

2017

Town of Castine Maine Ordinances

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CASTINE ELM TREE ORDINANCE



ENACTED BY THE TOWN IN MEETING ASSEMBLED

THE 4TH DAY OF APRIL 2009

(AND AS THEREAFTER AMENDED)

ATTEST: THIS IS A TRUE DOCUMENT. THE *CASTINE ELM TREE ORDINANCE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM 4 APRIL 2009 TO THE DATE HEREOF, EXCEPT AS AMENDED THROUGH 4 APRIL 2009, AS SHOWN.

DATED: 4 APRIL 2009

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

CASTINE ELM TREE ORDINANCE

1. GENERAL PROVISIONS

- 1.1. **Title and Effective Date:** This Ordinance shall be known as the “Castine Elm Tree Ordinance” and shall be referred to herein as the “Ordinance”. It shall become effective on the date of its adoption by the voters of the Town of Castine, Maine.
- 1.2. **Repeal of Other Ordinances:** Any municipal elm tree ordinance or policy in existence at the time of the adoption of this Ordinance is hereby repealed.
- 1.3. **Authority:** This Ordinance is adopted pursuant to Article VIII-A of the Maine Constitution and Title 30-A M.R.S.A. § 3001.
- 1.4. **Purpose:** This Ordinance is adopted for the purpose of maintaining the historic green canopy of the Town of Castine by providing for the care and maintenance of its elm trees and significant streetscape trees.
- 1.5. **Applicability:** This Ordinance shall apply to all land areas within the Town of Castine.
- 1.6. **Relationship to Other Ordinances:** Whenever a provision of this Ordinance is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall control.
- 1.7. **Validity and 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.
- 1.8. **Administration and Enforcement:** The Tree Committee shall administer and the Tree Warden shall enforce this Ordinance.

2. TREE COMMITTEE

- 2.1. There shall be a five member Tree Committee consisting of the Tree Warden (see Section 3) and four Castine residents or property owners, at least three of whom shall be year-round residents, appointed by the Board of Selectmen for three-year staggered terms. For the initial committee, two members shall serve a one-year term, two members shall serve a two-year term and the Tree Warden shall serve a three-year term. In the event that a vacancy shall occur during the term of any member, the Board of Selectmen shall appoint a successor for the unexpired portion of the term. In addition, there shall be one non-voting, ex-officio member representing Maine Maritime Academy appointed by the President of Maine Maritime Academy.
- 2.2. The Tree Committee shall have oversight on behalf of the Board of Selectmen for the care and maintenance of the Town’s elms and significant streetscape trees.
- 2.3. Specific responsibilities of the committee are to: **a)** research and recommend the selection of a Consulting Arborist (see Section 4); **b)** review reports submitted by the Consulting Arborist; **c)** determine a prioritized plan of action utilizing the

recommendations of the Consulting Arborist; **d)** prepare an annual budget for recommendation to the Board of Selectmen for the use of Town funds for elm tree care and donated funds for preservation and replanting of trees; **e)** maintain records of all elms and significant streetscape trees and document the status and needs for their preservation; **f)** advise individual property owners of the recommendations of the Consulting Arborist; **g)** inform and educate the citizens of Castine on the preservation of the Town's historic green canopy; and **h)** approve requests to cut down any elm tree located in the public tree area, any elm tree ten (10) inches or more in diameter measured at four and one-half (4 ½) feet above ground level located within the boundaries of the Town or any significant streetscape tree.

3. TREE WARDEN

- 3.1.** There shall be a Tree Warden appointed by the Board of Selectmen for a three-year term. The Tree Warden shall be a member of the Tree Committee and serve as the liaison between the committee and the Town Manager.
- 3.2.** Specific responsibilities are to: **a)** refer violations of this Ordinance to the Board of Selectmen for enforcement; **b)** participate regularly in the work of the Tree Committee and keep the Town Manager informed of its deliberations and recommendations; **c)** respond to requests to examine any elm tree, whether on public or private property or any significant streetscape tree and report findings to the Tree Committee; **d)** approve requests to substantially prune or disturb roots of any elm tree located in the public tree area or any significant streetscape tree; and **e)** prepare the Annual Report to the Town.

