

2017

## Town of Alna Maine Ordinances

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# TOWN OF ALNA CONSUMER FIREWORKS ORDINANCE - Adopted 3/18/17

## 1. PURPOSE

The purpose of this Ordinance is to restrict and manage the use of fireworks in Alna in order to protect the health, safety and welfare of the residents of the Town of Alna. **The issues of fire safety and respectful consideration of neighbors are at the center of the purpose.**

## 2. TITLE & AUTHORITY

This ordinance shall be known as the "Town of Alna Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of 8 M.R.S.A. § 223-A.

## 3. SCOPE

This Ordinance shall apply to the use of Consumer Fireworks, as defined below, within the limits of Alna, Maine

## 4. DEFINITIONS

**Consumer Fireworks** has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. **"Consumer fireworks" does not include the following products, which are illegal to sell, use or possess in Maine:**

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

**Fireworks** means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. Other article that was prepared for the purpose of producing a visible or audible

effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrocket, roman candles, bomb, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;

D. Fireworks containing any explosive or flammable compound; or

E. Tablets or other device containing any explosive substance or flammable compounds.

The term "Fireworks" **does not include** consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

**Public Land** means land owned or leased by the Town of Alna, State of Maine, or another governmental or quasi-governmental agency or entity. "Public Land" expressly includes, without limitation, all Town and State streets, roads, highways and parks.

## 5. SEVERABILITY

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

## 6. PERMITS

Anyone planning to use consumer fireworks in Alna must obtain a permit for the use of said fireworks **with the following exceptions. No permits are required for consumer fireworks: July 4, December 31, the weekends immediately before and after July 4 and December 31. All other requirements of this ordinance remain in effect.** Permits are available from the Town Clerk at the Town Office during normal business hours and must be on file prior to the use of any consumer fireworks. If it is deemed necessary by the Selectmen, permits may also become available from other Town Officials.

## 7. HOURS

Consumer fireworks may be used between the hours of 9:00 am and 10:00 pm, except that on the following dates they may be used from 9:00 am and 12:30 am the following day: July 4, December 31, the weekends immediately before and after July 4 and December 31.

## **8. FIRE CONDITIONS**

The use of consumer fireworks is only permitted on days rated as Class 1 or 2 for Fire Danger as determined by the Maine Forest Service in their Wildfire Danger Report published at: [http://maine.gov/dacf/mfs/wildfire\\_danger\\_report/index.html](http://maine.gov/dacf/mfs/wildfire_danger_report/index.html) OR Google "Maine Forest Service Wildfire Danger."

## **9. PROPERTY**

A person may use consumer fireworks only on that person's property or on the property of a person who has given written consent for the use of consumer fireworks on that property.

## **10. AGE**

Consumer fireworks shall not be purchased, used or possessed by any person under the age of 21.

## **11. IMPAIRMENT**

A person may not use, display, fire or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs.

## **12. PROXIMITY**

Consumer fireworks shall not be used within 50 feet of any combustible structure, overhead power lines or public right of way.

Consumer fireworks shall not be used within 300 feet of a licensed daycare, school, church, or a pasture with livestock present **without specific written permission from the owner of the licensed daycare, school, church, or pastured livestock.**

## **13. TOWN PROPERTY**

The use of consumer fireworks on Town owned property, including roadways, public parks, and public rights of way, is prohibited.

## **14. LIABILITY**

The Town assumes no liability for injuries or destruction of property that result from the use of consumer fireworks.

## **15. FIRES**

Means to extinguish any spot fires resulting from the use of consumer fireworks must be available including, but not limited to, fire extinguishers and garden hoses. Access to 911 by landline or mobile telephone must also be available during the use of consumer fireworks should an emergency arise.

## **16. BOATS**

Consumer fireworks may not be used on, in or from any watercraft located within the waters of the Town.

## **17. COMPLAINTS**

Complaints should be made to the Lincoln County Sheriff's Office by dialing 911, 882-7332 or any other number designated by the Sheriff's Office as appropriate for this type of complaint. Any written complaints should be directed to the Selectmen of the Town of Alna.

## **18. VIOLATIONS**

If a fire starts from actions in violation of this ordinance, the property owner is financially responsible for extinguishing said fire. If the damage is to another person's property, the holder of this permit may also be responsible for those damages.

**In addition to the financial responsibility for extinguishing a fire caused by the use of consumer fireworks**, fines will be imposed for any breach of the above limitations on the use of consumer fireworks.

## **19. FINES**

First Offense: \$100

Second Offense: \$250

Third Offense: \$500

Subsequent Offenses: Selectmen's discretion

**Failure to pay fines will result in the denial of future permits for the use of consumer fireworks.**

## **20. ENFORCEMENT**

The Town of Alna Consumer Fireworks Ordinance will be enforced by the Lincoln County Sheriff's Department by special agreement between the LCSO and the Town's Selectmen.

## **21. MISCELLANEOUS**

Nothing in this Ordinance shall be construed to apply to a person issued a fireworks display permit by the State of Maine pursuant to 8 M.R.S.A. § 227-A, as may be amended from time to time.

Nothing in this Ordinance shall be construed to allow the use of any fireworks or consumer fireworks that are prohibited by State law.

## **22. Notification recommendations that are practices of good neighbors**

Neighbors within 200 feet of the originating location of the consumer fireworks display should be notified in advance of the date and time of the planned event. As a courtesy, people with young children or pets, shift workers, those adverse to loud noises such as former or current military members with PTSD, and anyone else suspected to be sensitive to the use of fireworks, should be advised of any fireworks plans so they have the opportunity to adequately prepare.

# Town of Alna Consumer Fireworks Permit

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

Date of consumer fireworks event: \_\_\_\_\_ Time: \_\_\_\_\_  
(Permit is only valid for this date and time. Changes in plans require a new permit.)

Location: \_\_\_\_\_

1. If this is not your property, do you have written consent from the owner? Y N NA
2. Do you have written permission from the owners of any licensed daycare business, schools, churches, or pastured livestock within 300 feet of the originating point of your consumer fireworks display? Y N NA
3. Have you made a reasonable attempt to notify your neighbors of your plans? Y N
4. If you have not already notified neighbors, do you plan to notify them? Y N NA
5. Do you know how to check with the Maine Forest Service for Fire Danger? Y N

I have read the Town of Alna Consumer Fireworks Ordinance and agree to adhere to the restrictions therein.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**Permit approval is contingent on fire weather conditions  
on the day of the event as determined by the Maine Forest Service.  
Use of consumer fireworks is only permitted on Class 1 and 2 days.**

Permit approved

Permit denied

Reason for denial:

\_\_\_\_\_  
Town Official's Signature

\_\_\_\_\_  
Date

**TOWN OF ALNA, MAINE  
BUILDING CODE ORDINANCE  
(As Amended, March 24, 2001)**

**Section 1 Purposes**

The purposes of this Ordinance are to provide for safety, health and public welfare through regulations on new construction, regulations on the relocation, additions to, renovations and replacement of existing structures and regulations for businesses.

**Section 2 Authority and Effective Date**

This Ordinance has been prepared in accordance with the provisions of Title 30-A, Section 3001 of the Maine Revised Statutes Annotated (MRSA) and the Home Rule Powers as provided for in Article VIII-A of the Maine Constitution. This Ordinance shall be effective upon its adoption by vote of the Special Town Meeting on June 28, 1995. This Ordinance was amended by vote of the Special Town Meeting on June 26, 1996, the Annual Town Meeting on March 29, 1997, and the Annual Town Meeting on March 24, 2001.<sup>1</sup>

**Section 3 Applicability**

The provisions of this Ordinance shall apply to all new construction, the relocation, additions to, renovations and replacements of all existing structures and regulations for businesses. Also included in this Ordinance are provisions for the siting and construction of manufactured housing which does not comprise a Mobile Home Park.

**Section 4 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 this Ordinance.

**Section 5 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, the more restrictive provision shall control.

## **Section 6 Amendments**

This Ordinance can only be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Planning Board, the Board of Selectmen or on petition of 10% of the number of registered voters of the Town who voted in the last gubernatorial election. The Planning Board shall conduct a public hearing on any proposed amendment.

