line of a stream, exclusive of those areas within two-hundred fifty (250) feet horizontal distance of the normal high-water line of a great pond, river, or within two hundred fifty (250) feet horizontal distance, of wetlands. Such land area shall be regulated under the terms of the Shoreland Zone associated with that water body or wetland.

**E. Shoreland Development Zone Five (SD5)**

Shall include those undeveloped Shoreland areas which are not included in the other Shoreland Zones as depicted on the Official Zoning Map.

**1313.13 Table of Land Use Standards and Notes Applicable**

## SECTION 13. LAND USE STANDARDS

### 1. Residential Dwelling

ZONE REQUIREMENTS	SD1 (town W/s)	SD1	SD2	SD3	SD4	SD5
Minimum lot size per residential dwelling	5,000 sq. ft.	20,000 sq. ft.	40,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum lot area per family	1,000 sq. ft.	20,000 sq. ft.	40,000 sq. ft.	20,000 sq. ft.	30,000 sq. ft.	40,000 sq. ft.
Minimum shore/road frontage	100/200 ft.	100/200 ft.	100/200 ft.	100/200 ft.	100/200 ft.	100/200 ft.
Minimum lot width	50 ft.	50 ft.	50 ft.	50 ft.	100 ft.	100 ft.
Minimum front yard setback (shore)	15 ft.	25 ft.	N/A	100 ft.	100 ft.	100 ft.
Minimum side yard setback	5 ft.	10 ft.	N/A	10 ft.	10 ft.	25 ft.
Minimum rear yard setback	10 ft.	10 ft.	N/A	10 ft.	10 ft.	25 ft.
Maximum lot coverage	50%	50%	N/A	20%	20%	20%
Maximum building height	40 ft.	40 ft.	N/A	35 ft.	35 ft.	35 ft.

## SECTION 13. LAND USE STANDARDS

### 2. Public and Private Recreation Facilities

ZONE REQUIREMENTS	SD1 (town w/s)	SD1	SD2	SD3	SD4	SD5
Minimum lot size per residential dwelling	5,000 sq. ft.	20,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
Minimum lot area per family	1,000 sq. ft.	20,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
Minimum shore/road frontage	100/50 ft.	100 ft.	200 ft.	100 ft.	150 ft.	200 ft.
Minimum lot width	50 ft.	50 ft.	50 ft.	50 ft.	100 ft.	150 ft.

Minimum front yard setback (shore)	15 ft.	25 ft.	250 ft.	100 ft.	100 ft.	100 ft.
Minimum side yard setback	5 ft.	10 ft.	25 ft.	10 ft.	10 ft.	25 ft.
Minimum rear yard setback	10 ft.	10 ft.	25 ft.	10 ft.	10 ft.	25 ft.
Maximum lot coverage	50%	50%	20%	20%	20%	20%
Maximum building height	40 ft.	40 ft.	30 ft.	35 ft.	35 ft.	35 ft.

<b>SECTION 13. LAND USE STANDARDS</b>						
<b>3. Governmental Institutional, Commercial and Industrial per principal structure.</b>						
<b>ZONE REQUIREMENTS</b>	<b>SD1 (town w/s)</b>	<b>SD1</b>	<b>SD2</b>	<b>SD3</b>	<b>SD4</b>	<b>SD5</b>
Minimum lot size per residential dwelling	5,000 sq. ft.	40,000 sq. ft.	N/A	N/A	N/A	N/A
Minimum lot area per family	1,000 sq. ft.	40,000 sq. ft.	N/A	N/A	N/A	N/A
Minimum shore/road frontage	100/50 ft.	150/75 ft.	N/A	N/A	N/A	N/A
Minimum lot width	50 ft.	50 ft.	N/A	N/A	N/A	N/A
Minimum front yard setback (shore)	15 ft.	25 ft.	N/A	N/A	N/A	N/A
Minimum side yard setback	5 ft.	10 ft.	N/A	N/A	N/A	N/A
Minimum rear yard setback	10 ft.	10 ft.	N/A	N/A	N/A	N/A
Maximum lot coverage	50%	50%	N/A	N/A	N/A	N/A
Maximum building height	40 ft.	40 ft.	N/A	N/A	N/A	N/A

**NOTES:** \*25' set back on Penobscot River from former paper mill property (Map 14, Lot 20) line to River Road and to include from Town Line North to AP3 Zone Mohawk Road.

1. All Stream Protection areas (SD2) abutting a commercial zone shall meet setback criteria of SD1.
2. Land below the Normal High-Water Mark of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included towards calculating minimum lot area.
3. Lots located on opposite sides of a public way 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 lot width of any portion of any lot within one hundred (100) feet, horizontal distance, of the NHWM of a body or upland edge of a wetland shall be equal to or greater than 100% of the shore frontage requirement for a lot with the proposed use.
5. If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.
6. Municipalities may include provisions for clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

**1313.14 Land Uses Table**

<b>TABLE A</b>					
	<b>SD1</b>	<b>SD2</b>	<b>SD3</b>	<b>SD4</b>	<b>SD5</b>
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 and trails.	YES	YES	YES	YES	YES
3. Forest management activities except for timber harvesting, pesticide and fertilizer applications.	YES	YES	YES	YES	YES
4. Timber harvesting	YES	CEO <sup>1</sup>	YES	YES	YES
5. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO <sup>1</sup>	CEO	CEO	CEO
6. Fire prevention	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 explorations	YES <sup>2</sup>	YES <sup>2</sup>	YES <sup>2</sup>	YES <sup>2</sup>	YES <sup>2</sup>
10. Mineral extraction including sand and gravel extraction	PB	PB <sup>3</sup>	PB	NO	PB <sup>3</sup>
11. Surveying and resources analysis	YES	PB	YES	YES	YES
12. Emergency operations	YES	YES	YES	YES	YES
13. Agriculture	YES	PB	YES	YES	PB
14. Agricultural	NO	NO	NO	NO	NO
15. Aquaculture	YES	PB	PB	PB	YES
16. Principal structures and uses					
a. One family residential	CEO	NO	CEO <sup>4</sup>	CEO	CEO
b. Mobile homes	PB	NO	NO	NO	NO
c. Two family duplexes	PB	NO	NO	NO	NO
d. Multi-family duplexes; 3 or more families, including apartments, group houses and row houses	PB	NO	NO	NO	NO
e. Commercial	PB	NO	NO	NO	NO
f. Industrial	PB	NO	NO	NO	NO
g. Governmental and Institutional	PB	NO	NO	NO	NO
h. Non-commercial structures for scientific, educational, or nature observation purposes,	CEO	PB	CEO	CEO	CEO