4. CONSULTING ARBORIST

Annually, the Town may hire a Consulting Arborist as recommended by the Tree Committee to inspect all elm trees and significant streetscape trees and report their condition and suggested care and maintenance to the Tree Committee. The Consulting Arborist may review the completed work of the Contractor Arborist (see Section 5) and regularly update the Tree Committee.

5. CONTRACTOR ARBORIST

The Town may hire arborists to carry out work recommended by the Tree Committee on an annual or project basis. The Contractor Arborist, in any given year, shall not be the same individual or firm as the Consulting Arborist without the approval of the Board of Selectmen.

6. RESPONSIBILITY FOR ELMS AND SIGNIFICANT STREETSCAPE TREES

- 6.1.** Any elm tree located in the public tree area or any significant streetscape tree shall not be substantially pruned or have any of its major roots disturbed without the written approval of the Tree Warden. Any elm tree located in the public tree area or any elm tree ten (10) inches or more in diameter measured at four and one-half (4 ½) feet above ground level located within the boundaries of the Town or any

significant streetscape tree shall not be cut down without the written approval of the Tree Committee. Failure to comply with this section is a violation of this Ordinance subject to enforcement under Section 9.

- 6.2. At its discretion, the Town may prune and fertilize any tree within the public tree area.
- 6.3. Elm trees not located in the public tree area are the responsibility of the property owner and the costs associated with maintenance and, if necessary, removal and disposal shall be borne by the property owner and not the Town. Property owners will be advised by the Tree Committee of needed work recommended by the Consulting Arborist.
- 6.4. The Town Manager may offer for sale by sealed bid any Town owned elm tree being removed and, with the owner's permission, any privately owned elm tree being removed and sell the tree to the highest bidder.

7. RESPONSIBILITY FOR DISEASED OR DAMAGED ELM TREES

- 7.1. The Town shall be responsible for the treatment or removal and disposal of any diseased or damaged elm tree within the public tree area.
- 7.2. When the Tree Warden notifies a property owner that an elm tree located on their property outside of the public tree area is diseased or requires action to mitigate the spread of disease, the owner shall complete the work at their expense within fifteen (15) days. The Board of Selectmen may consider alternative funding if the property owner is unable to afford the required work. Failure to complete the required work shall be considered a nuisance and a violation of this Ordinance subject to enforcement under Section 9.
- 7.3. Any diseased elm tree shall be handled and disposed of by a professionally recognized method that is acceptable to the Tree Warden to prevent the spread of the infection to healthy trees in the Town.

8. REPLANTING

The species of trees and locations for replanting trees within the public tree area shall be recommended by the Tree Committee, approved by the Board of Selectmen and carried out by the Town to the extent of funds available for that purpose. Property owners may plant trees on their property that enhance the streetscape but are encouraged to consult with the Tree Committee concerning species that are compatible with the existing historic canopy.

9. ENFORCEMENT; INSPECTION; PENALTIES & COSTS; CONSENT AGREEMENTS

- 9.1. The Tree Warden, Tree Committee and Consulting Arborist are hereby authorized to enter upon any property at any reasonable time after notification to property owner(s) to monitor the condition of an elm tree, to inspect the premises for compliance with the terms of this Ordinance and to investigate any violations.
- 9.2. If the Tree Warden shall find that any provision of the Ordinance is being violated,

he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary and the time limit to correct it. A copy of such notices shall be submitted to the Board of Selectmen and be maintained as a permanent record. Any such notice is not a prerequisite to bringing any legal action and the failure to give notice shall not in any way affect such legal action.