## **Section 7 Filing and Availability**

A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk. Copies shall be available to any Town resident or property owner at no charge and to others at a reasonable cost.

## **Section 8 Definitions**

For the purpose of this Ordinance the following words and phrases shall have the meaning herein described.

- A. Accessory Apartment. A non-rental dwelling unit that is contained within the confines of a principal dwelling unit, or is attached to that dwelling unit, or is contained within the structure of a free standing out building, such as a garage or barn, on the same lot as the principal dwelling unit.
- B. Addition. An expansion in volume and/or area to an existing structure, including, but not limited to, decks, porches and garages.
- C. Business. Any enterprise engaged in the sale, lease, production or distribution of any products, equipment, supplies, goods, commodities, including plants and animals, or services which are sold, leased or distributed by the owner or an affiliated person where revenue exceeds \$500 per year.
- D. Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for one family including living, cooking, sleeping, bathing and sanitary facilities.
- E. Lot. An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Lincoln County Registry of Deeds.
- F. Manufactured Housing. As defined in Section 11 of the Town of Alna, Maine Mobile Home Park Ordinance.



- G. Mobile Home Park. As defined in Section 11 of the Town of Alna, Maine Mobile Home Park Ordinance.
- H. New Construction. All structures, newly constructed on a lot, said lot conforming to specifications of this Ordinance.
- I. Relocation. Any structure moved to a new lot or a structure moved to a new location on the lot it occupied. Both lot and structure must conform to the provisions of this Ordinance.
- J. Renovations. Any modification or addition to a structure's chimney, electrical and/or plumbing system.
- K. Replacement. Any structure already constructed which is to be moved to the existing site of a structure destroyed by fire or other natural calamity, or new construction of a structure on the existing site of a building lost because of the foregoing reasons.
- L. Shoreland Zone. As defined in Section 17 of the Shoreland Zoning Ordinance for the Town of Alna, Maine.
- M. Structures. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, exclusive of fences. A structure also includes manufactured housing when it is not located in a Mobile Home Park.

### **Section 9 Building Inspector/Code Enforcement Officer**

The Board of Selectmen is hereby given the power and authority to enforce the provisions of this Ordinance. In carrying out their responsibilities, the Board of Selectmen shall appoint a Building Inspector/Code Enforcement Officer and an assistant Building Inspector/Code Enforcement Officer. The Selectmen shall delegate to said Building Inspector/Code Enforcement Officer and the assistant, the power and authority in accordance with the provisions of this Ordinance, to issue any and all permits, except permits for land use activities in the Shoreland Zone which shall be the responsibility of the Planning Board.

### **Section 10 Inspections**

During reasonable hours and with due notice, the Building Inspector/Code Enforcement Officer and/or the assistant Building Inspector/Code Enforcement Officer, in performance of their duties shall have access to any lot or building under construction for the purpose of enforcing provisions of this Ordinance.

## **Section 11 Non-Conformance**

A non-conforming land use, building or structure may be continued, repaired, or replaced within two (2) years if destroyed by fire, natural calamity or act of God, but the area in non-conforming use may not be extended or expanded except in conformity with the provisions of this Ordinance.

## **Section 12 Permits**

- A. Outside of the Shoreland Zone, prior to new construction of a structure of greater than 200 square feet or the addition to, renovation, relocation or replacement of an existing structure where the proposed work exceeds 200 square feet, the owner, lessee, architect, contractor or builder employed by owner or lessee shall obtain a permit from the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer. Although permits will not be issued for any structure, or work thereto, of less than 200 square feet, the structure, or work thereto, must comply with all other provisions of this Ordinance.
- B. Within the Shoreland Zone, prior to new construction of a structure of any size or the addition to, renovation, relocation or replacement of an existing structure where the proposed work is of any size, the owner, lessee, architect, contractor or builder employed by owner or lessee shall obtain a permit from the Planning Board.
- C. Application. The permit application shall be on a form supplied by the Town and contain a description of the proposed new construction, addition to, relocation, renovation or replacement of any structure. The application shall be filed with the Building Inspector/Code Enforcement Officer or the assistant Building Inspector/Code Enforcement Officer if the proposed work is outside of the Shoreland Zone and with the Planning Board if the proposed work is within the Shoreland Zone.
- D. Permit Approval. The Building Inspector/Code Enforcement Officer or the assistant Building Inspector/Code Enforcement Officer for proposed work outside of the Shoreland Zone or the Planning Board for proposed work within the Shoreland Zone, after proper examination of the application, shall either issue the permit or notice of refusal within 30 days of application submittal. Failure of the Building Inspector/Code Enforcement Officer or the assistant Building Inspector/Code Enforcement Officer or the Planning Board, as applicable, to act on the application within the 30 days of application submittal shall constitute automatic denial. Notice of refusal shall be in writing, stating reasons therefore. Applicant may appeal an adverse ruling to the Board of Appeals within thirty days of such action.

- E. Life of Permit. All permits are non-transferable and unless renewed, shall be void unless work thereunder is substantially completed within two years of date of issuance.
- F. Fees. The Board of Selectmen may at its discretion establish and publish a schedule of permit fees.(as Amended June 25, 2007)

### **Section 13 Size of Lot**

- A. Each dwelling unit, except for Accessory Apartments, shall be on a lot of ground not less than two acres (87,120 square feet) in area and the lot shall be of such dimensions that the lot will accommodate within its boundaries a square of not less than 150 feet on a side.
- B. The division of any lot shall not result in a lot, including the residual lot, with less than these minimum dimensions.
- C. A single lot of record, as of June 19, 1980, which does not meet the area (two acres) or width requirement (a square of 150 foot on a side), or both, may be built upon provided that such lot shall be in a separate ownership and not be contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance and 12 MRSA Section 4807 (Minimum Lot Size Law) shall be met.
- D. If two or more contiguous lots are in single ownership of record at any time since June 19, 1980, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single lot for the purpose of this Ordinance.

### **Section 14 Location**

- A. No structure or subsurface sewage disposal system shall be closer than 50 feet to the center line of any street or highway and shall be setback at least 20 feet from any adjoining lot.
- B. Ample off-street parking shall be provided for structures. This may be accomplished by driveway space, garage space, parking lot space or any combination of these spaces.

### **Section 15 Minimum Floor Area and Height**

Except for Accessory Apartments, no dwelling unit shall be constructed, added to or replaced that encloses less than 600 square feet of living space. Living space shall not include porches, patios or similar areas, enclosed or not. No new structure or an

existing structure added to or replaced shall exceed 35 feet in height measured from the structure's sill.

## **Section 16 Accessory Apartments**

Accessory Apartments shall adhere to the following standards:

- A. The owner of the principal dwelling unit must reside in either the principal unit or the accessory unit.
- B. When the accessory apartment is contained in an out building, the principal purpose of the out building must be for non-human occupancy, such as a barn or garage.
- C. The occupants of the accessory and principal units must be members of the same extended family, or a certified medical caregiver of a family member. Extended family shall mean: father, mother, son daughter, sister, brother, (or in-law relationships of any of the preceding), grandparent, aunt, or uncle
- D. Guest occupancy of an accessory unit by an unrelated party is permissible so long as the total of such occupancies does not exceed ninety (90) days in any calendar year and no rent or other consideration is received for such occupancy.
- E. The existing or proposed septic system must be of a size appropriate to serve both the principal dwelling and the accessory unit, as certified by the CEO or the Plumbing Officer.
- F. The accessory unit may not exceed eight hundred (800) square feet of living space.
- G. Proper ingress and egress shall be provided to the accessory unit.
- H. Upon approval of the accessory apartment by the CEO, a deed restriction shall be placed on the property, which shall be recorded at the Lincoln County Registry of Deeds. The restriction shall restate the limited use of the accessory unit, as specified in this section.
- I. Should the owners of the principal structure be found in non-compliance with the requirements contained in this section, the CEO shall order that occupancy of the accessory unit be discontinued.
- J. Nothing in this section shall restrict a properly permitted bed and breakfast or other place of lodging for transitory guests.

## **Section 17 Building Standards**

All construction shall conform to generally accepted standards of good building practice. Each dwelling unit shall have at least two suitable exit doorways.

