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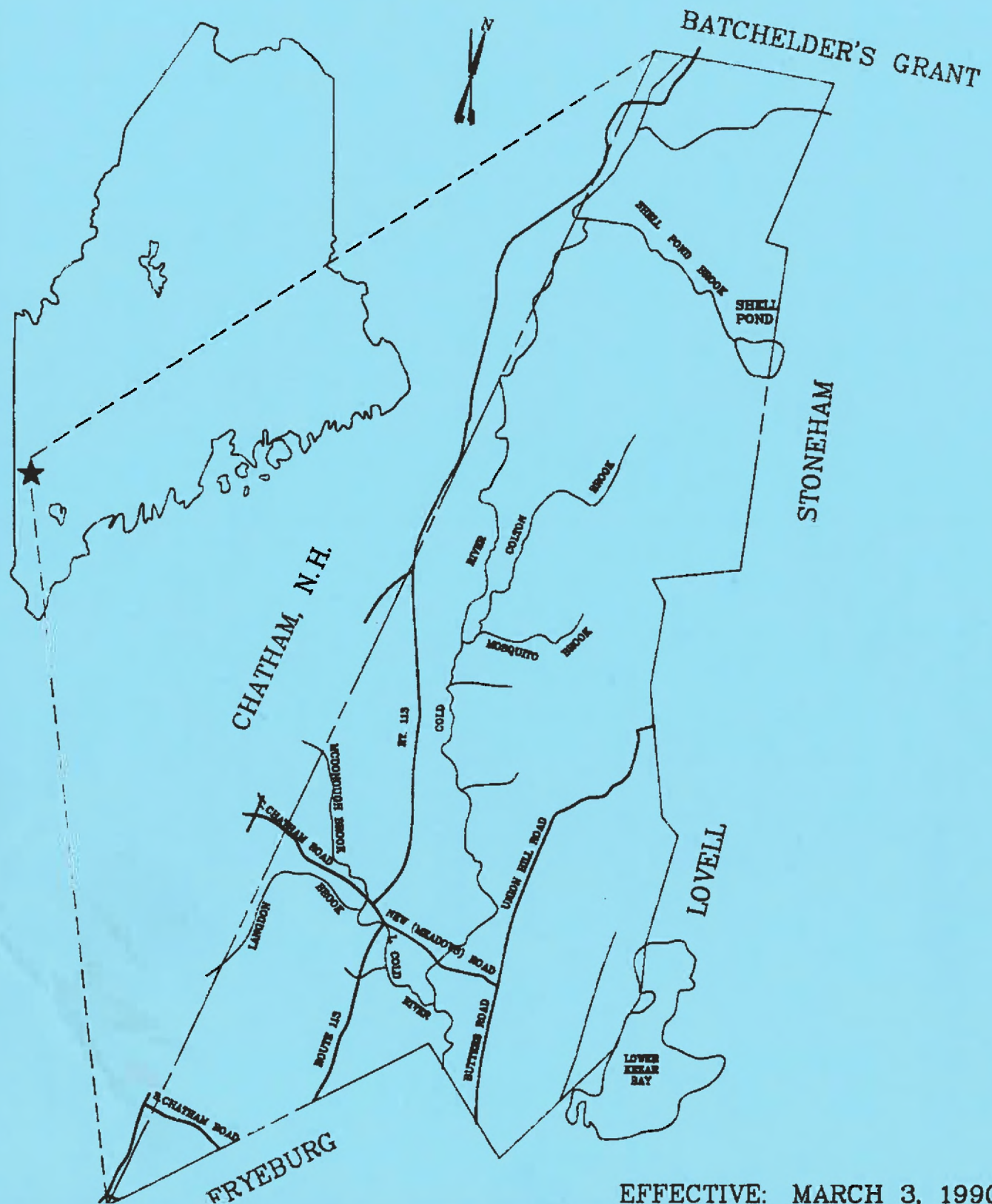
Town of Stow Maine Ordinances

Stow, Me.

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TOWN OF STOW, MAINE LAND USE ZONING ORDINANCE



STOW ZONING ORDINANCE

Section 1. PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; prevent and control water, air, and noise pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; "control" building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland waters and natural beauty, and to preserve significant archaeological and historical sites.

This Ordinance does not grant any property rights, it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of the necessity of complying with other applicable laws and regulations.

Section 2. DEFINITIONS - See Appendix.

Section 3. BASIC REQUIREMENTS

All buildings or structures hereinafter erected, reconstructed, altered, or moved, and uses of premises in the Town of Stow shall be in conformity with the provisions of this Ordinance.

Section 4. EFFECTIVE DATE

The effective date of this Ordinance is March 3, 1990. A certified copy of this Ordinance shall be filed with the County Registry of Deeds and the Maine State Planning Office, according to the requirements of state law.

Section 5. VALIDITY AND SEVERABILITY and CONFLICTS WITH OTHER ORDINANCES

- A. 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 this Ordinance.
- B. This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings or structures the provisions of this Ordinance shall control.

Section 6. AMENDMENTS

A. Initiation of Amendment

An amendment of this Ordinance may be initiated by:

- 1. The Planning Board provided a majority of the Board has so voted.

2. Request of the Municipal Officers to the Planning Board or,

3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Municipality at the last gubernatorial election.

B. Adoption of Amendment

This Ordinance may be amended by a majority vote of the governing body.

C. Notification of Amendment

The Board of Environmental Protection and Land Use Regulation Commission shall be notified by Certified Mail, of amendments of this Ordinance, prior to the effective date of such amendments. A file of return receipts from such mailings shall be maintained as a permanent record.

Section 7. ZONING DISTRICTS - ESTABLISHMENT

To implement the provisions of this Ordinance, the Town of Stow is hereby divided into the following Districts:

1. Resource Protection District
2. Limited Residential District
3. General Residential & Development District

Said Districts are located and bounded as shown on the Official Zoning Map, entitled "Stow Zoning Map" dated March 22, 1986, or as defined by this ordinance and on file in the office of the Selectmen. The Official Zoning Map, and all future amendments thereto, is hereby made part of and incorporated into this Ordinance.

Section 8. ZONING DISTRICTS - BOUNDARIES

A. Unless otherwise set forth in the Official Shoreland Zoning Map, District boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. "Where uncertainty exists" as to exact location of District boundary lines, the Code Enforcement Officer shall make the initial determination as to the exact location of District boundaries. Any decision of the Code Enforcement can be appealed as specified in Section 14 I, the Board of Appeals shall be the final authority as to location.

B. Where a District boundary line divides a lot or parcel of land under single ownership at the time of adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended up to 50 feet into the more restricted portion of the lot, subject to approval of the Planning Board as a Conditional Use

and in accordance with the criteria set forth in

Section 14, sub section J. Exception: The 50 foot extension does not apply to resource protection district boundaries.

Section 9. ZONING DISTRICTS - PURPOSE

A. Resource Protection District

The Resource Protection District is established so as to include areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values. This district shall include:

1. Shoreland other than limited residential and/or land wetland as defined in Section 14, or specifically areas rated as moderate to high value waterfowl areas by the Department of Inland Fisheries and Game, as of January 1, 1973.
2. Flood plains as defined by the 100 year flood or the flood of record or, in the absence of these, by soil types identifiable as recent flood plain soils.
3. Areas having sustained slopes greater than 25%, or unstable soil subject to slumping, mass movement, or severe erosion, when these areas are two or more acres in size.
4. Areas of hydric soils greater than 1 Acre.

This District may also include:

5. Other significant wildlife habitat.
6. Natural sites of significant scenic or esthetic value.
7. Areas designated by Federal, State or municipal governments as natural areas of significance to be protected from development; and
8. Other significant areas which should be included in this District to fulfill the purposes of this Ordinance.
9. Sites of significant historical or archaeological importance to the Town, region, or state.