which are not of a size or nature which would adversely affect the resource protection by the zone in which it is located					
17. Structures accessory to allowed uses	CEO	CEO	CEO	CEO	CEO
+	<del>CEO</del> PB	<del>CEO</del> PB	<del>CEO</del> PB	<del>CEO</del> PB	<del>CEO</del> PB
19. Conversions of seasonal residential to year round residences	LPI	LPI	LPI	LPI	LPI
20. Home occupations	CEO	NO	PB	PB	PB
21. Private disposal systems for allowed uses	LPI	NO	LPI	LPI	LPI
22. Essential services	YES	PB	PB	PB	YES
23. Service drops, as defined allowed uses	YES	YES	YES	YES	YES
24. Public and private recreational are involving minimal Structural development	PB	PB	PB	PB	PB
25. Individual, private campsite	CEO	CEO	CEO	CEO	CEO
26. Campgrounds	CEO	NO <sup>6</sup>	CEO	PB	PB
27. Road and driveway construction	CEO	NO <sup>7</sup>	CEO	PB	PB
28. Parking facilities	PB	NO <sup>6</sup>	PB	NO	NO
29. Marinas	PB	NO	PB	PB	PB
30. Filling and earth moving less than 10 cubic yards	YES	CEO	YES	CEO	CEO
31. Filling and earth moving more than 10 cubic yards	CEO <sup>8</sup>	PB	CEO	PB	CEO
32. Signs	CEO	NO	PB	PB	PB
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB
36. Marijuana Growing Facility	NO	NO	NO	NO	NO
37. Marijuana Dispensary	PB	NO	NO	NO	NO

**NOTES:**

1. In SD2 not permitted within seventy-five (75) feet of the NHWM of a great pond, except to remove safety hazards.
2. Requires permit from the CEO if more than one hundred (100) square feet of a surface area, in total, is disturbed.
3. In SD2 not permitted in areas so designed because of wildlife value.
4. If a structure does not meet the reduced setback criteria the applicant must apply

- for a variance through the Appeals Board.
5. See further restriction in Section 1313.15.K.
  6. Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.
  7. Except to provide access to permitted uses within the zone, or where no reasonable alternative route or location is available outside the SD2 area, in which case a permit is required from the PB.
  8. No Shoreland Zoning Permit Application needed. CEO must be notified in writing five (5) days prior to such activity or as soon as practical in emergency situations.

**NOTE 2:**

A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38, M.R.S.A., Section 480-C if the activity occurs in, on, over or adjacent to any freshwater wetlands, 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 replacing soil, sand, vegetation or other materials;
- b. Draining or otherwise dewatering;
- c. Filling, including adding sand or other materials to a sand dune; or
- d. Any construction or alteration of any permanent structure.

**1313.14.1 Tables of Land Uses.**

All land use activities, as indicated in Table 1, 2, 3, Land Uses in the Shoreland Zone, shall conform with all Land Uses Standards in Section 13, Charts A, B, C and all other applicable standards. The districts designation for a particular site shall be determined from the Official Shoreland Zoning Map.

**Key to Table 1, 2, 3**

- YES – (no permit required but the use must comply with all applicable land uses)
- NO – Prohibited
- PB – Requires permit issued by the Planning Board
- CEO – Requires permit issued by the Code Enforcement Officer
- LPI – Requires permit issued by the local Plumbing Inspector

**Abbreviations:**

- GD – General Development (SD1)
- RP – Resource Protection (SD2)
- LR – Limited Residential (SD3)
- SP – Stream Protection (SD4)
- LD – Limited Development (SD5)

- A. See Section 13, Table 1, 2, 3 on Land Use Standards**
- B. See Section 14, Table A, B, C on Land Uses**

## 1313.15 Land Use Standards

### A. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet horizontal distance from the normal high-water line of great ponds and rivers that flow to great ponds, and seventy-five (75) feet, horizontal distance from the normal high-water mark of other water bodies, tributary streams, or upland edge of a wetland, except that in the SD1 Zone the setback from the normal high water line shall be twenty-five (25) feet, horizontal distance, and except in SD3 zone where reduced setback criteria of Section 1313.12.C. may apply. In the SD2 zone, 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:** 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.

2. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above elevation of the 100-year flood, the flood of record, or in the absence of these, the flood elevation as defined by soil types identified as floodplain soils.
3. The total footprint area of all structures, and other unvegetated surfaces, within the Shoreland Zone shall not exceed twenty (20) percent of the lot or a portion thereof located within the Shoreland Zone, including land area previously developed, except in the SD1 Zone adjacent to rivers which do not flow to great ponds, where lot coverage shall not exceed seventy (70) percent.
4. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure does not extend below or over the normal high water mark of a body or upland edge of a wetland unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title Section (480-C)); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**NOTE:** The *Natural Resources Protection Act*, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the *Natural Resources Protection Act* for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

**~~B. Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water mark of a water body or within a wetland.~~**

- ~~1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.~~
- ~~2. The location shall not interfere with existing developed or natural beach areas.~~
- ~~3. The facility shall be located so as to minimize adverse effects on fisheries.~~
- ~~4. The facility shall be no larger in dimension than necessary to carry on the activity, and shall be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.~~
- ~~5. No new structure shall be built on, over, or abutting a pier, wharf, or other structure extending below the normal high water mark of a water body or within a wetland;~~
- ~~6. No existing structure built on, over, or abutting a pier, wharf, or other structure extending below the normal high water mark of a water body or within a wetland, shall be converted to a residential dwelling unit(s) in any zone.~~
- ~~7. Except in the SD1 Zone, structures built on, over, or abutting a pier, dock, wharf or other structures extending below the normal high water mark of a water body or within a wetland, shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structures.~~
- ~~8. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (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.~~

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**NOTE:** A permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection for Shoreline Stabilization activities.

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**C. Campgrounds.**

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

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body, shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle tent or shelter, and utility and service buildings, shall be setback minimum of:
  - a. Twenty-five (25) feet from exterior lot lines
  - b. One hundred (100) feet, horizontal distance from the normal high-water line of a great pond or a river flowing to a great pond
  - c. 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.