- A. Chimney. If the building is to have a chimney, it shall be a type approved by the State of Maine Fire Marshall or Oil Burnerman's Licensing Board.
- B. Exterior Walls. The exterior walls visible from a public way shall be finished within 12 months after occupancy. Builder's paper, 15 pound felt paper, tarred paper or similar substances shall not be used for more than twelve months after occupancy, unless an extension is granted by the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer.
- C. Manufactured Housing. Manufactured Housing shall meet the safety standards specified in Section 9, Subsection Q of the Town of Alna, Maine Mobile Home Park Ordinance.

### **Section 18 Electrical Installations**

Electrical work shall be in accordance with the National Electrical Code published by the National Fire Protection Association.

### **Section 19 Plumbing and Subsurface Sewage Disposal**

All plumbing and/or sewage disposal for any structure covered by the provisions of this Ordinance shall be in strict accordance with the State of Maine Internal Plumbing Rules and/or Subsurface Wastewater Disposal Rules. No plumbing or subsurface sewage disposal system shall be covered until it has been inspected and permission to cover given by the Town of Alna Licensed Plumbing Inspector.

### **Section 20 Businesses**

- A. New Businesses. All new businesses not covered under the Subdivision and Site Review Ordinance, shall apply in writing for a New Business Permit from the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer, who shall within seven (7) working days notify the Planning Board. When the Planning Board has received a complete application, including a \$10.00 application fee and a review of the site by the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer, the Planning Board will either approve the application, if it is agreed that such new business does not or will not constitute a nuisance because of noxious fumes, odors, dust, unsanitary waste disposal, water pollution, vibration, glare, noise or undue parking problems, or call a Public Hearing on the application. Notice of said hearing,

including a description of the proposed business, will be posted at the usual locations and mailed by the applicant to all abutting property owners and all other property owners within 1,000 feet along any public highway from the proposed business.

- B. Expanded Businesses. Any time a business permitted under this section proposes to increase the square footage devoted to its enterprise by an amount in excess of twenty-five (25) percent of that originally permitted, the expansion must be reviewed under the procedures of this section. Any new business or expansion which would result in a total business facility in excess of 2,000 square feet is reviewable under Section IV of the Subdivision and Site Review Ordinance.
- C. The Planning Board may deny a permit if upon its own review, or upon recommendation of the Building Inspector/Code Enforcement Officer or assistant Building Inspector/Code Enforcement Officer, or upon reviewing comments from the Public Hearing, it determines that such a business would constitute a nuisance because of noxious fumes, odors, dust, unsanitary waste disposal, water pollution, vibration, glare, noise or undue parking problems, or would otherwise place an undue burden upon the municipal services of the Town of Alna.
- D. Permanent signs shall conform to the following criteria:
  - 1. Directional signs shall be limited to three square feet and shall not exceed six in number.
  - 2. Freestanding signs relating to goods and/or services sold on the premises shall not exceed twelve square feet in area, per sign, and shall be limited to two signs, which may be two-sided.
  - 3. Temporary signs (garage sales, etc.) shall be permitted for seventy-two hours only.
  - 4. All existing signs are grandfathered, as long as they conform to State Law.
- E. An applicant may appeal an adverse action by the Planning Board to the Board of Appeals within thirty days of the date of such action.

## **Section 21 Violations and Enforcement**

The Selectmen, Code Enforcement Officer/Building Inspector or assistant Code Enforcement Officer/Building Inspector, upon a finding that any provision of this Ordinance or the condition(s) of any approval is being violated, are authorized to institute legal proceedings to enjoin violations of this Ordinance. Any violation of this

Ordinance shall be considered a nuisance. Any person, firm or corporation violating any provision of this Ordinance shall be subject to fines and shall be liable for court costs and reasonable attorney fees incurred by the Town, as provided by Title 30-A, MRSA Section 4452.

## **Section 22 Appeals and Variances**

Appeals and variances shall be governed by the Town of Alna Board of Appeals Ordinance.

## **Section 23 Special Exceptions**

In regard to the location of structures on a lot, Section 14, by special exception the Planning Board may allow structural location to be reduced provided that the applicant demonstrates that all of the following conditions and/or requirements are met:

- A. The setback for an addition to a structure may be the same distance from the centerline of a street or roadway as the original structure provided that the original structure existed in its current location prior to December 14, 1970, that the addition will not be within the right-of-way of the street or roadway and that the addition will not be within thirty-three (33) feet of the center line of the street or roadway.
- B. The setback for an addition to a structure may be reduced to 10 feet from an adjoining lot provided that the original structure existed in its current location prior to December 14, 1970 and that the owner of the adjoining lot states in a notarized document that they have no objection to the reduction.
- C. The setback for a temporary structure of less than 200 square feet, such as a school bus stop shelter, a farm stand or other seasonal use structure, may be reduced to 33 feet from the centerline of a street or roadway provided that the structure does not have a poured-in-place concrete foundation or other feature which would make the structure incapable of being easily moved. If the Planning Board approves a special exception for any of these uses, a condition of approval shall be that the structure will be relocated to a distance of at least 50 feet from the centerline of a street or roadway once the structure is no longer being used for any of these uses.

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<sup>1</sup> To add a new Section 16, Accessory Apartments, and make other changes to the Ordinance consistent with the requirements of this new section.

**FLOODPLAIN MANAGEMENT ORDINANCE**

**FOR THE**

**TOWN OF ALNA, MAINE**

---

ENACTED: \_\_\_\_\_  
Date

EFFECTIVE: \_\_\_\_\_  
Date

CERTIFIED BY: \_\_\_\_\_  
Signature

CERTIFIED BY: \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Affix Seal



# FLOODPLAIN MANAGEMENT ORDINANCE

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## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Alna, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Alna, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Alna, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Alna has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Alna having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Alna, Maine.

The areas of special flood hazard, Zone A, for the Town of Alna, Lincoln County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Lincoln County, Maine" dated July 16, 2015 with accompanying "Flood Insurance Rate Map" dated July 16, 2015 with panels: 120D, 140D, 235D, 244D, 245D, 255D, and 265D derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Lincoln County, Maine" are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Alna, Maine.

## **ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot

dimensions;

- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
    - a. from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model), including information obtained pursuant to Article VI.K. and VIII.D.;
    - b. from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
    - c. to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
  - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  - 3. a certified statement that bridges will meet the standards of Article VI.M.;
  - 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee as established in the Town of Alna's Permit Fee Schedule as revised from time to time by the Board of Selectmen & Code Enforcement Officer and payable to the Town of Alna with a note indicating the purpose of the fee shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  - 1. the base flood data contained in the "Flood Insurance Rate Map - Lincoln County, Maine," as described in Article I;
  - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
  - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program, prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.,2., and 3. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

## ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and,
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., or together with attendant utility and sanitary facilities shall:
1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  3. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- H. **Manufactured Homes** - New or substantially improved manufactured homes located within Zone A shall:
1. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.;
  2. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - a. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

- b. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
- c. all components of the anchoring system described in Article VI.H.3.a. & b. shall be capable of carrying a force of 4800 pounds.

**I. Recreational Vehicles** – Recreational Vehicles located within:

- 1. Zone A shall either:
  - a. be on the site for fewer than 180 consecutive days,
  - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
  - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1 .

**J. Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zone A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

- 1. be 500 square feet or less and have a value less than \$3000;
- 2. have unfinished interiors and not be used for human habitation;
- 3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
- 4. be located outside the floodway;
- 5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- 6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

**K. Floodways** - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- 1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

2. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

**L. Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zone A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

**M. Bridges** - New construction or substantial improvement of any bridge in Zone A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; and
2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.



- N. **Containment Walls** - New construction or substantial improvement of any containment wall located within Zone A shall:
1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article VIII.D.
  2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:
1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

#### **ARTICLE VII - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  1. review the Elevation Certificate and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

#### **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.

- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE IX - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Alna may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  1. a showing of good and sufficient cause; and,
  2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - 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; and,
    - 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.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
  2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
  2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  2. such construction below the base flood level increases risks to life and property; and,
  3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
  2. Upon being notified of an appeal, 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.
  3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
  4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. 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 days from the date of any decision of the Board of Appeals.

#### **ARTICLE X - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **ARTICLE XI - VALIDITY AND SEVERABILITY**

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

#### **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, 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.

## ARTICLE XIII - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - means a small detached structure that is incidental and subordinate to the principal structure.