B. Limited Residential District

1. The Limited Residential District shall be those areas as delineated on the Official Stow Zoning Map or as classified as shoreland zone as defined in section 2, except those areas classified as Resource Protection.
2. The Limited Residential District is established To control the use and development of undeveloped shoreland areas, as defined in Section 2, and to

provide maximum protection to the land and water resources so that;

- a. The process of accelerated nutrient enrichment of waterbodies, which almost always accompanied shoreland development, will be kept to a minimum; and
 - b. Waterbodies, particularly those with public access, will be maintained in a condition fit for the present and future use and enjoyment of the public.
3. To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation, and the exact nature of the effects of shoreland development on that degradation process.
 4. To minimize expenditures of public monies for flood control projects.
 5. To minimize rescue and relief effort undertaken at the expense of the general public.
 6. To minimize flood damage to public facilities such as water mains, sewer lines, streets and bridges.
 7. To protect the storage capacity of flood plain and assure retention of sufficient floodway area to convey flood flows which reasonably can be expected to occur.
 8. To encourage open space uses such as agricultural and recreation.
 9. To control building sites.
- C. General Residential and Development District is created to allow maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by imposing minimum controls on those uses which, by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create nuisances or unsafe or unhealthy conditions.
1. The General Residential and Development District is any area within the Town of Stow not otherwise zoned as Resource Protection Zone or Limited Residential Zone.

Section 10. ZONING DISTRICTS - LAND USES

Land uses permitted in each District, in conformance with the land use standards of Section 13, are shown in the table, Appendix A.

Section 11. ZONING DISTRICTS - DIMENSIONAL REQUIREMENTS

A. Size Requirements

Lots in all Districts shall meet or exceed the following minimum requirements:

Minimum Lot Size Requirements - Conventional Developments

District	Min Lot Size	Net Residential Density	Road Frontage
G.R.	90,000 s.f. (1.)	80,000 s.f./unit	100 feet
L.R.	90,000 s.f. (1.)	90,000 s.f./unit	200 feet
R.P.	N/A	N/A	N/A

Minimum Lot Size Requirements - Multi-Family Developments, Cluster Developments and PUD

District	Min Lot Size	Net Residential Density	Road Frontage
G.R.	45,000 s.f. (1.)	80,000 s.f./unit	100 feet
L.R.	60,000 s.f. (1.)	90,000 s.f./unit	200 feet
R.P.	N/A	N/A	N/A

- (1.) Each proposed lot shall have at least 20,000 contiguous s.f. of suitable building area in the shape of a rectangle with the long dimension no longer than twice the length of the short dimension. Said rectangle of buildable area shall be capable of being inscribed within the setbacks of each lot and shall not include any resource protection on shoreland lands.
- (2.) Net Residential Density shall be the Net Residential Average divided by the proposed number of dwelling units. The Net Residential Acreage is calculated by the following formula: The total development area less:
 1. 15% for roads and easements.
 2. Land which is cut off from the main parcel by a road, existing land uses, or major stream so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes.
 3. Land shown to be in the floodway or coastal high hazard area of the Flood Insurance Rate Map (FIRM).
 4. Other areas which are unsuitable for development in their natural state because of topography, drainage or subsoil conditions. Specific conditions include but are not limited to:
 - (i) Areas of internal ponds, lakes, or stormwater management ponds
 - (ii) Slopes in excess of 25%
 - (iii) Hydric soils.
 5. Resource Protection Districts.

Where the Planning Board determines that the extent of unsuitability in a specific case requires interpretation it shall be guided by whether or not the potential unsuitable area in its natural state could be incorporated into a minimum size developable lot in a traditional subdivision.

B. Minimum Frontage

1. All buildable lots shall have at least 100 linear feet of contiguous frontage along a public or private road, providing that the road used as frontage meets or exceeds the standards set forth in the Town of Stow Road Acceptance Ordinance.
2. Where lots are located on a cul-de-sac, the frontage shall be measured at the setback line, providing that the actual length of road frontage shall not be less than 66 feet.
3. The minimum width of any lot shall be 66 feet in the General Residential Zone and 200 feet in the Limited Residential Zones.
4. Lots within cluster or planned unit developments may be allowed a 50% reduction in frontage at the planning boards discretion.
5. Where a planning unit development proposes that all land area outside of building footprints or unit edges are to remain in common or in the case of condominium developments, or where a development proposes no individual lots, then frontage requirements are waived.
6. Any lot abutting a lake, pond or river shall have a minimum shore frontage of 200 feet as measured in a straight line between points of intersection of the side lot lines with the shoreland at the normal high water elevation.
7. Easements and right-of-ways may not be counted as frontage. Any frontage may not be counted for more than one lot.
8. Any lot with less than the required frontage shall be considered a non-building lot unless said lot is grandfathered under the conditions of this ordinance or the lot can be classified as a back lot under the requirements of this ordinance.

C. Minimum Setback Dimensions

1. All principal structures and necessary buildings shall meet the following setback requirements.

General Residential

	Conventional	Multi-Unit (1.)
Front Yard Setbacks	75'	100'
Side Yard Setbacks	30'	50'
Rear Yard Setbacks	50'	75'
Setbacks from Waterbodies	100'	100'

Limited Residential

Conventional Multi-Unit (1.)

Front Yard Setbacks	100'	125'
Side Yard Setbacks	75'	100'
Rear Yard Setbacks	75'	100'
Setback from Waterbodies	250'	250'

(1.) Perimeter boundary's only.

2. A 50% reduction in setbacks from interior lot lines in cluster developments or Planned Unit Developments may be allowed. Exterior setback requirements and setbacks to waterbodies are excluded from the 50% reduction.

D. Maximum Impervious Cover

1. Structures shall not cover more than 20% of any lot.
2. The Gross Impervious Cover on any lot shall not exceed 40% of the total lot area.
3. The Gross Impervious Cover of any development (including but not limited to internal roads and amenities) shall not exceed 50% of the Net Residential Acreage.

E. Multiple Buildings

1. If more than one principal building or dwelling unit, or accessory structure is constructed on a single lot, all dimensional requirements shall be met separately for each such principal building or dwelling unit.
2. No more than one dwelling unit will be permitted per lot, without Planning Board Approval. Only one dwelling unit will be allowed per conforming lot under 120,000 s.f. in size. One additional dwelling unit will be permitted for lots which are 120,000 s.f. in size and larger. More than two dwelling units on a single parcel will be considered as a multi-family or Planned Unit Development.

F. Access to Roads

1. Any multi-housing complex, planned-unit development, cluster development, condominium development or subdivision consisting of 3 or more lots shall have access provided by a public or private road as defined by the Town of Stow Road Acceptance Ordinance.

G. Back lots:

1. The objective to allow a limited number of back lots was desired to:
 - a. Make available desirable building sites which otherwise might not be available due to the unreasonable cost of providing cost of providing roads and required frontage.

- b. Allow for diversity in living patterns.
 - c. Allow for creation of back lots under a common standard to assure reasonable access and protection of public health and safety and to provide public services to such back lots.
2. Back lots may be approved by the Planning Board in the General Residential and Limited Residential Districts. A back lot is a lot without required frontage or a public or private road, which may be used for the construction of one single family dwelling unit and associated accessory structures providing the following requirements are met:
- a. The lot is at least 90,000 s.f. in size exclusive of the right-of-way or easement providing access.
 - b. Said back lot meets all other dimensional requirements of this or other ordinances.
 - c. Only one back lot will be allowed to be created from an existing building lot which exists at the time this ordinance is adopted.
 - d. The parent lot does have the required frontage on a public or private road.
 - e. The proposed back lot is provided access from a public or private road by a legally recorded (in the Oxford County Registry of Deeds) easement or right-of-way.
 - f. Easement or right-of-way meets the following requirements:
 - Easement or right-of-way shall be at least 66 feet wide and shall meet the geometrical requirements of the Town of Stow Road Acceptance Ordinance.
 - The proposed easement or right-of-way does not make the parent lot non-conforming.
 - Easement or right-of-way will no longer be counted as frontage or as area for the parent lot.
 - Easement or right-of-way may be used for no more than two back lots until such time that the easement or right-of-way is brought up to town road standards.

H. Accessory Apartments

1. One accessory apartment will be permitted for each conforming lot. To be considered an accessory apartment, the living quarters may have one private bath or one kitchen facility but not both. Any apartment which maintains both a private bath and kitchen will be considered a dwelling unit for the

purpose of this ordinance. In addition, accessory apartments must meet the following conditions:

- a. The apartment should maintain the exterior character of the principle building and should maintain a subordinate use relative to the principle structure. Access to the accessory apartment shall be through the principle structure although an additional exterior entrance is permitted.
- b. Prior to issuance of a building permit for accessory apartments the applicant shall provide proof that the proposed use is in compliance with the State of Maine Plumbing Code; that the existing septic field, if not to be expanded, is in proper working order; and that all other State, Federal or Local codes have been met.
- c. Accessory Apartments shall not be converted into dwelling units without approval of the Planning Board.