**D. Individual Private Campsites**

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

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the Shoreland Zone, whichever is less, may be permitted.
2. [When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.](#)
3. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high water line of a great pond or river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high line mark of any other water bodies, tributary streams, or upland edge of a wetland.
4. 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.

5. The clearing of vegetation for the site of the recreational vehicle, tent or similar shelter in the SD2 shall be limited to one thousand (1,000) square feet.
6. 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.
7. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for a residential structure shall be met, including the installation of a surface sewage disposal system in compliance with the State of Maine Subsurface Waste Water Disposal Rules, unless served by public sewage facilities.

**E. Commercial and Industrial Uses.**

The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds, rivers, and streams which flow to great ponds:

- a. Auto washing facilities;
- b. Auto or other vehicle service and/or repair operations, including body shops;
- c. Chemical and bacteriological laboratories;
- d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associate with individual households or farms;

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**NOTE:** 22 M.R.S.A. section 1471-U requires municipal ordinances that apply to pesticide storage, distribution or use be filed with the Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333. If a municipality's ordinance is more inclusive or restrictive than these Guidelines, as it pertains to pesticides, a copy of the ordinance must be filed with the Board of Pesticides Control.

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- e. Commercial painting, wood preserving, and furniture stripping;
- f. Dry cleaning establishments;
- g. Electronic circuit assembly;
- h. Laundromats, unless connected to a sanitary sewer;
- i. Metal plating, finishing, or polishing;
- j. Petroleum or petroleum product storage and/or sale, except for storage on the same property as use occurs, and except for storage and sales associated with marinas;
- k. Photographic processing; and
- l. Printing.

## F. Parking Areas.

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the zone in which such areas are located, except that the setback requirements for parking areas serving a boat launching facilities, in zones other than SD1 Zone, may be reduced to no less than fifty (50) feet horizontal distance from the shoreline.
2. 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.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. **Typical parking spaces:** Approximately nine (9) feet wide and nineteen (19) feet long, except the parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - b. **Internal travel aisles:** Approximately twenty (20) feet wide.
4. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations, and change of use:
  - a. **Dwelling:** Two (2) parking spaces for each dwelling unit.
  - b. **Transient Accommodation:**
    1. Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns with ten (10) rooms – two (2) parking spaces, plus one (1) space for each guest room;
    2. **Motels, Hotels, Boarding Houses, and inns** with more than ten (10) rooms – one parking space for each guest room, plus one (1) space for each four (4) employees.
  - c. **Schools** – five (5) parking spaces for each room, plus one (1) for each four (4) employees.
  - d. **Health Institutions** – (bed facilities only) one (1) parking space for every three (3) beds, plus one (1) for each employee based on the expected average employee occupancy.
  - e. **Theaters, churches, and other public assembly places** – one (1) parking space for every four (4) seats, or for

every one hundred (100) square feet, or major fraction thereof of assemblage space, if no fixed seats.

- f. Retail stores** – one (1) parking space for every two hundred (200) square feet of retail area, plus one (1) space for every two (2) employees, unless public parking is provided.
- g. Restaurants, eating and drinking establishments** – one (1) parking space for every four (4) seats, plus one (1) space for every two (2) employees, unless public parking is provided.
- h. Professional Offices and Public Buildings** – one (1) parking space for every two hundred (200) square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided.
- i. Marinas** – minimum of one (1) space for each docking and mooring space.
- j. Other commercial recreation establishments** (mini golf courses, touring/sightseeing buses, etc.) – number of spaces deemed appropriate by the Planning Board.
- k. Industrial** – one (1) parking space for each one point five (1.5) employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.

## **G 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 or a river that flows to a great pond, and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirements 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 G(1) does not apply to approaches to water crossings, roads, or driveways that provide access to permitted structures, or facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreation uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section G (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 right-of-way regardless of their setback from a water body, tributary stream, or wetland.
3. New Permanent roads are not allowed within the shoreland 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 shoreland zone. When roads must be located within the shoreland zone, they shall be set back as far as practicable from the normal high-water line, and screened from the river by existing vegetation.
4. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
5. 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 or erosion and sedimentation control contained in Section R.
6. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

7. In order to prevent driveway surface drainage from directly entering water bodies, tributary streams, or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip in width at least fifty (50) feet plus two (2) times the average slope, placed 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. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration on the runoff and to minimize channelized flow of the drainage through the buffer strip.
8. 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 associate water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

**Road Grade Spacing**

(Percent)	(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 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 turnout, and other storm water runoff control installations associated with roads and driveways, shall be maintained on a regular basis to assure effective functioning.

**H. Signs.**

1. The following provisions shall govern the use of signs in the SD2 Zone, SD3 Zone, SD4 Zone, and SD5 Zone:
  - a. 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 or services not sold or rendered on the premises shall be prohibited.
  - b. 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.
  - c. Residential users may display a single sign not over four (4) square feet in area relating to the sale, rental, or lease of the premises.
  - d. 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.
  - e. Signs relating to public safety shall be allowed without restriction.
  - f. No sign shall extend higher than twenty (20) feet above the ground.
  - g. Signs may be illuminated only by shielded, non-flashing lights.
2. Signs in the SD1 Zone shall conform to the requirements as follows:
  - a. No sign shall project over a walkway or interfere in any way with normal flow of foot or vehicle traffic. All free-standing signs shall be set back a minimum of five (5) feet from property lines in all zones except the Downtown Commercial Zone on Main Street between, where it intersects with West Broadway and Clay Street.
  - b. No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights.
  - c. Signs may be illuminated only by shielded, non-flashing lights so as to effectively prevent beams or rays of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway; or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle, or otherwise interfere with the operation thereof, except in the Commercial Zones.
3. The following signs are exempt from the provisions of this section except as otherwise provided for herein.

- a. Signs erected by government body
- b. Traffic control signs, signals, and/or devices.

**I. 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 runoff control features, such as berms, swales, terraces and wooded areas, and 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.

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**NOTE:** The *Stormwater Management Law* (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

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**J. Septic Waste Disposal.**

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extension, 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; b) a holding tank is not allowed for a first-time residential use in the shoreland zone; and c) replacement systems shall meet the standards for replacement systems contained in the rules.

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**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.

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**K. Essential Services.**

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

2. The installation of essential services, other than road-side distribution lines, is not allowed in an SD2 Zone or an SD4 Zone, except to provide services to a permitted use within said zone, or except where the applicant demonstrates that no reasonable alternative exists. When allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment, may be replaced or reconstructed without a permit.