**Adjacent Grade** - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map cited in Article I of this Ordinance.

**Base Flood** - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - see **Structure**.

**Certificate of Compliance** - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Development** - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**Digital Flood Insurance Rate Map (FIRM)** – see **Flood Insurance Rate Map**

**Elevated Building** - means a non-basement building

- a. built, in the case of a building in Zone A, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L.

**Elevation Certificate** - An official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Floodplain or Flood-prone Area** - means any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.K. of this ordinance.

**Manufactured Home** - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

**National Geodetic Vertical Datum (NGVD)** - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**New Construction** - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)**- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** – means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. in Zone A riverine areas, the floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.



**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

#### **ARTICLE XIV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (b) Rev. 01/15  
Prepared by DACF/sb

# Town of Alna

## MOBILE HOME AND TRAILER ORDINANCE

Section 1: Definitions. For the purpose of this ordinance, the following words and phrases have the meaning ascribed to them in this section.

- A. Mobile Home: Mobile home shall mean a structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length or has 256 square feet or more of floor area and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein.
- B. House Trailer, Camper or Recreational Vehicle: A mobile home which does not have a toilet and a bathtub or shower or which does not meet the requirements of a mobile home as defined in Section 1(A). The term shall also include campers and recreational vehicles which are placed on a truck body or chassis either temporarily or permanently.
- C. Mobile Home Parks: Mobile home parks shall mean a plot of ground on which two or more mobile homes occupied for dwelling or sleeping purposes are located.

Section 2: General Prohibitions.

- A. Mobile Home Parks: The establishment of any mobile home park within the bounds of the Town of Alna, Maine is hereby prohibited.
- B. Campers and Recreational Vehicles: A single camper or recreational vehicle which is 8 body feet or less in width and is 32 body feet or less in length or has less than 256 square feet of floor space and which is placed on a truck body or chasses either temporarily or permanently may be located and occupied on a lot for not more than one hundred twenty (120) days during a calendar year provided any and all sewerage discharges are made in accordance with the laws of the State of Maine.

Section 3: Singly Situated Mobile Home Requirements. Mobile Homes permitted by this ordinance shall conform to the following regulations;

- A. Permit Required: Each owner of a mobile home before locating it in the Town of Alna shall first obtain a permit from the Building Inspector/Code Enforcement Officer. Application shall be on a form supplied by the town and include but not be limited to the following data:

1. A deed, option, or purchase contract in the name of the mobile home owner to the land on which he proposes to locate his mobile home, said deed, or option having been recorded in the Lincoln County Registry of Deeds.
  2. The number of occupants.
  3. Make, model, and year of the mobile home.
  4. Estimated period of time mobile home is to be located on the single plot of ground.
  5. Evidence that the mobile home meets the requirements of the national Underwriters Association.
  6. A plot plan with measurements showing the location of the mobile home, driveways, parking areas, wells, septic systems and drainage fields and natural characteristics of the land.
- B. Size of Lot: Each dwelling unit shall be on a lot of ground not less than two(2) acres (87120 sq. ft.) in area, and the lot shall be of such dimensions that it will accommodate within its boundaries a square of not less than 150 feet on a side. All structures and all subsurface sewerage disposal systems shall not be less than twenty (20) feet from adjoining property lines and not less than fifty (50) feet from existing street lines and highways. The division of any lot shall not result in a lot, including the residual lot, with less than these minimum dimensions.
- C. Permanent Additions Prohibited: No permanent additions, foundations, lean-to, studs, or rooms shall be added to any mobile home without a permit from the building Inspector/ CEO.
- D. Permit Approval: The Building Inspector/CEO, after examination of application, shall either issue the permit or notice of refusal within a reasonable time. Notice of refusal shall be in writing, stating reasons therefore. Applicant may appeal ruling to the Appeals Board.
- E. Life of Permit: All permits are non-transferable and unless renewed, shall be void unless work there under is substantially completed within one (1) year of date of issuance.
- F. Fees: Fees shall be \$2.00 for first estimated \$1,000 or part thereof and \$1.00 for each additional \$1,000 or part thereof of work. All fees to be a minimum of \$10.00.

Section 4: When stock in trade. This ordinance shall not apply to trailers or mobile homes in the hands of dealers as stock in trade for resale, as long as said trailers and mobile homes remain unoccupied, except that no trailer or mobile home shall be exhibited for sale for commercial purposes in any area, or singly occupied mobile home site.

- Section 5: When Unoccupied and Temporarily Stored. This ordinance shall not apply to trailers and mobile homes that are unoccupied and stored temporarily in buildings, garages or on private property, if said trailers or mobile homes are located as inconspicuously as possible from any public street or way.
- Section 6: Application to Existing Mobile Homes. This ordinance shall not apply to existing mobile homes on an existing site established prior to its effective date, provided that sanitary and utility requirements comply with State of Maine regulations. However, after said date such mobile home may not be extended, altered or replaced except in conformance with this ordinance.
- Section 7: Penalty for Violation.
- A. Violation and Enforcements: The Selectmen on their own volition or upon the recommendation of the Building Inspector/CEO and upon finding that any provision of this ordinance is being violated are authorized to institute legal proceedings to enjoin violations of this ordinance.
- B. Fines: A person who violates the provisions of this Ordinance shall be guilty of a civil violation and shall be assessed a civil penalty of not more than \$100 for each violation. Each day such violation continues shall constitute a separate violation. Such persons, if found in violation shall be liable for court costs and reasonable attorney fees incurred by the municipality, as provided by Title 30, MRSA Section 4966.
- Section 8: Appointment of Building Inspector/Code Enforcement Officer. It shall be the duty of the Board of Selectmen, and the Board is hereby given power and authority to enforce the provisions of this ordinance. In carrying out its responsibilities, the Board of Selectmen shall appoint a Building Inspector/Code Enforcement Officer and shall delegate to said Building Inspector/Code Enforcement Officer the power and authority in accordance with the provisions of this ordinance, to issue any and all permits.
- Section 9: Board of Appeals: A Board of Appeals is hereby established which shall consist of three members and one associate member, all of whom shall be residents of Alna. Appointments to the Board shall be made by the Selectmen. The terms of office shall be three years except that the initial appointments shall be such that no more than two appointments shall expire in a single year.
- A Selectman or spouse or Planning Board Member or spouse shall not be a member or associate member of the Board of Appeals.

The Associate Member shall act only when one of the regular members is unable to act because of physical incapacity or absence, or has a conflict of interest in the matter.

Section 10: Appeals and Variances: If the Building Inspector/CEO disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting land owner or any aggrieved party, or when it is claimed that the provisions of the ordinance do not apply, or that the true intent and meaning of the ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting land owner, or aggrieved party may appeal the decision in writing to the Board of Appeals within thirty (30) days of the decision. The Board of Appeals may reverse the Building Inspector/CEO's decision after holding a public hearing and may grant a variance, which is a relaxation of the terms of this ordinance where such variance would not be contrary to the public interest when, owing to conditions peculiar to the property, a literal enforcement of this ordinance would result in unnecessary or undue hardship. 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.

Appeals from the Board of Appeal's decisions may be taken by any aggrieved party to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Section 11. Conflict of Ordinance and Validity.

A. Conflict or Ordinance and Validity: In any case where a provision of the Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the State of Maine existing on the effective date of this Ordinance, the provision which establishes the higher standard for the promotion and protection of the Health and Safety of the people shall prevail. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance or Code of the State of Maine, existing on the effective date of this Ordinance which establishes a lower standard for the people, the provisions of this Ordinance shall be deemed to prevail.

B. Saving Clause: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and to this end, the provisions of his Ordinance are hereby declared to be severable.

Section 12: Amendments. This Ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the

Planning Board or by request of the Board of Selectmen to the Planning Board or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Planning Board shall conduct a public hearing on any proposed amendment.

# Shoreland Zoning Ordinance for the Town of Alna, Maine

(Amended 3/19/11 Town Meeting)

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# **Shoreland Zoning Ordinance for the Town of Alna, Maine**

## **Section 1. Purposes**

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

## **Section 2. Authority**

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated.