Section 12. ZONING DISTRICTS-NON-CONFORMING USES

- A. Any lawful use of building, structures, premises, land or parts thereof existing at the effective date of this Ordinance or amendments thereto and not in conformance with the provisions of this Ordinance shall be considered to be a non-conforming use.
- B. Any non-conforming use may continue and may be maintained, repaired, and improved. No such non-conforming use, or renewed after it has been discontinued for a period of 12 calendar months or more, without a Conditional Use Permit from the Planning Board in accordance with the criteria set forth in Section 13, subsection J.
- C. Whenever a non-conforming use is superseded by a permitted use, the non-conforming use may not thereafter be resumed.
- D. A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or dimensional requirements of the District in which it is located may be built upon provided that such lot is not adjoined by other land of the same ownership and that all other provisions of the Ordinance shall be met. Variance of yard or other dimensional requirements shall be obtained only by action of the Board of Appeals.
- E. Nothing in this Ordinance shall prohibit the installation of sanitary waste disposal or treatment and discharge systems where such systems conform to the current State Plumbing Code and have received any necessary permits from the Department of Environmental Protection provided that this Subsection shall only permit installation of systems attached to structures in existence prior to the adoption of this Ordinance.

F. Creation of Non-conforming lots:

This ordinance does not prohibit the creation of non-conforming lots for purposes other than building lots (such as wood lots, open space, common land, parks, etc.) Any non-conforming lot created after the adoption of this ordinance may not be used as a buildable lot until such time it becomes a conforming lot. Any non-building or non-conforming lot which is part of an approved subdivision, said lot shall be clearly identified as such, both on the plan and on recorded documents.

Section 13. LAND USE STANDARDS

All land use activities shall conform to the following applicable land use standards.

A. Agriculture

1. All Agricultural Land Uses within Shoreland Zones shall be in conformance with the Town of Stow Shoreland Zoning Ordinance.

B. Beach Construction

Beach construction on any great pond or coastal wetland shall require a permit from the Department of Environmental Protection. Beach construction on any river, stream, or brook capable of floating watercraft shall require approval from the Commissioner of the Department of Inland Fish and Game, as required by law.

C. Campgrounds

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

1. Camping areas shall contain a minimum of 5,000 sq. ft. of suitable land, not including roads and driveways, for each site.
2. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of 200 feet from the normal high water mark of any pond, river, or fresh water body as defined; and 100 feet from tributary streams.

D. Timber Harvesting and Clearing

1. All Timber Harvesting within Shoreland Zones shall be in conformance with the Town of Stow Shoreland Zoning Ordinance.

E. Erosion and Sedimentation Control

Filling, grading, lagooning, dredging, earth-moving activities of over 1000 cubic yards per 12 calendar months, developments and road construction within the

shoreland zone shall require a permit from the Planning Board. All approved construction shall be performed in such a manner so as to minimize soil erosion, sedimentation or otherwise degrade the surface waters of the State of Maine. Applications for such permits shall include a soil erosion and sediment control plan and closure plan. The Planning Board reserves the right to require Soil Erosion and Sediment Control Plans and/or Closure Plans to be reviewed by the Oxford County Soil and Water Conservation District.

F. Mineral Exploration

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations.

G. Piers, Docks, Wharfs, Breakwaters, Causeways, Marinas, Bridges over 20 feet in length, and Uses Projecting into Water Bodies

In addition to Federal or State permits which may be required for such structures and uses; or the requirements of the town of Stow Shoreland Zoning Ordinance; these uses shall conform to the following:

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 developed beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

H. Road Construction

1. Roads shall be located, constructed, and maintained in accordance with the Town of Stow Road acceptance ordinance.

I. Sanitary Standards

1. Subsurface Sewage Disposal

A. Soil Conditions

1. All subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size.
2. All sanitary waste disposal systems shall conform

to the current State Plumbing Code. A soils report prepared by a Maine Licensed Site Evaluator or Soil Scientist shall be required prior to the application for any Planning Board Permit unless waived by the Planning Board.

B. Setback

The minimum setback for new subsurface sewage disposal systems, except replacement systems shall be no less than one hundred feet (100') from the normal high water line of a water body, except that the septic tank may be located seventy-five feet (75') from the normal high water line if tested and found to be water tight in the presence of the local plumbing inspector. Minimum setbacks for new subsurface sewage disposal systems in Shoreland Zones shall not be reduced by variance.. Where daily sewage flow exceeds 2,000 gallons, the minimum setback shall be 300 feet from any shoreline. All other setback requirements of the State Plumbing Code shall be met in full. Setbacks from shorelines for all surface sewage disposal facilities shall not be reduced by variance.

- C. Replacement systems shall meet or exceed the Standards for replacement systems as contained in the Maine plumbing Code.
- D. The Planning Board reserves the right to require hydrogeologic or other studies on models which will provide reasonable proof that any subsurface discharge of sewage effluent will not have any significant impact on the ground-water quality or quantity. For the purpose of this ordinance, ground-water shall meet the national drinking water standards when it leaves the site. The burden of proof shall rest solely with the applicant and any cost incurred by the Planning Board or the Town of Stow as a result of additional engineering studies that may be required to verify information supplied shall be paid for by the applicant.

2. Privies

Privies may be permitted in areas not served by community sewer facilities under the following conditions:

- a. No plumbing of any kind shall be connected to or discharged into the privy pit.
- b. The privy shall be located at a minimum horizontal distance of 100 feet from the normal high water mark of a waterbody.
- c. The bottom of the privy pit shall be at least two feet above bedrock and the ground water table at its highest point during the year or have a water-tight vault.

- d. Privies shall not be permitted on recent flood plain soils.

3. Other Systems

Other systems of sanitary waste disposal may be permitted after approval by the Maine Department of Health and Welfare, and after a permit has been issued by the Planning Board.

J. Signs

The following provisions shall govern the use of signs in the Town of Stow.

1. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided such signs shall not exceed 10 square feet, and shall not exceed two (2) signs per premises. Billboards and signs relating to goods and services not rendered on the premises shall be prohibited.
2. Name signs shall be permitted, providing such signs shall not exceed two (2) signs per premises.
3. Residential users may display a single sign not over six (6) square feet in area relating to the sale, rental, or lease of the premise.
4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. No sign shall extend higher than ten (10) feet above the ground.
6. Signs may be illuminated only by shielding, non-flashing lights.

K. Soils

1. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report, prepared by a State-certified soil scientist or Site Evaluator based on an on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.
2. All major subdivisions shall be required to submit a High Intensity Soils Survey. The Planning Board reserves the right to require additional Subsurface

investigations for Conditional use Permits.

3. The Planning Board reserves the right to require the applicant of any development to provide a soil erosion and sediment control plan endorsed by the Oxford County Soil and water Conservation District.

L. Structures

1. All principal structures in the Resource Protection and Limited Residential-Recreational Districts shall be set back at least 100 feet from normal high water mark of any pond, river, or salt water body as def.
2. The first floor elevation or openings of all buildings and structures shall be elevated at least two feet above the elevation of the 100 year flood, the flood record or, in the absence of these, the flood as defined by soil types identifiable as recent flood plain soils.

M. Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated, liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

N. Planned Unit Developments, Cluster Developments, Condominiums and Multi-Family Developments.

1. Purpose

The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed.

2: Basic Requirements

Planned Unit Developments, Cluster Developments, Condominiums and Multi-Family Development shall meet all of the following criteria:

- a. All requirements for residential developments, shall be met.
- b. The minimum area of land in a Planned Unit Development or Cluster Development shall be 10 acres.
- c. In no case shall shore frontage be reduced below

the minimum shore frontage normally required in the District.

- d. All common land for recreational or conservation purposes shall be owned jointly or in common by the owners of the building lots, by a trust or association which has its principal purpose in the conservation or preservation of land in essentially its natural condition, or by the Municipality.
- e. Further subdivision of common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited.
- f. Where a planned unit development or cluster development abuts a water body, a portion of the shoreline as well as reasonable access to it, shall be a part of common land.
- g. P.U.D.'s, Cluster Developments, condominiums and multi-family developments shall have vegetated buffers along all side and rear property lines.

O. Public Access

- 1. Where major Subdivisions abut a waterbody, a portion of the shoreland, as well as reasonable access to it, shall be a part of the common land. Reasonable public access to great pond shorelines, significant bogs, marshes and all rivers shall be a part of the common land.