**L. Mineral Exploration and Extraction.**

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

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such shall describe in detail procedures to be undertaken to fulfill the requirements of Section L (3) below.
2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, or within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body tributary stream, or upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, 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 shoreland zone exists. When gravel pits must be located within the zone, they shall be set 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 on any extraction site, where the operations shall be deemed complete when less than one hundred (100) cubic yards of material are removed in any consecutive twelve (12) month period, ground level 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 onsite. Only materials generated onsite may be buried or covered onsite.

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**NOTE:** *The State of Maine Solid Waste Laws, 38 M.R.S.A., section 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.*

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- b. The final graded slope shall be a two to one (2:1) 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 the stabilization of the 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.

**M. Agriculture Activities**

The following requirements shall apply to agricultural activities within two hundred fifty (250) feet, horizontal distance, of this normal high-water line of any pond, river, or upland edge of a freshwater wetland, or within seventy-five (75) feet of the normal high-water line of a stream as defined herein:

1. All spreading of manure shall be accomplished in conformance with the 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 or river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other

water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge, effluent, or contaminated storm water.

3. Agriculture practices shall be conducted in such a manner as to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters.

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**NOTE:** Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

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4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water mark of a great pond within seventy-five (75) feet horizontal distance, from other water bodies; nor shall there be new tilling within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. There shall be no tilling of soil in the SD2 Zone or of soil in excess of twenty thousand (20,000) square feet lying either wholly or partially within any other Shoreland Zone, unless:
  - a. The tillage is carried out in conformance with provisions of a Conservation Plan that meets the standards of the State Soil and Water Conservation Commission;
  - b. The Plan is approved by the appropriate Soil and Water Conservation District; and
  - c. Approval of the plan is filed with the Planning Board. Non-conformance with the provision of such Conservation Plan shall be considered to be a violation of this Ordinance.
6. 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, or within seventy-five (75) feet, horizontal distance, of other water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with on-going 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.

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**NOTE:** 7 M.R.S.A. section 155 requires a municipality to provide the Commissioner of Agriculture, Conservation and Forestry with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the

use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

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**N. Timber Harvesting – Bureau of Forestry will administer the regulation all Timber Harvesting activities in the Municipality.**

**O. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting Development.**

1. In a shoreland area zoned SD2 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 SD2 Zone, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. Except in areas as described in Section O1 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 or a river flowing to a great pond, 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 clear 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 strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section 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 twenty-four (24) or more in each twenty-five (25) foot by fifty (50) foot



rectangular (one thousand two hundred fifty (1250) square feet) area, as determined by the following rating system:

**Diameter of Tree at 4.5 feet Above Ground Level (inches)**

**POINTS**

2<4 inches	1
4<8 inch	2
8 <12 inch	4
12 inch or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a “well distributed stand of trees” is defined as maintaining a minimum score of sixteen (16) per twenty-five (25) foot by fifty (50) foot rectangular area.

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**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:

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

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.

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The following shall govern in applying this point system:

- (i) The twenty-four (24) foot by fifty (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 this Ordinance;
- (v) Where conditions permit, no more than fifty (50) percent of the points on any twenty-five (25) foot by fifty (50) foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of Section O(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 a half (4.5) feet above ground level for each twenty-five (25) foot by fifty (50) foot rectangular area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at four and a half (4.5) feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section O (2) above.
- d. At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured four and a half (4.5) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

- e. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- f. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation, shall be

**P. Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - (a) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

- (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
- (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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**NOTE:** An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:  
[http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

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(7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

## **S.     Revegetation Requirements**

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

- (4) Revegetation activities must meet the following requirements for trees and saplings:
- (a) All trees and saplings removed must be replaced with native noninvasive species;
  - (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch

and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

- (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.  
regulated under the provisions of Section 15(P).

**Q. Erosion and Sedimentation Control in Shoreland Zones.**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of 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 used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with 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 of soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface water disposal, and commercial and industrial development or other similar intensive land uses, shall require a soils report based on an on-site investigation, and be prepared by a state-verified professional. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine Certified Geologists, and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon analysis of the characteristics of the soils and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which evaluator deems appropriate. The soils report shall also 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 substance, 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 soils 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.

**T. Pesticide and Fertilizer Application.**

Pesticide and fertilizer application in any of the zones shall not require a permit provided that such application is in conformance with applicable State and Federal Statutes and Regulations.

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**NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.**

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**A. Administration Bodies and Agents**

**1. Code Enforcement Officer**

Code Enforcement Officer shall be appointed or reappointed annually by July 1<sup>st</sup>.

**2. Board of Appeals**

A Board of Appeals shall be created in accordance with the provision 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.

(1) A permit is not required for the replacement of an existing road culvert as long as:

(a) The replacement culvert is not more than 25% longer than the culvert being replaced;

(b) The replacement culvert is not longer than 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 watercourse.

(2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

(3) Any permit required by this Ordinance shall be in addition to any other permit required by other 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 1313.14.



2. All applications shall be signed by the 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 and/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 public sewer, a valid plumbing permit or completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

**D. Procedure for Administering Permits**

Within thirty-five (35) days of the date of receiving a written application, the Code Enforcement Officer, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board and/or Code Enforcement Officer, as appropriate, shall approve with conditions, approve, or deny all permit application in writing within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface water;
3. Will adequately provide for the disposal of wastewater;

4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual point of access, to inland waters;
6. Will protect archaeological and historic resources as designated in the Comprehensive Plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the provisions of Section 1313.13 and 1313.15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons and 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, regulation, or any statute administered by the municipality.

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Code Enforcement Officer may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

(4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

(5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

**F. Expiration and/or Extension of Permits**

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

**G. 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 Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating the installation has been completed.

**H. Appeals**

**1. Powers and Duties of the Board of Appeals**

The Board of Appeals shall have the following powers:

- a. Administrative Appeals: To hear and decide administrative 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 this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision, or determination made, or failure to

act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

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**NOTE:** Whether an administrative appeal is decided on an “appellate” basis or on a “de novo” basis, or whether an enforcement decision is appealable to the board of appeals, shall be the decision of the municipality through its specific ordinance language. The Department is not mandating one alternative over the other. If a municipality chooses appeals procedures different from those in Section 16(H), it is recommended that assistance be sought from legal counsel to ensure that the adopted language is legally sound.