## **Section 3. Applicability**

This Ordinance applies to all land areas within 250 feet, horizontal distance, from the normal high-water line of the non-tidal portion of the Sheepscot River or from the upland edge of the coastal wetland on the tidal portion of the river; within 250 feet, horizontal distance, of the upland edge of freshwater wetlands; within 250 feet, horizontal distance, of the normal high-water line of great ponds; within 75 feet, horizontal distance, of the normal high-water line of a perennial stream; and within 35 feet, horizontal distance, of the normal high-water line of an intermittent stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located beyond the normal high-water line of a water body or within a freshwater wetland.

## **Section 4. Effective Date and Repeal of Formerly Adopted Ordinance**

A. This Ordinance, which was originally adopted by the Town Meeting on December 14, 1993 and was most recently amended by the Annual Town Meeting held on March 19, 2011 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner

fails to act on this

Ordinance within 45 days of his/her receipt of the Ordinance, it shall be automatically approved. Any application for a permit submitted to the municipality within the 45 day period shall be governed by the terms of this Ordinance if the Ordinance is approved by the Commissioner.

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

- Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
- Section 15(N) in its entirety; and
- Section 17. Definitions, the definitions of "forest management activities", skid trail or road", "slash", "basal area", "cross-sectional area", "DBH", "forest stand", "harvest area", "licensed forester", "residual stand", "windfirm" and "residual basal area".

### **Section 5. Availability**

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Notice of availability of this Ordinance shall be posted.

### **Section 6. Severability**

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

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

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

### **Section 8. Amendments**

This Ordinance may be amended by majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of

Selectmen to the Planning Board or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Planning Board shall conduct a public hearing on any proposed amendments. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Meeting and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the town within the 45 day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

## **Section 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 which is made a part of this Ordinance:

1. Resource Protection District
2. Stream Protection District
3. Limited Residential District
4. Head Tide Village District
5. Alewife Fishery District

Except as provided for in section 14, there shall be no Commercial or General Development Districts in the shoreland zone and any commercial or industrial use is prohibited.

### B. Intersection of Districts

Where districts intersect, the following order of precedence shall be applicable:

1. Resource Protection District
2. Stream Protection District
3. Limited Residential, Head Tide Village or Alewife Fishery Districts

In all cases where an intermittent stream flows thru any district, that portion of the intermittent stream shall be considered a tributary stream.

### C. 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.

### D. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Alna Town Hall.

### E. 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 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

## **Section 10. Interpretation of District Boundaries**

District boundary lines are as defined in Section 13. The depiction of the boundaries of the Shoreland Area on the Official Shoreland Zoning Map is merely illustrative of their general location. The exact boundaries of the zone shall be determined by on-site inspection and measurement from the normal high water line or upland edge of a wetland.

## **Section 11. Land Use Requirements**

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

## **Section 12. Non-conformance (Administered by the Planning Board)**

### 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 shall be allowed to continue, subject to the requirements set forth in this section. 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 the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require. Applicable permits are required.

3. The Planning Board shall keep and update a record of all expansions and additions.

## C. Non-conforming Structures

1. *Expansions:* A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in conformance with subsections a, b and c, below.

### *Further Limitations:*

a. If any portion of an existing structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a freshwater wetland, that portion of the structure as existed as of 1 January 1989 shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

b. Construction or replacement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided; that no part of the foundation, excluding exterior foundation entrance bulkhead, extend beyond the existing footprint of the structure and that the foundation does not cause the structure to be elevated by more than three additional feet. 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)(2) Relocation, below

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

2. *Relocation:* A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee and 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 Section 15(J) of this Ordinance. 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 addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

*3. Reconstruction or Replacement:* Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a freshwater or coastal wetland and which is removed, or damaged or destroyed 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 one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent 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 floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% 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)(2) above, the physical condition and type of foundation present, if any.

*4. 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 permitted in Section 12(C)(1)(a) above.

2. *Resumption Prohibited*: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a 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 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)(4) above.

#### E. Non-conforming Lots

1. *Non-conforming Lots*: A non-conforming lot of record as of 15 December 1973 may be built upon 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 size and frontage can be met.

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 and 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.

## **Section 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 Head Tide Village or Alewife Fishery Districts need not be included within the Resource Protection District:

1. Areas within 150 feet, horizontal distance, of the normal high-water line of Pinkham Pond and the Sheepscot River, excepting that area in the Head Tide Village and Alewife Fishery Districts.
2. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer

maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

3. Areas within 150 feet, horizontal distance, of the upland edge of secondary wetlands.

4. Floodplains along the Sheepscot River, 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.

5. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

6. 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.

7. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

#### B. Stream Protection District

The Stream Protection District includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a perennial stream and all land areas within 35 feet, horizontal distance, of the normal high-water line of an intermittent stream exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated 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.

#### C. Limited Residential District

The Limited Residential District includes those areas that have potential for residential development. This district shall include areas from 150 feet to 250 feet, horizontal

distance, of the normal high-water line of the Sheepscot River, excepting that area in the Head Tide Village and Alewife Fishery Districts and areas from 150 feet to 250 feet, horizontal distance, of the upland edge of secondary wetlands. Only certain areas within the Limited Residential District shall be suitable for residential development. These areas shall be called Residential Development Areas and shall meet all of the following criteria.

1. A Residential Development Area shall contain a minimum one-half acre contiguous area where the slope does not exceed 20% except that steeper areas within the Residential Development Area that cumulatively total no more than 3000 square feet are allowable.
2. A Residential Development Area shall be wholly within a single lot of record and shall be wholly within the Limited Residential District.
3. A Residential Development Area shall not contain any floodplain areas of the Sheepscot River.
4. A Residential Development Area shall be no closer than 75 feet, horizontal distance, from the normal high-water line of a tributary stream.
5. A Residential Development Area shall be set back 75 feet, horizontal distance, from the upland edge of any wetland that exceeds 10,000 square feet in area except wetlands as defined in section 13.A.

#### D. Head Tide Village District

The Head Tide Village District includes all land areas within 250 feet, horizontal distance, of the normal high-water line of the Sheepscot River from Lots 9 and 10 in a northwesterly direction to Lot 21 in a southeasterly direction on Sheet U-2 of the Property Maps along the river's northeasterly shoreline.

#### E. Alewife Fishery District

The Alewife Fishery District includes the land area within Lot 6 on Sheet U-2 of the Property Maps.

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

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The 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 - Requires permit issued by the Planning Board or its designee.

LPI - Requires permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection District

LR - Limited Residential District

SP - Stream Protection District

HT - Head Tide Village District

AF - Alewife Fishery District

In addition to a Town of Alna permit, a Department of Environmental Protection permit, under the Natural Resources Protection Act, is required for many of the Land Use activities of Table 1. It is recommended that a permit applicant contact the DEP Land Bureau at 287-2111 for further information prior to starting any activity in, over, or within 75 feet of the Sheepscot River, a *great pond*, a stream or a wetland. Failure to obtain a DEP permit can result in court action and significant fines.

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

<u>LAND USES</u>	<u>DISTRICT</u>				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>HT</u>	<u>AF</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	yes	PB	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	PB	PB	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	no	no	no	no
10. Mineral extraction including sand and gravel extraction	no	no	no	no	no
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	no
14. Aquaculture	PB	PB	PB	PB	no
15. Principal structures and uses					
A. One and two family residential, including driveways	PB1	PB6	PB	PB	no
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no	no	PB	no
D. Industrial	no	no	no	no	no
E. Governmental and institutional	no	no	no	no	no
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	PB	PB	PB	no
16. Structures accessory to allowed uses	PB1	PB6	PB	PB	no
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	PB	PB	PB	PB	PB
b. Permanent	no	no	no	no	no
18. Conversions of seasonal residences to year-round residences	PB2	PB7	LPI	LPI	no
19. Home occupations	PB	no	PB	PB	no
20. Private sewage disposal systems for allowed uses	no	LPI	LPI	LPI	no
21. Essential services	PB3	PB3	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	no
24. Individual, private campsites	PB	PB	PB	PB	no
25. Campgrounds	no	no	no	no	no
26. Road, driveway or railroad construction	no4	no4	PB	PB	no
27. Land management roads	yes	PB	yes	yes	yes
28. Parking facilities	no	no	PB	PB	no
29. Marinas	no	no	no	no	no
30. Filling and earth moving of <10 cubic yards	PB	PB	yes	yes	no
31. Filling and earth moving of >10 cubic yards	PB	PB	PB	PB	no
32. Signs	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	PB	PB	PB	PB	PB
34. Commercial alewife fishing	no	no	no	no	yes
35. Pond construction	PB5	PB	PB	PB	no
36. Repair and upkeep of conforming structures	yes	yes	yes	yes	yes

- 1 Provided that a variance from the setback requirement is obtained from the Board of Appeals
- 2 Provided that the residence has a sewage disposal system that is in accordance with Section 15(J)
- 3 See further restrictions in Section 15(K)(2)
- 4 Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP or SP district, in which case a permit is required from the PB.
- 5 Not allowed on perennial streams
- 6 One family residential structures and/or accessory structures may be allowed by Special Exception only according to the provisions of Section 16.I, Special Exceptions.
- 7 Provided that the residence has a sewage disposal system, or that one can be installed, that is in accordance with Section 15(J).