P. Small Business and Home Occupations

- 1. Home Occupations, as defined in this ordinance, are permitted in the General Residential and Limited Residential zones without a Conditional Use Permit.
- 2. Small business, as defined in this Ordinance are permitted in the General Residential and Limited Residential Zones provided that a Conditional Use Permit is obtained. Conditional Use Permits for small business may be obtained from the Code Enforcement Officer provided that the following Conditions are met:
 - a. The building or use shall be located at least 120 feet from any existing abutting dwelling unit.
 - b. All proposed small business shall be in conformance with all State and Federal Regulations.
 - c. Any small business in legal operation at the time of the adoption of this Ordinance may continue to operate without a Conditional Use Permit.
 - d. All small business will be allowed a one-time 25% increase in floor space, even if such increase exceeds 2000 s.f., without a Conditional Use Permit.

- e. Any business which does not meet the conditions set forth above will require a Conditional Use Permit.
- f. Adequate screening and/or buffers shall be provided to minimize impacts on abutting properties.
- g. In addition, If, in the opinion of the Code Enforcement Officer no impact on surrounding neighborhoods will be realized from the proposed use, the Code Enforcement Officer may issue the Conditional Use permit.
- h. However, if, in the opinion of the Code Enforcement Officer, the proposed use will have an adverse impact on the neighborhood where the use is to be located, the Code Enforcement Officer can request the Applicant to apply for a Conditional Use Permit from the Planning Board, and a Public Hearing will be called.

Section 14. ADMINISTRATION

1. Enforcement

This Ordinance shall be enforced by a Code Enforcement Officer appointed by the Municipal Officers.

2. Building or Use Permit

- a. All applications for Building or Use Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose.
- b. Within seven days of the filing of an application for a Building or Use Permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, he shall also provide a copy of his decision to the Planning Board within seven (7) days.
- c. No Building Permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent, until proposed construction or alteration of a building or structure shall comply in all respects with the provisions of this Ordinance or with a decision rendered by the Board of Appeals or the Planning Board. Any application for such a permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an acceptable soils report by a licensed Site Evaluator or Soil Scientist, if applicable, the exact location and size of all buildings or structures to be constructed, together with the

lines within which all buildings and structures are to be constructed the existing and intended

use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

- d. Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.
- e. A Building Permit secured under the provisions of this ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not substantially completed within two years of the date on which the permit is granted.

3. Plumbing Permit Required

No Building Permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the sanitary provisions of this Ordinance and the Maine State Plumbing Code.

4. Fees

No Building Permit shall be issued without payment of a fee according to the following schedule:

Use	Under 800 sf	800-1200 sf	Over 1200 sf
Garage or Accessory Building	\$15	\$25	\$0.03/sf
Mobile Homes	\$25	\$50	\$0.06/sf
Residences	\$50	\$75	\$0.08/sf
Commercial Buildings and Multi-Family:	\$0.10/s.f.		

Other Permit Fees:

Conditional Use Permits:	\$35 plus \$7/abutter notice
Other Permits:	\$35
Applicants for Board of Appeals:	\$35 plus \$7/abutter notice
Subdivision Applications: Minor:	\$35 plus \$7/abutter notice
Major:	\$50 plus \$10/lot

5. Enforcement Officer

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 shall notify in writing the person responsible for such violation and ordering the action necessary to

correct it. He shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

6. Legal Action and Violations

When any violation of any provision of this Ordinance shall be found to exist, the Municipal Attorney, as designated by the Municipal Officers, either on his own initiative, or upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the said Municipality.

7. Fines

Any person, firm or corporation being the owner or having control or use of any building or premises who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and on conviction shall be fined not less than \$5.00 and not more than \$100.00. Each day such a violation is permitted to exist after notification shall constitute a separate offense.

8. Appeals and Conditional Permits

- a. All appeals or applications for Conditional Use Permit shall be based upon a written decision of the Code Enforcement Officer.
- b. Administrative appeals and variance appeals shall be heard and decided upon by the Board of Appeals in accordance with the provisions of this Ordinance.
- c. Except where specified otherwise in this Ordinance, All applications for Conditional Use Permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.
- d. Appeals shall lie from the decision of the Code Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court according to State Law.

9.0 Board of Appeals

a. Establishment

A Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.

b. Appointment and Composition

The Board of Appeals shall be appointed by the Municipal Officers and shall consist of five members, all of whom shall be legal residents of the municipality, serving staggered terms of at least 3 and not more than 5 years. The Board shall elect annually a chairman and secretary from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of 3 members.

A Municipal Officer may not serve as a member.

Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

A member of the Board may be dismissed for cause by the Municipal Officers upon written charges and after public hearing.

c. Powers and Duties

Administrative Appeals: to hear and decide where it is alleged there is an error in any order, requirement, decision, or determination by the Code Enforcement Officer in the enforcement of this Ordinance. The action of the Code Enforcement Officer may be modified or reversed by the Board of Appeals, by concurring vote of at least 3 members of the Board.

Variance Appeals: to hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

As used in this Ordinance, a variance is authorized only for height, area, and size of structures of dimensional requirements of lots. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals shall grant a variance only by concurring vote of at least 3 members and in so doing, may prescribe conditions

and safeguards as are appropriate under this Ordinance.

d. Appeal Procedure

In all cases, a person aggrieved by a decision of the Code Enforcement Officer shall commence his appeal within 30 days after a decision is made by the Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.

Following the filing of an appeal, and before taking action on any appeal, the Board of Appeals shall hold a public hearing on the appeal within 30 days. The Board of Appeals shall notify the Code Enforcement Officer and the Planning Board, at least 20 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area.

In appeals involving the use of buildings or premises, the Board of Appeals shall notify by certified mail the appellant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the appeal and of the time and place of the public hearing.

In the case of appeals involving space and bulk regulations or interpretation, the Board of Appeals shall notify by certified mail the appellant and only the owners of property abutting the property for which an appeal is taken, at least 10 days in advance of the hearing, of the nature of the appeal and of the time and place of the public hearing thereon. For the purpose of this section, abutting properties shall include properties directly across a street or waterbody from the property for which the appeal is made.

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

At any hearing, a party may be represented by agent or attorney. Hearing shall not be continued to other times except for good cause.

The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other materials he deems appropriate for an understanding of the appeal.

The appellant's case shall be heard first. To

maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

Within 20 days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall inform, in writing, the appellant, the Code Enforcement Officer, the Planning Board, and the Municipal Officers of its decision and its reasons therefor.

Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a Building Permit in accordance with the conditions of the approval.

A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.

10. Conditional Use Permits

a. Authorization

The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits in accordance with State law and the provisions of this Ordinance.

b. Powers and Duties

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

c. Application Procedure

A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose.

Following the filing of an application, and before taking action on any application, the Planning Board shall hold a public hearing on the application within 30 days. The Planning Board shall notify the Code Enforcement Officer, Municipal Officers, and the Board of Appeals, at least 20 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation the area.

The Board shall notify by certified mail, the

applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the nature of the application and of the time and place of the public hearing.

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

The Code Enforcement Officer or his designated assistant shall attend all hearing and may present to the Planning Board all plans, photographs, or other material he deems appropriate for an understanding of the application.

The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

Within 20 days of the public hearing, the Planning Board shall reach a decision on a Conditional Use and shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reasons therefore.

Upon notification of the decision of the Planning Board the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Building Permit.

A Conditional Use Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date on which the Conditional Use is authorized, and if the work or change is not substantially completed within two years.

d. Factors Applicable to Conditional Use: In considering a Conditional Use Permit the Planning Board shall evaluate the immediate and long-range effect of the proposed use upon;

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution and sedimentation.
3. The control of building sites, placement of structures and land uses.
4. The protection of spawning grounds, fish, aquatic life, bird and other wildlife habitat.
(more)

5. The conservation of shore cover, visual as well as actual points of access to inland waters and natural beauty.
- e. The Planning Board shall also consider the following factors:
1. The compatibility of the proposed use with adjacent land uses.
 2. The need of a particular location for the proposed use.
 3. Access to the site from existing or proposed roads.
 4. The location of the site with respect to flood plains and floodways of rivers or streams.
 5. The amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal systems.
 6. The impact of the proposed use on the land and adjacent water bodies and the capability of the land and water to sustain such use without degradation.
 7. Existing topographic and drainage features and vegetative cover of the site.
 8. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 9. The impact of the proposed use on transportation facilities.
 10. The impact of the proposed use on local population and community facilities.
 11. The impact of the proposed use on local water supplies.