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- b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

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

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any otherwise prohibited uses of this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
  - (1) The proposed structure or use would meet the provisions of 1313.13 and 1313.15 except for the specific provision which has created the non-conformity and from which relief is sought.
  - (2) The strict application of the terms of this Ordinance would result in undue hardship.

The term “undue hardship” shall mean:

- (a). That the land in question cannot yield a reasonable return unless a variance is granted;
- (b). That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- (c). That the granting of a variance will not alter the essential character of the locality; and

(d). That the hardship is not the result of action taken by the applicant or a prior owner.

(3) Setback variance for single-family dwellings. Under this subsection, a variance from a setback requirement may be permitted from a setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

(a). The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(b). The granting of a variance will not alter the essential character of the locality;

(c). The hardship is not the result of action taken by the applicant or a prior owner;

(d). The granting of the variance will not substantially reduce or impair the use of abutting property; and

(e). That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

This subsection is strictly limited to granting a variance from a setback requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed twenty (20) percent of a setback requirement and may not be granted if the variance would cause the area of dwelling to exceed the maximum permissible lot coverage. An ordinance may allow for a variance under this subsection to exceed twenty (20) percent of a setback requirement, except for shoreline setbacks, by rules adopted pursuant to Title 38, Chapter 3, Subchapter I, Article 2-B<sup>1</sup>, if the petitioner has obtained the written consent of an affected abutting landowner.

d. Notwithstanding Section 16(H)(2)(c)(ii) 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 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 at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the 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**

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 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.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board 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 record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

## 4. **Appeal Procedure**

### a. **Make an Appeal**

- 1. 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 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.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance, or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board 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 records of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

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

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

- (a). A concise written statement indicating what relief is requested and why it should be granted.
- (b). A sketch to scale showing lot lines, location of existing buildings and structure and other physical features of the lot pertinent to relief sought.
- (c). Upon being notified of an appeal, the Code Enforcement Officer and/or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of decision appealed from, and notify the permittee that an appeal has been filed.
- (d). The Board of Appeals shall hold a public hearing on the appeal within thirty (30) days of its receipt of an appeal request.

**b. Decision by Board of Appeals**

- 1. A majority of the Board 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 shall decide all appeals within thirty (30) days after the close of the hearing, and shall issue a written decision on all appeals.
- 4. All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis thereof, and the appropriate order, relief, or denial thereof.
- 5. Appeal to Superior Court - 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 thirty (30) days from the date of any decision of the Board of Appeals.
- (6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed



within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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 to be a nuisance.

### **2. Code Enforcement Officer**

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, including discontinuance of illegal use land, buildings, or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct on-site inspections to ensure 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 action, revocation of permits, appeals, court action, violations investigated, violations found, and fee 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 Action**

When 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 proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purposes of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue: (1) 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; (2) unless the removal of the structure or use will result in a threat or hazard to public health and safety; or (3) unless the use or structure 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 agent, or a contractor, who violates any provision or requirement of this Ordinance, shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

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**NOTE:** Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

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**1313.17 Definitions.**

**A. Construction of Language**

1. In this Ordinance, certain terms or words should be interpreted as follows:
  - a. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
  - b. The present tense includes the future tense, the singular number includes the plural and the plural includes the singular;c.The word “shall” is mandatory;
  - d. The word “may” is permissive;
  - e. The words “used” or “occupied” include the words “intended”, "designed”, or “arranged to be use or occupied”; and
  - f. The word “dwelling” includes the word “residence”.

2. Terms not defined shall have customary dictionary meaning.

**B. Definitions:**

**ABUTTING:** Having a common border with, or being separated from, such common border by an alley or easement.

**ACCESS:** A means of approach, entry to, or exit from property.

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

**ACRE:** A measure of land containing forty-three thousand five hundred sixty (43,560) square feet.

**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 product; poultry and poultry product; livestock; fruits and vegetable; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

**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.

**ALTERATION:** As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

**APPEAL:** A means of obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of this Ordinance.

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

**BASAL AREA:** The area of a cross-section of a tree stem at four and one half (4.5) feet above ground level and inclusive of bark.

**BASEMENT:** any portion of a structure with a floor-to-ceiling height of six (6) feet or more, and having more than fifty (50) percent of its volume below the existing ground level.

**BOAT LAUNCH 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.

**BOAT YARD, COMMERCIAL:** A place, usually adjacent to navigable waters, where, as a business or gainful occupation, boats are hauled, stored, repaired and/or constructed.

**BUFFERS:** Units of land, together with a specified type and amount of planting thereon, and any structure which may be required between land and uses to eliminate or minimize conflicts between them.

**BUILDING:** A roofed structure. See structural terms.

**BUILDING AREA:** Total of areas taken on a horizontal plane at the mean finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between exterior faces of walls.

**BUILDING HEIGHT:** The vertical distance between the main elevation of the finished grade of the building and the highest point of the roof. For those structures with multiple roofs, each roof shall be considered in relation to the finished grade of the building and the highest point of the roof.

**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 crown in a wooded area.

**CERTIFICATE OF OCCUPANCY:** Official certification that a premise conforms to provisions of the zoning ordinance (and building code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

**CODE ENFORCEMENT OFFICER:** A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

**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 good and/or services, exclusive of rental of residential buildings and/or dwelling units.

**CONDOMINIUM:** A building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy.

**CONGREGATE HOUSING:** A private, licensed establishment operated for the purpose of providing domiciliary by one or more persons other than purchasers and persons who occupy.

**D.B.H. (Diameter Breast Height):** A measurement of the size of a tree equal to the diameter of its trunk measured at four and one half (4.5) feet above the natural grade.

**DAY CARE FACILITY:** Defined in Title 22, MRSA, Section 1673, a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program for consideration, for any part of the day, providing care and protection for three (3) or more children under the age of sixteen (16) unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

**DAY CARE HOME:** A Day Care Facility as defined in State Statutes for thirteen (13) or more children on a regular basis; and **Day Care:** A Day Care Facility as defined in State Statutes for three (3) to twelve (12) children on a regular basis.

**DEDICATION:** The transfer of property interest from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee-simple interest, including easement.

**DEVELOPER:** The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in development, including the holder of an option or contract to purchase.