## **Section 15. Land Use Standards**

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

### **A. Minimum Lot Standards**

1. A lot shall have a minimum shore frontage of 250 feet and a minimum area of two acres.
2. Land below the normal high-water line of a water body or within a freshwater wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.
3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
4. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or the upland edge of a freshwater wetland shall be equal to or greater than 250 feet.
5. If more than one residential dwelling unit, or principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, or principal structure, or use.

### **B. Principal and Accessory Structures**

1. There shall be no new principle and accessory structures in the Resource Protection District except as allowed by special exception (see Section 16.I). New principle and accessory structures in the Stream Protection District shall only be allowed provided that a setback variance is obtained from the Board of Appeals. All new principal and accessory structures in the Limited Residential District shall be wholly within a Residential Development Area. All new principal and accessory structures in the Head Tide Village District and the Alewive District shall be set back at least 75 feet from the normal high-water line of the Sheepscot River or any tributary stream. Prior to the issuance of a building permit the following shall be accomplished:

- a. The permit applicant shall stake out on-site the proposed Residential Development Area if in the Limited Residential District or in a Resource Protection

District or the proposed structure location if in the Head Tide Village District.

b. Once the applicant has staked out these areas, a mandatory Planning Board On-site Inspection shall be conducted. This inspection shall ensure that the location of the Residential Development Area or the proposed structure location is in compliance with this Ordinance. If there is disagreement between the Planning Board and permit applicant in regard to location of the normal high-water line of a waterbody or tributary stream or the upland edge of a freshwater wetland, setbacks from these lines or edges, location of a Residential Development Area or any other issue relating to the on-site determination of the criteria of this Ordinance, the permit applicant shall have the burden of proof.

2. In a Residential Development Area, actual on-site structural location may be anywhere in the area provided that all other setback distances in other town ordinances are complied with.

3. In the Head Tide Village District, actual on-site structural location may vary by a maximum of 30 feet from the location shown on the approved building permit provided that the structure remains in the Head Tide Village District, that the structure remains at least 75 feet, horizontal distance, from the normal high-water line of the Sheepscot River and/or a tributary stream and that all other setback distances in other town ordinances are complied with.

4. Principal or accessory structures and expansions of existing structures which are permitted, shall not exceed 35 feet in height. This provision shall also apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

5. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the 100 year floodplain of the Sheepscot River.

6. The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent (seventy (70) percent in Head Tide Village District) of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.

7. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Planning Board, 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 within a freshwater wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection

Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

8. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

a. The site has been previously altered and an effective vegetated buffer does not exist;

b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

d. The total height of the wall(s), in the aggregate, 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 water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;



- (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

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.

#### C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond (Waterward) the Normal High-Water Line of a Water Body or Within a Freshwater Wetland because of a Functional Water Dependent Use

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a freshwater wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. 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 freshwater wetland shall be converted to residential dwelling units in any district.

New permanent piers and docks 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.

Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

#### D. Campgrounds

There shall be no public campgrounds in the shoreland zone.

#### E. Individual Private Campsites

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

1. One campsite per lot existing on the effective date of this Ordinance, or two acres of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot shall be in accordance with the following locations or setbacks;
  - a. A recreational vehicle or a parking area for other vehicles shall be located only in a Residential Development Area in the Limited Residential District
  - b. 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.
3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. 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. The Planning Board shall receive and retain a copy of all sewage disposal plans.
5. 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 Section 15(J) of this Ordinance.

6. 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.

#### F. Parking Areas

1. Parking areas in the Limited Residential District shall only be located in a Residential Development Area while in the Head Tide Village District, parking areas shall be located 75 feet from the normal high-water line of the Sheepscot River or a tributary stream and 100 feet from a great pond. The setback requirement for parking areas serving public boat launching facilities, may be reduced to no less than 50 feet from the normal high-water line of a waterbody or tributary stream or the upland edge of a freshwater wetland if the Planning Board finds that no other reasonable alternative exists.

2. Parking areas shall be located, sized and designed to fit harmoniously into the surrounding area. Special attention shall be given to preventing storm water runoff from flowing directly into a water body, freshwater wetland or tributary stream. Runoff should be retained on-site if feasible.

#### G. Roads, Driveways and Railroads

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features. These standards are in addition to applicable Natural Resource Protection Act standards as administered by DEP.

1. Roads and driveways in the Limited Residential District shall be located in a Residential Development Area while roads and driveways in the Head Tide Village District shall be set back at least 75 feet, horizontal distance, from the normal high-water line of the Sheepscot River or a tributary stream and 100 feet from a great pond unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet on slopes of twenty percent or less, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or freshwater 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 freshwater wetland. On slopes of greater than twenty percent, the 50 foot setback shall be increased by ten feet for each

five percent increase in slope above twenty percent. This paragraph shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(G)(1) except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or freshwater wetland. Additionally, the Wiscasset and Quebec narrow gauge railroad may be reclaimed and restored within the railroad's historic legal right-of-way in existence at the date of enactment of this ordinance regardless of its setback from a waterbody, tributary stream or freshwater wetland.

3. New roads and driveways are prohibited in a Resource Protection or Stream Protection District except to provide access to permitted uses and structures within that district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body or tributary stream or the upland edge of a freshwater wetland.

4. When no other reasonable alternative exists, the Planning Board shall allow new roads or driveways to cross perennial, intermittent or tributary streams to provide access to permitted uses or structures in the shoreland zone. Culverts used in these cases shall be sized according to the recommendations of section E-1 of the Maine Erosion and Sediment Control Best Management Practices, published by the Maine Department of Environmental Protection.

5. Except for retaining walls, road banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection 15(P) of this Ordinance.

6. Road grades shall be no greater than ten percent except for short segments of less than 200 feet.

7. In order to prevent road surface drainage from directly entering water bodies, tributary streams or freshwater wetlands, roads 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 the water body or tributary stream or the upland edge of a freshwater wetland. Road 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.

8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road 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 at intervals no greater than indicated in the following table:

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

b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten percent or less.

c. On road sections having slopes greater than ten percent, ditch relief culverts shall be placed across the road at approximately a thirty degree angle downslope from a line perpendicular to the centerline of the road.

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 or driveways shall be maintained on a regular basis to assure effective functioning.

#### H. Signs

The following provisions shall govern the use of signs:

1. Signs relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six square feet in area and shall not exceed two signs, which may be two sided per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs shall be permitted, provided such signs shall not exceed two 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 square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two square feet in area.
5. Signs relating to public safety shall be permitted without restriction.
6. No sign shall extend higher than twenty feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.

#### I. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

#### J. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (Rules) with the following modifications:
  - a. In the Limited Residential District all subsurface sewage disposal systems shall be installed in a Residential Development Area where the slope is twenty percent or less. As allowed by special exception (see Section 16.I), a subsurface sewage disposal system may be installed in a Residential Development Area that is located in a Resource Protection District. All subsurface sewage disposal systems shall be inspected by a Licensed Plumbing Inspector prior to installation.
  - b. 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.