February 3, 1990

DEFINITIONS: The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". Terms not defined shall have the customary dictionary meaning. Other terms shall be defined as follows:

1. Accessory Building or Use: A subordinate building or use customarily incidental to, and located on the same lot with, the principal building or use, including farm markets for the sale of agricultural products which are produced on the lot. A deck or extension of the principle structure or a garage attached to the principle structure by a roof or common wall is considered part of the principal structure and shall require a permit from the same authority as required for the principal structure.
2. Accessory Apartment: An apartment which is subordinate to the primary residence to which it is attached and access to the apartment is via the principle residence and, said accessory apartment may have a bath or a kitchen but may not have both. Apartments which have individual baths and kitchens within the unit shall be considered dwelling units.
3. 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 a group of five (5) or more citizens of the municipality who represent an interest adverse to the granting or denial if such a permit or variance.
4. Agriculture: The use of a tract of land for commercial purposes for cultivation and the production of crops, truck gardening, nurseries or greenhouses, or any allied industry, but exclusive of animal husbandry and exclusive of private gardens less than 1/2 acre.
5. Airport, Private, Personal Use: An airstrip restricted to use by the airstrip owner or lessee, and on an occasional basis, by his invited guests;
6. Animal Husbandry: The keeping of animals for commercial purposes, including dairying, stock raising, poultry raising, and breeding.

7. Aquifer: A geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water.
8. Aquifer Recharge Area: Land area composed of soil or rock that is significantly permeable to allow infiltration and percolation of surface water into an aquifer.
9. Backlot: A lot which does not abut or front on a public road, and where access to the road is by a private right of-way, at least sixty-six feet (66') in width.
10. Basement: That portion of a building which is partly above grade and partly below grade, and having one-half or more of its height above grade.
11. Bed and Breakfast: A lodging facility which maintains a common eating facility for its guests only.
12. Boarding or Retirement Home: Any dwelling in which lodging is offered for compensation to four or more persons either individually or as families with or without meals.
13. Building: Any structure used or intended for supporting or sheltering any use or occupancy.
14. Building Area: Total of areas taken on a horizontal plane at the main 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.
15. Building Height: Vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the roof.
16. Building Inspector: The inspector of buildings for the Town of Stow or any person duly authorized by the selectmen to perform inspection services for the Town of Stow.
17. Campground: Any area or tract of land used for commercial purposes for which fees are charged to accommodate two (2) or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles or other shelters. The word "Campground" shall also mean "tenting grounds" and "trailer parks".
18. Campsite: An area of land not associated with a commercial campground, but which is used for transient or similar temporary occupancy by one tent, recreational vehicle or shelter.

19. Cellar: That portion of a building that is partly or completely below grade and having at least one-half its height below grade.
20. Clinic: An office building used by members of the medical professions for the diagnosis and out-patient treatment of human ailments.
21. Club, Private: Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.
22. Cluster System: A subsurface sewage disposal system that receives the effluent from two or more house units, individual homes, or systems in excess of 600 gallons per day.
23. Cluster Subdivision: A residential subdivision wherein each principle building does not occupy a lot meeting the minimum dimensional requirements of this Ordinance for the district in which it is located, but where the overall net residential density meets or exceeds the required Net Residential Density required for the District in which the Subdivision lies.
24. Commercial Use: The use of lands, buildings, or structures other than "Home Occupations" as defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or serices, exclusive of rental of residential buildings, and/or dwelling units.
25. Conditional Use: A use that would not be appropriate generally or without restriction throughout the land use district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the Public safety, health, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare of the residents of the Town of Stow. Such Uses, where specific provision for such condiiotnal use is madein this Ordinance.
26. Condominium: A type of real estate ownership in which the interior space of individual units are owned separately and all of the rest of the property is owned in common by all of the owners of individual units.
27. Coverage: That percentage of the lot area covered by impervious materials, including but not limited to drives, buildings, sidewalks, etc.
28. District or Zoning District: A section or sections of the Town of Stow for which regulations governing the use of buildings and premises, the size of yards, and intensity of use are uniform.

29. Driveway: Any way, route, access, easement or right-of-way that serves a single-family dwelling, duplex or otherwise less than three dwelling units.
30. Dwelling, attached: A dwelling which shares a common wall with one or more other dwellings, and which has independent outside access.
31. Dwelling, detached: A dwelling which is physically separate from any other building, including manufactured housing which is composed of two or more sections joined lengthwise, with the exception of accessory buildings.
32. Dwelling Unit: A group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking and eating, the total floor area for which is not less than 600 square feet.
33. Emergency Operations: Emergency operations shall include 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 and livestock from the threat of destruction or injury.
34. Essential Services: Gas, electric, communication facilities, steam, fuel or water supply, transmission, or distribution systems.
35. Family: One or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth, adoption, or marriage, but no unrelated group shall consist of more than 5 persons, as distinguished from a group occupying a boarding house, lodging house, or hotel.
36. Flood Insurance Rate Map: That map identifying areas of special flood hazard within the Town of Stow prepared by the Federal Emergency Management Agency (FEMA), as most recently revised, approved and effective.
37. Floor Area: The footprint of all roof portions of a structure enclosed by exterior walls, as measured from the exterior faces of these walls, plus the footprint of any unenclosed portions of a structure such as porches, decks and patios.
38. Forest Management Activities: Timber cruising and other forest resources evaluation activities, pesticide or fertilizing application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintaining of roads.

39. Garden Apartment: A multi-family dwelling in which units share a common outside access. Garden apartment buildings may have dwelling units on two levels, and each unit has secondary outside access by way of a patio or porch. Entrance drives, parking areas, open space and any recreational facilities are shared in common by all occupants.
40. Gasoline Station: Building or land that is used for the sale of motor fuel, oil, and motor vehicle accessories, and servicing motor vehicles, and which may include facilities for lubricating or washing, but not including painting, major repairs, storage of vehicles or sales of vehicles.
41. 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 and except for those privately owned inland bodies of water which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.
42. Groundwater: All water found beneath the surface of the earth.
43. Guest House: A separate single family dwelling intended for the private use of the property owner and located on the same parcel as the principal residential structure. A guest house shall not be leased or rented to non-family member.
44. Hazardous Waste: Any substance or materials which are gaseous, liquid, semi-solid or solid, and which are designated as hazardous by the United States Environmental Protection Agency in regulations which have been proposed or finally promulgated pursuant to the United States Resource and Recovery Conservation Act, Public Law 94-580 and amendment to the Act; and any substance classified as a hazardous waste as defined in 38 MRSA Chapter 13, Subchapter 1.
45. Heliports, Private, Personal Use: A heliport restricted to use by helipad owner or lessee, and on an occasional basis, by his invited guests.
46. Home Occupations: Accessory use conducted within a dwelling or accessory structure by the residents thereof, which is clearly secondary to the dwelling used for living purposes and does not change the character thereof.
47. Hospital: Includes sanitarium, clinic, rest home, nursing home, convalescent home, home for the aged, and any other place for the diagnosis, treatment of human

ailments.

48. Hotel: A building containing individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation, and in which access to all rooms is made through an inside office or lobby.
49. Hydric Soils: Any soil classified as Hydric under the State of Maine or by the Soil Conservation Service or by a State of Maine Licensed Soil Scientist.
50. Impervious Cover: All land area surfaces covered by gravel, pavement, buildings, sidewalks, etc; which essentially prohibit the infiltration of surface water into the ground.
51. Inland Wetland: 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.
52. Junk Yard: As defined by 30 M.R.S.A., Section 2451, B.
53. Kennel: Any premises used for the harboring of more than three dogs that are more than 6 months old.
54. Landscaped Buffer or Buffer Zone: An area of existing vegetation to be retained for the purpose of maintaining privacy, sound buffering and screening of a particular parcel, lot, subdivision, development or use.
55. Leachable Material: Liquid or solid materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants into the groundwater.
56. Light Manufacturing: An establishment which is engaged in the mechanical transformation of materials into new products, including the assembling of component parts, and which has the following characteristics:
 1. Does not create any offensive smoke, dust, odor, or other unhealthy or offensive air-borne discharge;
 2. Does not create any offensive noise or vibration;
 3. Does not include any outdoor storage of equipment or material, and;
 4. Is designed so that the external appearance of any building is compatible with the neighborhood in which it is located.
57. Lodging Facility: A motel, hotel, inn, rooming house, housekeeping cottages or cabins, tourist homes, bed and breakfast or like facility designed for transient occupancy.