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

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

**DRAINAGE:** The removal of surface or ground water from land by drains, grading, or other means. Drainage includes the control of run-off to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation, as well as prevention or alleviation of flooding.

**DRIVEWAY:** A vehicular access-way less than five hundred (500) feet in length serving two (2) single-family dwellings, or one two-family dwelling, or less.

**DWELLING:** See residential dwelling unit.

**EASEMENT:** The authorization of a property owner for another to use a designated part of the owner's property for a specified purpose.

**ELEEMOSYNARY:** A non-profit establishment for public use.

**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.

**ENLARGEMENT TO ENLARGE:** An "enlargement" is an addition to the floor area of an existing building, increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

**ESSENTIAL SERVICES:** Gas, electrical, or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms, 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.

**EXTENSION OR TO EXTEND:** An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

**FAMILY:** Two (2) or more persons related by blood, marriage, adoption, or guardianship; or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be

distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

**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 portion of a structure, such as porches and decks.

**FOREST MANAGEMENT TERMS:**

1. **Forest Management Activities:** Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting, and other similar associated activities, but not the construction or creation of roads.
2. **Timber Harvesting:** The cutting and removal of trees from their growing site, and the attendant operation of harvesting machinery, but not the construction of roads. Timber harvesting does not include the clearing of land for approved construction for which a lawful permit has been issued in accordance with State and Local codes, ordinances, statutes, rules and regulations.

**FLOODWAY:** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

**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 which are:

1. Ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or ground water at a frequency, and for duration, sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

**GARAGE, COMMERCIAL:** A structure used for parking or storage of automobiles, generally available to the public and involving payment charged for such parking or storage. A garage used solely in conjunction with multiple family dwelling or hotel shall not be construed to be a commercial garage, but rather a permitted accessory structure and use, even though not on the same premises as the multiple family dwelling or hotel.

**GARAGE, RESIDENTIAL:** An accessory building for parking or temporary storage of automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of a principal one (1) or two (2) family dwellings, not more than one (1) space may regularly be used by private passenger automobile of a person not a resident on the premises.

**GRADE:** In relation to buildings, the average of the finished ground level at the center of each wall of the building.

**GREAT POND:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**GREENHOUSE, COMMERCIAL:** An enclosed building, permanent or portable, which is used for the growth of small plants.

**GREENHOUSE, NON-COMMERCIAL:** An accessory structure to a residence designed or used for the growth of small plants.

**GROCERY STORE:** A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket, defined as a "Major Retail Outlet".

**GROUND COVER:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor



**GUEST ROOM:** A room in a hotel, motel, tourist home, or “bed and breakfast” residence offered to the public for compensation in which room no provision is made for cooking.

**HEIGHT OF 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:** A business, profession, occupation, or trade conducted for support and located entirely within a residential building or a structural accessory thereto which use is accessory or incidental and secondary to the use of the building for dwelling purpose, and does not change the residential character or appearance of such building. A home occupation shall employ no more than one (1) person other than family members residing in the home.

**HOSPITAL:** An institution providing health services primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff officers.

**IMPERVIOUS SURFACE:** Surfaces, which do not absorb water, specifically all buildings, parking areas, driveways, road sidewalks, and any areas of concrete or asphalt. In case of lumberyards, areas of stored lumber constitute impervious surfaces.

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

**INDIVIDUAL PRIVATE CAMPSITE:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals, and which involves site improvements which

may include, but may not be limited to, a gravel pad, parking area, fire place, or tent platform.

**INDUSTRIAL:** Use of a premise for assembling, fabricating, finishing, manufacturing, packaging, or processing or mineral extraction. These include but are not limited to assembly plants, laboratories, power plants, pumping stations and repair shops.

**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

**IN-LAW APARTMENT:** See structural terms.

**AUTOMOBILE GRAVEYARD:** A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out, or junked automobiles.

**JUNKYARD:** A yard, field, or other area, including, but not limited to, a garbage dump, waste dump, and sanitary landfill, that is used as a place of storage for discarded, worn-out, or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous materials.

**KENNEL, COMMERCIAL:** Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training, or breeding, for which a fee is charged.

**KENNEL, NON-COMMERCIAL:** An accessory building to a residence designed or used for the accommodation of dogs and cats owned by the occupancy of the residence.

**LAND USE PERMIT:** A permit for a proposed land use activity as defined in this Ordinance and issued by the Planning Board and/or Code Enforcement Officer in accordance with the provisions of this Ordinance.

**LIGHT MANUFACTURING:** The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting, or otherwise shaping the processed materials into useful objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as metal ores, lumber, or rubber.

**LOADING SPACE:** An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial

vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

#### LODGING TERMS:

**TRANSIENT ACCOMMODATIONS I:** (also referred to as a “Bed and Breakfast”) Are those accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three (3) guest rooms and six (6) guests at any one time, not including children of the paying guest under twelve (12) years of age. Breakfast is the only meal, if any, to be provided for compensation.

**TRANSIENT ACCOMMODATIONS II:** Are those accommodations provided for compensation as a business in a converted, existing building where a maximum of ten (10) guest rooms are provided at any one time.

**TRANSIENT ACCOMMODATIONS III:** Include commercial hotels, motels, and inns where over ten (10) guestrooms are provided as accommodations for compensation as a business. Any accessory structures or uses such as, but not limited to, restaurants, cocktail lounges, or gift shops are considered separate uses or structures and shall meet the provisions of this Ordinance as such.

**LOT:** A parcel of land undivided or designed to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, as well as use and development, including such open spaces and yards as are designed and arranged or required by this Ordinance for such building, use, or development.

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

**LOT, CORNER:** A lot abutting two (2) or more streets at their intersection.

**LOT, COVERAGE:** The percentage of the lot covered by unvegetated surfaces.

**LOT, FRONTAGE:** Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by this Ordinance shall be provided, at least on one (1) street.

**LOT, LINE:** A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below:

1. **Front Lot Line:** In case of a lot abutting only one (1) street, the street line separating such lot from such street. In the case of a

double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two (2) opposing yards shall be a rear yard. In the case of a lot with no road frontage, the front lot line shall be considered to be the line parallel to the front of the building.

2. **Rear Lot Line:** That lot line which is parallel to a most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line twenty (2) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In case of lots, which have frontage on more than one (1) road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.
3. **Side Lot Line:** Any lot line other than a front or rear lot line.