#### K. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines, is not permitted in Resource Protection or Stream Protection Districts, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

#### L. Mineral Exploration and Extraction Operations

1. There shall be no new mineral exploration or extraction operations in the shoreland zone.
2. Existing operations may continue but shall expand no closer than 75 feet to the normal high-water line of the Sheepscot River, a perennial or tributary stream or the upland edge of a freshwater wetland and 35 feet to the normal high-water line of an intermittent stream. Additionally, extraction operations shall not be permitted within 75 feet of any property line, without written permission of the owner of such adjacent property.
3. Within twelve months following the completion of extraction operations at any existing site, where such operations shall be deemed complete when less than 100 cubic yards of material is removed in any consecutive twelve month period, ground levels, grades and site reclamation/stabilization 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.
  - b. The final graded slope shall be two to one (2:1) slope or flatter.
  - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this ordinance, the Planning Board may impose such

conditions as are necessary to minimize the adverse impacts associated with expanded mineral extraction operations on surrounding uses and resources.

#### M. Agriculture

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209). A copy of these guidelines shall be retained by the Planning Board and will be made available upon request to any individual.
2. Manure shall not be stored or stockpiled within Resource Protection or Stream Protection Districts; nor within 150 feet of the normal high-water line of the Sheepscot River, within 100 feet of a great pond or within 75 feet of a tributary stream or wetland or in the Head Tide Village District. 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 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water 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 75 feet, horizontal distance, from the normal high-water line of the Sheepscot River or perennial streams, *within 100 feet of a great pond* or within 25 feet, horizontal distance, of the normal high-water line of intermittent or tributary streams or the upland edge of freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within 75 feet, horizontal distance, of the normal high-water line of the Sheepscot River or perennial streams, within 100 feet of a great pond or within 25 feet, horizontal distance, of the normal high-water line of intermittent or tributary streams or the upland edge of freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which is not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.



## N. Timber Harvesting

1. In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
  - a. Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
    - i. The ground is frozen;
    - ii. There is no resultant soil disturbance;
    - iii. The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
    - iv. There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
    - v. A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
  - b. Beyond the 75 foot strip referred to in Section 15(N)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
2. Except in areas as described in Section 15(N)(1) above, timber harvesting shall conform with the following provisions:
  - a. Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten year period is permitted. In addition:
    - i. Within 75 feet, horizontal distance, of the normal high-water line of the Sheepscot River, perennial or tributary streams, or the upland edge of freshwater wetlands, 100 feet of a great pond and 35 feet, horizontal distance, from the normal high-water line of intermittent streams there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
    - ii. At distances greater than 75 feet, horizontal distance, of the normal high-water line of the Sheepscot River or the upland edge of freshwater wetlands, harvesting operations shall not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings

exceed 5000 square feet they shall be at least 100 feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

b. Timber harvesting operations exceeding the 40% limitation in paragraph a. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of the Planning Board's decision.

c. No accumulation of slash shall be left within 50 feet of the normal high-water line of the Sheepscot River, Pinkham Pond or a perennial stream or the upland edge of a freshwater wetland. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high-water line of a water body or the upland edge of a freshwater wetland shall be removed.

d. Timber harvesting equipment shall not use perennial, intermittent or tributary stream channels as travel routes except when:

i. Surface waters are frozen; and

ii. The activity will not result in any ground disturbance.

e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet in width for slopes up to ten percent shall be retained between the exposed mineral soil and the normal high-water line of the Sheepscot River, a perennial stream or a tributary stream or the upland edge of a freshwater wetland and 35 feet, horizontal distance, from the normal high water-line of an intermittent stream. For each ten percent

increase in slope, the unscarified strip shall be increased by 20 feet for the Sheepscot River or a freshwater wetland. The provisions of this paragraph apply only to a face sloping toward the water body or freshwater wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or the upland edge of a freshwater wetland.

O. Clearing of Vegetation

1. 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. In addition, within a strip of land extending 75 feet, horizontal distance, from the normal high-water line of the Sheepscot River, perennial or tributary stream or the upland edge of a freshwater wetland, 100 feet from the normal high-water line of Pinkham Pond a ~~great pond~~ and 35 feet, horizontal distance, from the normal high-water line of a intermittent stream a buffer strip of vegetation shall be preserved as follows except to allow for development of permitted uses:

- 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 crown. However, a footpath not to exceed six feet in width as measured between tree trunks is permitted 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 permitted provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees" shall be defined as maintaining a rating score of 24 or more in any 25-foot by 50-foot square (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)

2 ≤ 4 in.	1 point
4 ≤ 8 in.	2 points
8 ≤ 12 in.	4 points
>12 in.	8 points

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

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(4x1)+

$(2 \times 2) + (3 \times 4) + (2 \times 8) = 36$  points

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

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The following shall govern in applying this point system:

- (i) The 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(O)(1)(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 inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten year period.

In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(O) paragraphs (1) and (1)(a) above.

c. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.

d. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless

existing new tree growth is present.

Section 15(O)(1) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

2. At distances greater than 75 feet, horizontal distance, from the normal high-water line of the Sheepscot River, 100 feet from the normal high-water line of a great pond or 75 feet from the upland edge of a freshwater wetland, there shall be permitted on any lot, in any ten year period, selective cutting of not more than forty percent of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses, such as principal and accessory structures, driveways and sewage disposal areas, shall be included in the forty percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

a. In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.

3. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

4. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

#### P. 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 require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Planning Board for approval and shall include provisions such as, but not limited to:

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 riprap.

The Maine Erosion and Sediment Control Handbook, Best Management Practices (March 91), shall be the source for these, and all other, provisions relating to erosion

and sediment control. The Planning Board shall retain a copy of this handbook.

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 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 months of the initial date of exposure. In addition:

a. Where hay mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established. Other mulch materials are specified in Table 1.1 of the Maine Erosion and Sediment Control Handbook.

b. Anchoring the mulch with netting, peg and twine or other suitable methods to maintain mulch cover shall be required for severe conditions as specified in Table 1.2 of the Maine Erosion and Sediment Control Handbook.

c. Additional measures such as, but not limited to, staked hay bales and/or silt fences shall be taken to avoid siltation into the water.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a fifty year storm and shall be stabilized with vegetation or lined with rip-rap.

#### Q. 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.

1. Proposed uses requiring subsurface waste disposal or other similar intensive land uses, shall require a soils report based on an on-site investigation prepared by

state-certified professionals. Certified persons include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine Certified Geologists and other state-certified 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.

2. In other cases, not relating to subsurface waste disposal or other similar intensive land uses, where the environmental impact that a proposed land use or structure will have on soils is unknown, the permit applicant shall have the burden of proof. In these cases a soils report by state-certified professionals is required as outlined in the subsection above.

#### R. 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.

#### S. Archaeological and Historic Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Planning Board shall be submitted by the applicant to the Maine Historic Preservation Commission and the Committee for Alna History for review and comment, at least 20 days prior to action being taken by the Planning Board. The Planning Board shall consider comments received from the Commission and the Committee for Alna History prior to rendering a decision on the application.

#### T. Pond Construction

1. Embankment Ponds shall only be allowed on intermittent or tributary streams. The toe of the embankment and all other parts of the pond shall be setback 75 feet, horizontal distance, from the normal high-water line of the receiving waterbody or upland edge of a freshwater wetland. All parts of excavated Ponds shall be setback 75 feet, horizontal distance, from the normal high-water line of the Sheepscot River or a perennial stream or the upland edge of a freshwater wetland.

2. The sizing of spillway or other overflow devices for a pond shall be based on a fifty year storm and shall meet the requirements contained in Agriculture Handbook Number 590; Ponds-Planning, Design, Construction published by the United States Department

of Agriculture. The Planning Board shall retain a copy of this handbook.

3. The periodic cutting of brush or erosion control grasses or the removal of brush and planting of erosion control grasses or aquatic vegetation beneficial to wildlife or other similar activities and practices which will not degrade water quality shall be allowed around the perimeter of ponds as a maintenance operation.

#### U. Limited Light Commercial/Institutional Usage

Limited Light Commercial Usage is allowed in the Head Tide District only. Usage is limited to reuse of structures that have or have had a prior use as commercial or institutional buildings and where no intermediate residential use has existed.