58. Loading Space: Off-street used for the temporary location of one licensed motor vehicle, which is at least twelve feet wide and forty feet long and fourteen feet high, not including access driveway, and having direct access to a street or alley.
59. Lot: A tract or parcel of land, in the same ownership, provided that parcels located on opposite sides of a public or private road shall be considered each a separate tract or parcel unless such road was established by the owner of the parcels on both sides thereof.
60. Lot Area: Total horizontal area within the property lines excluding any part thereof lying within the boundaries of a public street, or proposed public street.
61. Lot, Corner: Lot which has an interior angle of less than 135 degrees at the intersection of two streets. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle less than 135 degrees.
62. Lot Frontage: Distance measured along a public or private right-of-way, or in the case of a lot abutting a cul-de-sac, the distance measured along the setback line.
63. Lot Line: Property line bounding a lot.
64. Lot Size: See Lot Area.
65. Marina: A publicly or privately-owned facility that serves five (5) or more boats as a commercial enterprise or in association with a club and which provides for one or more of the following: boat storage, boat launching, sale of marine supplies and services, bait and tackle shops, marine fuel services, watercraft sales and related accessories, related mooring, docking and slip facilities, rental docking or tie-up services, related piers and floats.
66. Manufactured Housing and Mobile Homes: 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.

The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, 2 types of manufactured housing are included. They are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained there; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

(2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations meaning structures, transportable in one or more sections, which 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 contained therein.

67. Market Value: An appraisal of value based on the current market demands.

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68. 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.

69. Mineral Extraction: Any operation engaged in the removal of more than one hundred (100) cubic yards in any twelve (12) month period; of soil, topsoil, loam, sand, gravel, clay, rock, peat or other like material from its natural location and for transportation away from the extraction site.

70. Mobile Home Lot: A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

71. Mobile Home Park: A parcel of land which has been planned and improved for the placement of mobile homes

for non-transient use.

72. Minimum Lot width: The narrowest point of a lot measured between side lot lines.
73. Motel: Building containing rooms which are rented as a series of sleeping units for transients, each sleeping unit consisting of at least a bedroom and bathroom.
74. Motor Vehicle Sales Showroom: Enclosed establishment for the display and sale of new and/or used motor vehicles, trailers, mobile homes, and boats.
75. Multi-family: Any residential building or group of buildings that contain three or more residential dwelling units.
76. Municipal Uses or Buildings: Any use or building maintained by the Town of Stow.
77. Municipal Officer: Any member of the Board of Selectmen of the Town of Stow.
78. Municipal Official: Any member of any Board appointed by the Board of Selectmen or duly elected member of any Board of the Town of Stow, any administrative employee of the Town of Stow.
79. Net Residential Acreage: The portion of a total development site which could be developed in useable individual house lots. Net residential acreage shall be determined by subtracting from gross acreage available the following:
 1. 15% for roads and easements.
 2. Land which is cut off from the main parcel by a road, existing land uses, or major stream so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes.
 3. Land shown to be in the floodway or coastal high hazard area of the Flood Insurance Rate Map (FIRM).
 4. Other areas which are unsuitable for development in their natural state because of topography, drainage or subsoil conditions. Specific conditions include but are not limited to:
 - (i) Areas of internal ponds, lakes, or stormwater management ponds
 - (ii) Slopes in excess of 25%
 - (iii) Hydric soils.

5. Resource Protection Districts.

Where the Planning Board determines that the extent of unsuitability in a specific case requires interpretation it shall be guided by whether or not the potential unsuitable area in its natural state could be incorporated into a minimum size developable lot in a

traditional subdivision.

80. Net Residential Density: The Net Residential Acreage divided by the total number of proposed dwelling units.
81. Non-conforming lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, width, density or depth requirements of the district in which it is located.
82. Non-conforming Structure: A structure that does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took affect.
83. Non-conforming use: A use of buildings, structures, premises, land or parts thereof that is not permitted to be located in the district in which it is situated, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.
84. Normal High Water Mark: That line on the shores and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups - water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups - upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.
85. Nursing Home: Any dwelling in which three (3) or more aged, ill, chronically ill or incurable persons are housed and furnished with meals and nursing care for compensation.
86. Open space: Undeveloped land, including without limitation, woodland, fields and agricultural land.
87. Owner: Any person, firm, corporation or other legal entity which controls a parcel of land by a fee or fee title, or is party to a valid contract or option to purchase said title.

88. **Parking Lot:** An off-street area for greater than three cars.
89. **Parking Space:** Off-space used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and twenty-two feet long, not including access driveway, and have direct access to a street or alley.
90. **Permitted Use:** A use specifically allowed in a zoning district, excluding non-conforming uses and special exceptions.
91. **Personal Services:** Businesses providing services of a personal nature, such as barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, or photographic studio.
92. **Piers, Docks, Wharves and other Structures Lying in or Projecting into water bodies:**
- A. **TEMPORARY:** Structures which remain in the water for less than seven (7) months in any period of twelve (12) consecutive months.
 - B. **PERMANENT:** Structures which remain in the water for seven (7) months or more in any period of twelve (12) consecutive months.
93. **Piggery:** A building or portion thereof, or an enclosure, used or designed for the keeping of more than five pigs more than six months old.
94. **Pond:** Any inland body of water
95. **Principal Structure or use:** A building or use other than one which is wholly incidental or accessory to another building or use on the same premises.
96. **Privy:** A pit in the ground into which human excrement is disposed.
97. **Professional Office:** A building singularly use for the individual or group practice of doctors, lawyers, dentists, optometrists, architects, engineers, accountants, Realtors, insurance agents, or a building used for the branch office of a bank.
98. **Public Access Area:** An area adjacent to the shoreline, either publicly or privately owned on which the public is afforded the right, without fee, to enter for the purpose of gaining physical access to the water. Public rights of access may be subject to reasonable regulations regarding times and manners of use.
99. **Public Facility:** Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated by

a governmental body or public entity.

100. Recent Flood Plain Soils: The following soil series as described and identified by the National Cooperative Soil Survey:

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

101. Recreational Vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be road-worthy (i.e. possess a current registration sticker from any State Division of Motor Vehicles).
102. Religious Institution: Includes church, temple, parish house, convent, or seminary.
103. Replacement system: A system intended to replace:
- A. An existing system which is either malfunctioning or is being upgraded with no significant change of design flow or use of the structure, and
 - B. Any existing overboard wastewater discharge.
104. Retail Store: Any shop or store for the retail sale of goods or personal services, excluding any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.
105. Riding Stable: Any place at which horses or ponies are kept for hire either with or without instructions in riding.
106. Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) horizontal units to one (1) vertical unit or less.
107. River: Any free flowing body of water from that point at which it provides drainage for a watershed of 25 square miles to its mouth.
108. Road: As defined by the Town of Stow Road Ordinance. (For the purpose of the shoreland Ordinance the term "Road" shall mean a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motor vehicles).

109. R.V. or Recreational Vehicle Parks: Any area designated for the temporary parking of Recreational Vehicles with or without water, sewer or electric hook-up, including Campgrounds.
110. Sanitary Sewer: A public or private sewer where wastes are conveyed off-site for treatment.
111. School: A public or private nursery, elementary or secondary school, approved as such by the State of Maine, including accessory uses thereto, and providing instructional services to more than ten students.
112. School, Commercial: Any facility providing instructional services which is not included in the above definition with the exception of day-care or nursery schools with ten or less students.
113. Setback: The shortest horizontal distance between a lot line and any structure on a lot.
- Front Yard: The setback from any right-of-way or road.
- Rear Yard: The setback of a property line which is opposite a front yard setback.
- Side Yard: The setback from any other property line other than front or rear yard setbacks except those property lines along waterbodies.
114. Septage: The sludge material pumped from septic tanks of residential subsurface sewage disposal systems.
115. Service drop: Any utility line extension which does not cross or run beneath any portion of a water body provided that:
- A. In the case of Electric Service.
1. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way, and
 2. The total length of the extension is less than one thousand (1,000) feet.
- B. In the case of Telephone Service.
1. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 2. The extension requiring the installation of new utility poles or placed underground is less than one thousand (1,000) feet in length.
116. Shore Frontage: The length of a lot bordering on a water body, measured in a straight line between the intersection of the side lot lines with the shoreline at the normal high-water elevation.