**LOT OF RECORD:** Any validly recorded lot which at the time of its recording complied with all applicable laws, ordinances, and regulations.

**LOT STANDARDS:** The combination of controls which establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as “space and bulk” regulations in size and height of building; location of exterior walls at all levels with respect to lot lines, streets and other buildings; building coverage; gross floor area of buildings in relation to lot area; open space (yard) requirements; and amount of lot area provided per dwelling unit.

**MAJOR RETAIL OUTLET:** A retail commercial establishment with an interior customer selling space, excluding back room storage, office space, and processing space, of more than five thousand (5,000) square feet.

**MANUFACTURED HOUSING:** A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site.

For the purpose of this Ordinance, three (3) types of manufactured housing will be referred to as:

1. **NEWER MOBILE HOME:** Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards Act of 1974, et. Esq., which, in the traveling mode, are fourteen (14) body feet or more in width, are seven hundred fifty (750) or more

square feet, and are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation.

2. **OLDER MOBILE HOME:** Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, not including those smaller units commonly called “travel trailers”.
3. **MODULAR HOMES:** Those units which the manufacturer certifies are constructed in compliance with the State’s Manufactured Housing Act, are not constructed on a permanent chassis, and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning, or electrical systems.

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

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

**MEDICAL CLINIC:** An office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

**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 transports the product removed away from the extraction site.

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

**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.

**MULTI-UNIT RESIDENTIAL:** A residential structure containing three (3) or more residential dwelling units.

**MUNICIPAL FACILITIES:** Building or land, which is owned by the Town of Lincoln and operated under its supervision.

**NON-CONFORMING USE:** See Use Terms.

**NORMAL HIGH-WATER LINE:** That line which is apparent from visible markings and 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.

**NORMAL MAINTENANCE AND REPAIR:** Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in uses, change in location, or change in size or capacity.

**NURSERY COMMERCIAL:** An enterprise which conducts the retail and wholesale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawnmowers and farm implements) directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, and insecticides, hanging baskets, rakes and shovels.

**NURSING HOMES:** A facility for the care of the aged or infirmed, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotic addiction.

**OWNER:** The person or persons having the rights of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

**PARCEL:** The entire area of a tract of land before being divided by development.

**PARKING LOT:** An open area other than a street used for the parking of more than four (4) automobiles and available for public use whether free, or for compensation, or as an accommodation for clients or customers.

**PARKING SPACE:** Surface area, not less than nine (9) feet wide and nineteen (19) feet long, enclosed or unenclosed, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley, and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

PATIO: See Structural Terms.

Piers, docks, wharves, 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.

PERFORMANCE STANDARDS: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by uses in order to protect neighbors from adverse impacts of adjoining land uses, and to protect the general health, safety, and welfare of citizens of Lincoln.

PROFESSIONAL OFFICE BUILDING: A building in which there is located the office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., or in which a business conducts its administrative, financial, or clerical operations, but not including any manufacturing or sale of goods or merchandise.

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

PUBLIC UTILITY: Any person, firm, corporation, municipal department, board, or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities, or transportation of water to the public.

RECENT FLOORPLAIN SOILS: The following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

RECONSTRUCTION: The restoration, remodeling, or rebuilding of a non-conforming structure, whether necessitated by deterioration, obsolescence, casualty, or other occurrence, where the costs of such work equal or exceed the value of the structure in its existing condition.

**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 camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**REPLACEMENT SYSTEM:** A system intended to replace: an existing septic system which is either malfunctioning or being upgraded with no significant change of design flow or use of structure; or any existing overboard wastewater discharge.

**RESEARCH FACILITY:** A building or part of a building devoted to scientific inquiry and ancillary functions. No manufacturing is conducted on the premises except as related to the scientific research being conducted, and said activities shall be solely for charitable purposes.

**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 (1) 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.

**RETAIL ESTABLISHMENT:** Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

**RESTAURANT:** An establishment whose principal business is the sale of food and/or beverages to consumers in a ready to consume state, and whose principal method of operation includes one of both of the following characteristics:

1. Customers that are normally provided with an individual menu, and that are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or
2. A cafeteria type operation where food and beverages generally are consumed within the restaurant building.
3. **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, which are typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

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

**ROAD:** A thoroughfare or way 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.

1. **Private Road:** A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.
2. **Public Road:** A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

**ROADSIDE STAND:** A roadside stand selling at retail on the premises only farm produce, camp firewood, or garden, greenhouse or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths, and wreath materials primarily produced on the property.

**SCHOOL, MUNICIPAL:** A publicly owned facility within which educational classes for any grades, kindergarten through twelve (12), are conducted pursuant to a program approved by the State Board of Education or similar governmental agency.

**SCHOOL, PRIVATE:** A privately owned facility within which instruction is provided for a fee.

**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 wire 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 in length.
2. **In the case of telephone service:**

- a. The extension, regardless of length, will be made by the installation of telephone wire 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.

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

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

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

**SHORELAND ZONE:** The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body, within seventy-five (75) feet of the normal high-water line of a stream.

#### **SIGN ITEM DEFINITIONS:**

**SIGN:** Device, model, banner, pennant, insignia, flag, or other representation, which is used as, or is in, the nature of an advertisement or direction.

1. **Billboard:** Anything designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs.
2. **Freestanding Sign:** A sign supported by one more uprights or braces permanently affixed in to the ground.
3. **Portable Sign:** A sign not designed or intended to be permanently affixed into the ground or to a structure.
4. **Roof Sign:** A sign, which is attached to a building and is displayed above the eaves of such building.
5. **Temporary Sign:** A sign of temporary nature, erected less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sales,

lawn sale, rummage sale, and all signs advertising sales of personal property, and “for rent” signs.

6. **Wall Sign:** Any sign painted on, or attached parallel to, the wall surface of a building and projecting therefore not more than six (6) inches.
7. **Window Sign:** Any on-premises, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued or otherwise affixed to a window.
8. **Area of Sign:** The exposed surface of the sign including all ornamentation, embellishment, background, and symbols, but excluding the structure which does not form a part of the message of the sign measured in square feet.

The sign area of a sign composed of characters or words attached directly to a uniform building wall surface or window surface (wall sign or window sign) shall be the smallest rectangle which encloses the whole group or message.