### Section 16. Administration

#### A. Administering Bodies and Agents

The Code Enforcement Officer, Planning Board and Board of Appeals shall administer this Ordinance.

#### 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.

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

1. The replacement culvert is not more than 25% longer than the culvert being replaced;
2. The replacement culvert is not longer than 75 feet;
3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course; and
4. The culvert being replaced is removed to a suitable disposal area.



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.

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 Planning Board.

2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.

3. All applications shall be dated, and the Planning Board shall note upon each application the date and time of its receipt.

4. 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 would require the installation of a subsurface sewage disposal system.

### D. Procedure for Administering Permits

Within 35 days of receiving a written application, the Planning Board 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 shall conduct an on-site inspection for all proposed land use activities and then 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 one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this ordinance.

The applicant shall have the burden of 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 and after the Board's on-site inspection, 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 waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial alewife fishing.
8. Will avoid problems associated with flood plain 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 any State law which the Town of Alna is responsible for enforcing.

#### E. Expiration of Permit

Permits shall expire one year from date of issuance if no substantial start is made in construction or in the use of the property during that period . If a substantial start has been made within one year of issuance of the permit, the applicant shall have one additional year to complete the permit, at which time the permit shall expire.

#### F. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the 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. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

## G. Appeals

### 1. Appeal to the Board of Appeals

Appeals to the Board of Appeals shall be governed by the Board of Appeals Ordinance for the Town of Alna with the following modifications, applicable only to this Ordinance. 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 variance 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. Variances may be granted to a dwelling owner for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling " shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

d. 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(~~GH~~)(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.

2. 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 the Maine Rules of Order, Civil Procedure within 45 days from the date of any decision of the Board of Appeals.

3. Reconsideration.

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## H. Enforcement

### 1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

### 2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If it is found that any provision of this Ordinance is being violated, the Code Enforcement Officer 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 Board of Selectmen 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. All complaints shall be documented in writing by the complainee.
- c. The Planning Board in tandem with the Code Enforcement Officer shall keep a complete record of all essential transactions relating to this Ordinance, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, fees collected and complaints. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality Control within the Department of Environmental Protection.

### 3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen, 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 Town of Alna. The Board of Selectmen, 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 orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

#### I. Special Exceptions

In addition to the criteria specified in Section 16.D. above, the Planning Board may allow the location of a Residential Development Area (and consequently approve a permit for a one family residential and/or accessory structure) in a Resource Protection District or partly in a Resource Protection District and partly in a Limited Residential 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 Lincoln County Registry of Deeds before the adoption of the Resource Protection District.
3. The proposed location of all buildings, sewage disposal systems and other improvements are:
  - i. located in a Residential Development Area, as defined.
  - ii. located on natural ground slopes of less than 20%; and
  - iii. 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 ground floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures located in the area subject to the special exception 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 setback to the greatest practical extent, but not less than 75 feet, horizontal distance, from the normal high-water line of a waterbody or the upland edge of a freshwater wetland. 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 floodplain, and its proximity to primary wetlands.

#### Section 17. Definitions

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

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

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.

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 – State of Maine Department of Conservation’s Bureau of Forestry

Campground - any area or tract of land developed for public use to accommodate two 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 trees crowns in a wooded area.

Coastal Wetland - all tidal and subtidal lands; ~~all lands below any identifiable debris line left by tidal action~~; 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 which is subject to tidal action during the highest tide level for the year in which an activity is proposed ~~maximum spring tide level~~ 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 and commercial alewife fishing.

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 500 feet in length serving two lots or less in the shoreland zone.

Embankment Pond - a pond made by constructing an embankment or dam across a intermittent or tributary stream to impound water. The water in an embankment pond comes primarily from stream flow.

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.

Excavated Pond - a pond constructed by digging or excavating a pit to impound water. The water in a excavated pond comes primarily from groundwater.

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

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

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

Floodplain - an area within the shoreland zone which corresponds to the 100 year flood and is identified by the flood of record or by soil types identified as recent flood plain soils

Floodplain Wetland - wetlands, other than forested wetlands, of any size within the 100 year floodplain of the Sheepscot River.

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

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

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 wetland dominated by woody vegetation that is twenty feet tall or taller.

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

Freshwater wetland - A great pond, 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 the Sheepscot River, 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 are further divided into either primary or secondary wetlands which 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, direct access to, or location in, inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock facilities shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

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 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.

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

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

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances

which 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; 2) which employs no more than four persons other than family members residing in the home; and 3) generates no nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, undue parking problems or radiation.

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 individuals and which involves site improvements which may include but not be limited to a gravel pads, parking areas, fire places, or tent platforms.

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

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.

Intermittent Stream - A water course as depicted on the most recent edition of the United States Geological Survey 7.5 minute series topographical map as an intermittent stream.

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 - an area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Lincoln County Registry of Deeds.

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.

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.

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 month period which removes more than 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.

Multi-unit residential - a residential structure containing two or more residential dwelling units.

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, or lot coverage, 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 permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line - 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 the Sheepscot River 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. (NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.” See definition of "upland edge of a wetland".)

Perennial Stream - a free-flowing body of water as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map as a perennial stream.

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, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

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

Permanent: Structures which remain in or over the water for seven months or more in



any period of twelve consecutive months.

Planning Board On-site Inspection - an inspection, prior to the issuance of a permit, by three, or more, members of the Planning Board to determine or confirm such on-site information as the normal high-water line of a water body or tributary stream or the upland edge of a freshwater wetland, the location and extent of a residential development area or any other information that the Planning Board deems necessary to know in reviewing a permit application.

Primary Wetland - a freshwater wetland that is rated as "moderate" or "high" value waterfowl or wading bird habitat, including nesting and feeding areas by the Maine Department of Inland Fisheries and Wildlife and that is depicted on a Geographic Information System data layer maintained by either the Maine Department of Inland Fisheries and Wildlife or the Maine Department of Environmental Protection as of December 31, 2008.

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

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

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

Recent flood plain 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 Development Area - An area within the Limited Residential District or an area within the Resource Protection District as allowed by special exception, that meets all of the following criteria and is thereby deemed suitable for residential development.

1. A Residential Development Area shall contain a minimum one-half acre contiguous area where the slope does not exceed 20% except that steeper areas within the area that cumulatively total no more than 3000 square feet are allowable.

2. A Residential Development Area shall be wholly within a single lot of record and shall be wholly within the Limited Residential District except when it is allowed in a Resource Protection District by special exception.

3. A Residential Development Area shall not contain any floodplain areas of the Sheepscot River.

4. A Residential Development Area shall be no closer than 75 feet, horizontal distance, from the normal high-water line of a tributary stream.

5. A Residential Development Area shall be set back 75 feet, horizontal distance, from the upland edge of any wetland that exceeds 10,000 square feet in area.

6. A Residential Development Area shall be set back 100 feet, horizontal distance, from the normal high-water line of a great pond.

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. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented, but not recreational vehicles.

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 inches in diameter, used for erosion

control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

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

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.

Secondary Wetland - a freshwater wetland locally identified or identified by the Maine Department of Inland Fisheries and Wildlife and rated "low" or "indeterminate" by this agency.

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 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 1,000 feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream or the upland edge of a freshwater 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 the Sheepscot River, a great pond, outlet of a great pond or the confluence of two perennial streams or a freshwater wetland measured in a straight line between the intersections of the lot lines with the shoreline at the normal high-water line or upland edge elevation, as applicable.

Shoreland zone - the land area located within 250 feet, horizontal distance, of the normal high-water line of the Sheepscot River and a great pond; within 250 feet of the upland edge of a freshwater wetland; within 75 feet of the normal high-water line of a perennial stream; or within 35 feet of the normal high-water line of an intermittent stream.

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

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

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

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, poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

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

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 designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

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

Timber harvesting - the cutting and removal of trees for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be

considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (N), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

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

Tributary stream - within the shoreland zone, a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or freshwater wetland. This definition ~~does not apply to a tributary stream and~~ only applies to that portion of an intermittent stream located in the shoreland zone of the Sheepscot River or a freshwater wetland.

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

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

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

Water body - the Sheepscot River, a *great pond*, a perennial stream or a intermittent stream.

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

Wetland - a freshwater or coastal wetland.

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

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