117. Shoreland Common Area: A parcel of land containing shore frontage, which parcel is a part of a planned development, such as a subdivision or a land owner's association or similar organization, and which parcel provides access to the shoreline for lot owners in the development, subdivision, or association. The term also includes shorefront parcels to which more than two (2) families have a right of access through written contract or deed.
118. Shoreland Zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line or upland edge of a regulated water body.
119. Significant River Segments: See Title 38 MRSA Sec. 437.
120. Signs: The display of a word or words, lettering, parts or letters, figures, numerals, phrases, sentences, emblems, devices, pictures, trade names, trade marks by which anything is made known, and/or combination of these shall be deemed signs.
121. Slaughtering Establishment: A building or other place where animals or poultry, raised elsewhere, are killed or dressed for the market.
122. Small Business: Any business that has less than 2000 sq. ft. of business floor area, not including storage and not including any conforming use which may be present on the premises, AND, has less than 5 employees (full time or part time) not including family members.
123. Special Exception: A use that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, areas, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district by the Board of Adjustment and Appeals, if specific provision for such special exceptions is made in this zoning ordinance.
124. Stream: A channel between defined banks, including the floodway and associated flood plain wetlands, where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing water-borne deposits on exposed soil, parent material or bedrock.
125. Story: That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.
126. Street: The meaning of street shall have the same meaning as a Road as defined by the Town of Stow Road

Ordinance.

127. Structure: Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term shall apply to structures temporarily or permanently located, such as patios, decks and satellite dishes.
128. Structural Alteration: Any change to a structure, other than simple replacement in the supporting members, such as posts, columns, plates, joists, or girders.
129. Subdivision: A subdivision is a division of a tract or parcel of land as defined in Title 30, Section 4956 of the Maine State Statutes.
130. Substantial start: Completion of thirty percent (30%) of a permitted structure or use measured as a percentage of estimated cost.
131. Substantive review: A review of an application to determine whether it complies with the review criteria and with other applicable requirements of this Ordinance.
132. Subsurface Sewage Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designated to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, Subchapter 1.
133. Timber Harvesting: The cutting and removal of trees from their growing site for sale as any forest product, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery including the creation and use of skid trails, exclusive of the construction or creation of roads. Timber harvesting does not include the clearing of land for development approved by the appropriate municipal officials as designated within this Ordinance. Timber harvesting is distinct from clearing for development in that natural vegetation is allowed to reestablish itself for sustained forest growth.

134. Trailer or Travel Trailer: A vehicular portable structure designed as a temporary dwelling for travel or recreational uses, not more than eight feet in body width and thirty-two (32) feet in body length.
135. Tributary Stream: A stream which drains less than twenty-five (25) square miles of land area but is located within the shoreland zone of a water body as defined.
136. Variance: A relaxation of the terms of this zoning ordinance where such variance will 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, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of setbacks and lot coverage and/or the size of signs; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
137. Volume of a structure: The volume of all portions of a structure enclosed by roof and exterior walls as measured from the exterior faces of these walls and roof.
138. Water body: Any great pond, river, tidal area, freshwater wetland or coastal wetland. Wetlands associated with ponds and rivers are considered part of that great pond or river.
139. Water-dependent uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and such uses which primarily provide general public access to marine or tidal waters.
140. Wetland: Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of containing hydric soils and which support aquatic vegetation as delineated by a State of Maine licensed soil scientist and/or biologist; including but

limited to swamps, bogs and marshes.

141. Warehouse: Warehouse, wholesale establishment, bulk storage and bulk sales outlet.

142. Zoning District: See District.

LAND USES

1. Non-intensive recreational uses not requiring structures, such as hunting, fishing and hiking.
2. Motorized vehicular traffic on existing roads and trails, and snowmobiling.
3. Forest management activities except for timber harvesting.
4. Timber harvesting.
5. Clearing of vegetation for approved construction and other permitted uses.
6. Fire Prevention activities.
7. Wildlife management practices.
8. Soil and water conservation practices
9. Mineral exploration.*
10. Mineral extraction including sand and gravel extraction
11. Surveying and Resource Analysis.
12. Emergency operations as defined.
13. Harvesting of wild crops.
14. Agriculture.*

SHORELAND ZONES

Resource Protections	Limited Residential	General Residential & Development
yes	yes	yes
yes 1	yes	yes
yes	yes	yes
CEO 2	yes	yes
PB	yes	yes
yes	yes	yes
yes	yes	yes
yes	yes	yes
yes 4	yes	yes
PB 5	PB	PB
yes	yes	yes
yes	yes	yes
yes	yes	yes
no 6	yes	yes

15. Aquaculture.

16. Principal structures and uses.*

Single Family

One & Two Family residential

Multi-Family residential (more than 2 units)

Planned unit or cluster development

Mobile Homes

Large Commercial structures (>2000 sf)

Industrial structures

Home Occupations

Small Commercial structures (2000 sf & less)

Government and Institutional

Other

17. Structures accessory to permitted uses.

18. Conversions of seasonal residential structures to year-round residences

19. Private sewage disposal systems for permitted use.

20. Road construction and parking facilities.*

21. Small non-residential facilities for educational, scientific or nature interpretation purposes.

22. Public and private parks and recreation areas involving minimal structural development

23. Individual campsites (other than campgrounds)

24. Campgrounds and summer camps

PB	PB	PB
no	CEO	CEO
no	CEO	CEO
no	CU permit	CU permit
no	Subdvsn/PB	Subdvsn/PB
no	CEO	CEO
no	no	CU permit
no	no	CU permit
no	yes	yes
no	CU permit	yes
no	no	PB
no	PB	CEO
CU permit	CEO	CEO
no	LPI	LPI
no	LPI	LPI
CU permit	CU permit	yes
CU permit	CU permit	CU permit
CU permit	CU permit	CU permit
no	CEO	CEO
no	no	CU permit

25. Piers, docks, wharfs, breakwaters, causeways, marinas, bridges over 20 feet in length, and uses projecting into water bodies.

Temporary

Permanent

26. Signs *
27. Essential services
28. Service drops, as defined, to permitted uses
29. Essential services accessory to permitted uses.
30. Private sewage disposal systems for permitted uses.
31. Utilities, including sewage collection and treatment facilities.
32. Marinas
33. Filling, draining or other earth moving activity of less than 10 cubic yards.
35. Filling, draining or other earth moving activity of more than 10 cubic yards.
* other than for approved construction
36. Commercial mining.
37. Uses similar to permitted uses
38. Uses similar to uses requiring a CU permit.
39. Uses similar to uses requiring a CEO permit.

CEO	CEO	CEO
no	CU permit/DEP	CU permit/DEP
yes	yes	yes
PB	PB	PB
yes	yes	yes
yes	yes	yes
no	yes permit	yes permit
CU permit	CU permit	CU permit
No	CU permit	CU permit
PB	yes	yes
no	PB	yes
no	no	CU permit
CEO	CEO	CEO
CU permit	CU permit	CU permit
CEO	CEO	CEO

40. Uses similar to uses requiring a PB permit.	PB	PB	PB
41. Hazardous toxic waste and Nuclear waste disposal.	no	no	no

* Other standards

Uses which are not specifically allowed in the above table may be permitted with a conditional use permit.

- 1 In RP trail bikes or ATV's are not permitted and snowmobiling is not permitted in deer yards.
- 2 In RP not permitted within 100 feet of the normal high-water line of great ponds, except to remove safety hazards.
- 3 The Planning Board may delegate authority to issue permits to the code enforcement officer if he or she is certified by the State of Maine, in accordance with Title 30, Section 49467.
- 4 Required permit from the Planning Board if more than 100 square feet of surface area is disturbed.
- 5 In RP not permitted in areas so designated because of wildlife value or archaeological significance.
- 6 In RP permitted with a PB permit in areas so designated because of the 100 -year floodplain only.
- 7 Except where no reasonable alternative route or location is available outside the RP area in which case a permit is required from the PB.

NOTE: Filling or earthmoving activities in or adjacent to regulated water bodies may require a permit from the Maine Department of Environmental Protection.