The aggregate sign area for premises shall be taken to mean the sum of the area of all signs visible from public streets, sidewalks, parks, etc. and includes wall signs, window signs, free-standing signs, roof signs, and small signs attached to the principal sign indicating, for example, “fireplace”, “swimming pool”, “Master Card, Diner Club, or American Express” accepted. If the shape of a sign is convoluted or irregular, then the area is to be taken as the smallest rectangle, which encloses the sign.

**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 State Geological Survey seven point five (7.5) minute series topographic map, or if not available, a fifteen (15) minute series topographic map, to the point where the body of water becomes a river or flows into the shoreland zone of another water body or wetland

**STRUCTURAL TERMS:**

1. **Building:** Any structure maintained or intended for use as a shelter or enclosure of persons, animals, goods, or property of any kind. This term is inclusive of any thereof. Where independent units with separate entrances are divided by walls, each unit is a building.

2. **Building, Principal:** Building (structure) in which is conducted, or in which is intended to be conducted, the main or primary use of the lot on which it is located.
3. **Dwelling:** A building or portion thereof, used exclusively for residential occupancy, including single-family, two (2) family and multiple family dwellings.
4. **Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking, and eating.
5. **Dwelling, Single-Family Detached:** A dwelling designed for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.
6. **Dwelling, two (2) Family:** A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.
7. **Dwelling, Multiple-Family:** A building, or portion thereof, used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses, and row houses.
8. **In-Law Apartment:** A separate dwelling unit, which is located within and subordinate to a single family detached dwelling, and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage, or adoption, whether or not said person or persons pay rent or share expenses with the owner thereof.
9. **Patio:** A structure that adjoins a dwelling or principle structure and is delineated by paving, concrete, stones, or other impervious surfacing materials and is adapted especially to outdoor dining and/or lounging.
10. **Structure:** Anything constructed or erected, the use of which requires permanent location on, above or below the surface of land or water, including a porch or patio, but excluding unattached decks.
11. **Water-Related Structure:** Includes piers, docks, wharves, floats, cribs, pilings, boathouses, breakwaters, causeways, and similar structures projecting into water bodies.

- a. Temporary Structures: Structures, which remain in the water for less than seven (7) months in any period of twelve (12) consecutive months.
- b. Permanent Structures: Structures, which remain in the water for seven (7) months or more in any period of twelve (12) consecutive months.

**SUBDIVISION:** A division of a tract or parcel of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, building, or otherwise, and as further defined in State Statutes, Title 30-A, MRSA, Section 4404, as amended.

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

**TIMBER HARVESTING:** See Forest Management.

**TOWN:** The Town of Lincoln, Maine.

**TRANSPORTATION FACILITIES:** Structures and grounds used for transportation service activities, such as ticket booths, and sitting shelters for bus, taxi, or touring van.

**UNDERTAKING ESTABLISHMENTS:** A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

**UPLAND EDGE:** The boundary between upland and wetland.

**USE:** The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

1. Accessory Use: A use subordinate to a permitted use located on the same lot, and customarily incidental to the permitted use.
2. Principal Use: The specific primary purpose for which land is used.
3. Temporary Use: A use established for a fixed period of time with the intent to discontinue such upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

4. Conforming (Permitted) Use: A use, which may be lawfully established in a particular zone, provided it conforms to all the requirements, standards, and regulations of such zone.
5. Existing Non-Conforming Use: A use which lawfully existed prior to the enactment of this Ordinance or subsequent amendment, and which is maintained after the effective date of this Ordinance, although it does not comply with use restrictions applicable to the zone in which it is situated.
6. Open Space Use: A use, which does not disturb the existing state of the land except to restore this land to a natural condition.

**VARIANCE:** A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, literal enforcement of this Ordinance would result in unnecessary or undue hardship.

**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 (4.5) 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.

**WAREHOUSING AND STORAGE FACILITY:** A structure for the storage of merchandise or commodities, including bulk storage sales outlet.

**WATER BODY:** Any great pond, river, and/or stream.

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

**WATER RELATED TERMS:**

1. Lakes and Ponds: Natural or artificial bodies of water, which retain water year-round. Artificial ponds may be created by dams or may result from excavation. State regulations apply to any body of water, which has a surface area in excess of ten (10) acres except to a man-made body of water completely surrounded by land held by a single owner.

2. River: Any free flowing body of water from that point at which it provides drainage for a watershed if twenty-five (25) square miles to its mouth.
3. Stream or Brook: Any surface watercourse having a channel.
4. Channel: An area between defined banks created by the action of surface water, and characterized by the lack of terrestrial vegetation as well as the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil parent material or bedrock.
5. Normal High Water Mark of Inland Waters: Along lakes and ponds, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams, the highest elevation on the bank of a channel at which has left a definite mark.
6. Floodplain: Floodplains may either be riverine or inland depressional areas. Riverine floodplains are those areas contiguous to a lake, river, stream, or streambed whose elevation is greater than normal water pool elevation but equal to or lower than the projected 100-year flood elevation. Inland depressional floodplains, not associated with a stream system, are low points to which surrounding lands drain.
7. Flowing Water: Surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks, and can be further defined as:

Major Flowing Waters: A flowing water downstream from the point of where such water drains twenty-five (25) square miles or more; and

Minor Flowing Waters: Flowing water upstream from the point where such water drains less than twenty-five (25) square miles.

#### WETLAND TERMS:

1. Wetland, General: Land where excess water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. It spans a

continuum of environments where terrestrial and aquatic systems intergrade. (National Wetlands Classification)

2. **Inland Wetlands:** Areas enclosed by the normal high-water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including, but not limited to, swamps, marshes, or bogs.

**WILDLIFE MANAGEMENT PRACTICES:** Activities engaged in for the exclusive purpose of management of wildlife population by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, impounding water, controlled hunting and trapping relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

**WOODY VEGETATION:** Live trees or woody, non-herbaceous shrubs

**YARD:** The area of land on a lot not occupied by buildings.

1. **Front Yard:** The open, unoccupied space on the same lot with principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
2. **Rear Yard:** The open, unoccupied space on the same lot with principal building between the rear lot line and the nearest part of any building on the lot and extending from the front yard to the rear line.
3. **Side Yard:** The open, unoccupied space on the same lot with principal building between the rear lot line and the nearest 4/8/98 part of any building on the lot, and extending from the front yard to the rear line.

**ZONE:** A specified portion of the Town delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

### **1313.18 Conflicting Provisions**

Whenever a provision of the Lincoln Shoreland Zoning Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall control or determine outcome