Shoreland Zoning Ordinance for the Municipality of

Stow, Maine

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any great pond or river,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland, and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

-
4. **Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on 1974, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

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

7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. 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. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. 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 a part of this Ordinance:
- (1) Resource Protection
 - (2) Limited Residential
 - (3) Limited Commercial
 - (4) General Development I
 - (5) General Development II
 - (6) Commercial Fisheries/Maritime Activities
 - (7) Stream Protection
- B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
- C. **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. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
- D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, 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.
11. **Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with

all of the regulations herein specified for the district in which it is located, unless a variance is granted.

12. Non-conformance

A. 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 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

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

C. Non-conforming Structures

- (1) **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 15(B)(1). 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.
 - (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) 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 12(C)(1).
 - (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.

- (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 Section 12(C)(1) or Section 12(C)(1)(a), above.
 - (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 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), 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 12(C)(1)(b)(i) and Section 12(C)(1)(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 Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
- (3) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its

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

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board 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 be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

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

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

- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of 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 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order

to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

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

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

D. Non-conforming Uses

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **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, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

E. Non-conforming Lots

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

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

13. Establishment of Districts

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management

Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

- B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries/Maritime Activities District.
- C. Limited Commercial District.** The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.
- D. General Development I District.** The General Development I District includes the following types of existing, intensively developed areas:
 - (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
 - (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.
- E. General Development II District.** The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

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

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

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

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

G. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

GD General Development I and General Development II

LR - Limited Residential
Activities

CFMA - Commercial Fisheries/Maritime

LC - Limited Commercial

SP - Stream Protection

The following notes are applicable to the Land Uses Table on the following page:

TABLE 1. LAND USES IN THE SHORELAND ZONE
LAND USES

	<u>DISTRICT</u>						<u>CFMA</u>
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>		
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes	yes	
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes	
3. Forest management activities except for timber harvesting& land management roads	yes	yes	yes	yes	yes	yes	
4. Timber harvesting	yes	CEO ¹³	yes	yes	yes	yes	
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes	yes	yes	
6. Fire prevention activities	yes	yes	yes	yes	yes	yes	
7. Wildlife management practices	yes	yes	yes	yes	yes	yes	
8. Soil and water conservation practices	yes	yes	yes	yes	yes	yes	
9. Mineral exploration	no	yes ²	yes ²	yes ²	yes ²	yes ²	
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB	PB	PB	
11. Surveying and resource analysis	yes	yes	yes	yes	yes	yes	
12. Emergency operations	yes	yes	yes	yes	yes	yes	
13. Agriculture	yes	PB	yes	yes	yes	yes	
14. Aquaculture	PB	PB	PB	yes	yes	yes	
15. Principal structures and uses							
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO	no	
B. Multi-unit residential	no	no	PB	PB	PB	no	
C. Commercial	no	no ¹⁰	no ¹⁰	PB	PB	PB ⁵	
D. Industrial	no	no	no	no	PB	PB ⁵	
E. Governmental and institutional	no	no	PB	PB	PB	PB ⁵	
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO	PB ⁵	
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO	yes	yes	
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland							
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	
b. Permanent	PB	PB	PB	PB	PB	PB ⁵	
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	no	
19. Home occupations	PB	PB	PB	CEO	yes	yes	
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI	
21. Essential services	PB ⁶	PB ⁶	PB	PB	PB	PB	
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²	yes ¹²	
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO	CEO	
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB	PB	
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB	PB	
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	yes	
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO ⁵	
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO	
25. Campgrounds	no	no ⁷	PB	PB	PB	no	
26. Road construction	PB	no ⁸	PB	PB	PB	PB ⁵	
27. Land management roads	yes	PB ¹³	yes	yes	yes	yes	
28. Parking facilities	no	no ⁷	PB	PB	PB	PB ⁵	
29. Marinas	PB	no	PB	PB	PB	PB	
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes	yes	
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO	
32. Signs	yes	yes	yes	yes	yes	yes	
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO	
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB	

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in Section 15(L)(2).

⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in Section 15(H)(4).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required but must file a written "notice of intent to construct" with CEO.

¹³Option 3 towns only.

NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate "piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland".

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

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

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

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas 30,000	150	
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas 200		40,000
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities 40,000	200	
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities NONE	NONE	
(iii) Within the Shoreland Zone		

Adjacent to Non-tidal Areas	60,000
300	

(c) Public and Private Recreational Facilities

(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000
200	

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

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream

or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, and Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, or in a Commercial Fisheries/Maritime Activities District, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (b) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (c) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management

Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) 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.

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

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.

- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (9) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
 - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment access way must be restored.
 - (b) Revegetation must occur in accordance with Section 15(S).

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

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

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

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) 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 classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (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 except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) 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 land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer

- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent 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 space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

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

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

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

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

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

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

of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

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

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) 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 at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

O-1. Timber Harvesting – Statewide Standards

- (1) **Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, waterbody and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) **Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - (b) Adjacent to great ponds, rivers and wetlands:
 - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
 - (a) **Option 1 (40% volume removal),** as follows:
 - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-waterline of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (60 square foot basal area retention), as follows:

- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-waterline of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

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

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

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

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

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

(c) Setbacks

- (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

- (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

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

- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-waterline of tributary streams
- (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (f) **Road closeout and discontinuance.** Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (g) **Upgrading existing roads.** Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
 - (h) **Exception.** Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (i) **Additional measures.** In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) **Determination of flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey(USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals .U.S. Geological Survey. Water Resources Investigations Report99-4008. 45 pp.

- (b) **Upgrading existing water crossings.** Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
- (c) **Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) **Notice to Bureau of Forestry.** Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) **Water crossing standards.** All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
 - (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and;
 - (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or

are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) **Bridge and Culvert Sizing.** For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows or with a cross-sectional area at least equal to 3 times the cross-sectional area of the river, stream, or tributary stream channel.
- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
 - 1. use of temporary skidder bridges;
 - 2. removing culverts prior to the onset of frozen ground conditions;
 - 3. using water bars in conjunction with culverts;
 - 4. using road dips in conjunction with culverts.
- (iii) Culverts utilized in river, stream and tributary stream crossings must:
 - 1. be installed at or below river, stream or tributary stream bed elevation;
 - 2. be seated on firm ground;
 - 3. have soil compacted at least halfway up the side of the culvert;
 - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing maybe required to pass a 100-year flood event.
- (v) **Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity

with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) **Skid trail closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.

(ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

(iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) **Land management road closeout.** Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

(i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

(ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

(iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least $3\frac{1}{2}$ times the cross-sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

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

(7) Slope Table

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

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

- (8) **Definitions.** Unless otherwise provided herein, this Section O-1 incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, "Forest Regeneration and Clear cutting Standards", and Chapter 21, "Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas".

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

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section Q..

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

- (2) Except in areas as described in Section P(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
- (a) There shall be no cleared opening greater than 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 single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified

GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

The following shall govern in applying this point system:

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

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

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

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
 - (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).
- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland

zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

- (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (ii) Stumps from the storm-damaged trees may not be removed;
 - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. 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 coastal wetland; or
 - (b) 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.

- (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 vegetation 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 storm water;
 - (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 storm water;
 - (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 storm water; 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.

T. Erosion and Sedimentation Control

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

- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of 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. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- U. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- V. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- W. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

16. Administration

A. Administering Bodies and Agents

- (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) **Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

(3) **Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

(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 Section 14.

(2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

(3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

(4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

(5) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each

day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

- D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 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 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

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

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

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board 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 of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone

unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

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.

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

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

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) 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.

- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, 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. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
- (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) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(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.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
 - (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

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

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

I. Enforcement

- (1) Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

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

17. Definitions

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

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

Agriculture - the production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

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

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

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

Bureau of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

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

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

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

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

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

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

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

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

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

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

Excavation contractor - an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in the business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

Expansion of a structure - an increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

Family- one or more persons occupying a premises and living as a single housekeeping unit.

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

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint- the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement,

pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

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

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

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

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

- (1) Of ten or more contiguous acres; or of less than 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 10 acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

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

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

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

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

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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

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

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

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

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

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

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used

primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

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

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

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

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

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

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

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

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

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

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.

Principal structure - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

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

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

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

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle

and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

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

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

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

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

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

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

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

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

- (1) in the case of electric service

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

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

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

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

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

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

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

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 , highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure– anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial

equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

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

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

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – all waters affected by tidal action during the highest annual tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

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

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary stream– means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such

vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater or coastal wetland.

Windfirm - the ability of a forest stand to withstand strong winds and resist wind throw, wind rocking, and major breakage.

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