- 9.3.** The Board of Selectmen, upon notice from the Tree Warden that the person responsible for the violation has not resolved the violation within the time specified, shall institute any and all actions and proceedings, either legal or equitable, including seeking injunctions against violators and the imposition of civil penalties, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Inhabitants of the Town of Castine.
- 9.4.** For each violation, the violator shall pay the civil penalty stated in Title 30-A M.R.S.A. § 4452(3), as it may be amended, and the violator shall pay the Town's attorney fees, expert witness fees and costs. The minimum penalty shall be \$100; the maximum penalty shall be \$2,500. Each day of violation constitutes a separate violation.
- 9.5.** The Board of Selectmen is authorized to enter into administrative consent agreements with the owner(s) of the property or other violator for the purpose of resolving violations of this Ordinance and collecting civil penalties and/or fees without court action. An agreement may provide for a civil penalty that is less than the civil penalty called for in the statute.

10. APPEALS

Except for a decision related to a violation of this Ordinance, a party aggrieved by the decision of the Tree Committee may appeal it to Superior Court within thirty (30) days from the date of said decision pursuant to Maine Rules of Civil Procedure, Rule 80B.

11. DEFINITIONS

For purposes of this Ordinance, the following terms shall have the following definitions. If no term used in this Ordinance is so defined, its customary dictionary definition shall be applied:

Arborist: An individual holding a current First Class Arborist License issued by the Maine Department of Agriculture.

Public Tree Area: All land, except State owned land, within a Town right-of-way or within thirty-five (35) feet from the centerline of a Town road, whichever is greater, and all Town owned land.

Significant Streetscape Tree: Any species of tree forty (40) inches or more in diameter measured at four and one-half (4 ½) feet above ground level and located within the public tree area.

Town Elm: Any elm tree within the boundaries of the Town.

- ♦ -

FLOODPLAIN MANAGEMENT ORDINANCE

for the

TOWN OF CASTINE, MAINE



ENACTED: 14 May 2016
Date

CERTIFIED BY: _____
Susan M. Macomber
Castine Town Clerk

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I – PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Castine, 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 Castine, 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 Castine, 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 Castine has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., Sections 3001-3007, 4352 and 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 Castine 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 Castine, Maine.

The areas of special flood hazard, Zones A, AE, and VE, for the Town of Castine, Hancock County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Hancock County, Maine" dated July 20, 2016 with accompanying "Flood Insurance Rate Map" dated July 20, 2016 with panels: 883D, 884D, 887D, 889D, 891D, 892D, 893D, 894D, 1102D, and 1106D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Hancock 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 XIV), 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 except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Castine, 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.3. 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 is determined:
 - a. in Zones AE and VE from data contained in the "Flood Insurance Study - Hancock County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) 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,
 - (3) 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.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- 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 V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 4. a certified statement that bridges will meet the standards of Article VI.M.;
 5. 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 of fifty dollars (\$50.00) for minor development or one hundred dollars (\$100.00) for new construction or substantial improvements 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, Planning Board and/or Board of Appeals need 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 and floodway data contained in the "Flood Insurance Study - Hancock 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.b.; Article VI.K.; and Article IX.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.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- 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. 1334;
 - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office 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 a second 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, H, or P. 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.a., b., and c. 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.J., 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.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- 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 X 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 VIII 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:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. 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.b.; Article V.B.; or Article IX.D.
 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. 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.
2. 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.b.; Article V.B.; or Article IX.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
3. Zone VE shall meet the requirements of Article VI.P.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zone AE shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. 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,
 - c. 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:
 - (1) 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,
 - (2) 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).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., 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.b.; Article V.B; or Article IX.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.
3. Zone VE shall meet the requirements of Article VI.P.

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

1. Zones A and AE 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.
2. Zone VE shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones AE and 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** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. 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:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be 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.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and 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 crawl spaces 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 XIV;
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 Zones AE, A, and VE 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; 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:
1. Zones AE, A, and VE shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. 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 Zones AE, A, and VE, 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.
- P. **Coastal Floodplains** -
1. All new construction located within Zones AE, A, and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.

2. New construction or substantial improvement of any structure located within Zone VE shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
 - c. require a registered professional engineer or architect to:
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,
 - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zone VE is prohibited.
4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:

- a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
- b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.
- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII – CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII – 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:
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- 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 required certificate(s) 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 IX – 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 in order 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 X – APPEALS AND VARIANCES

The Board of Appeals of the Town of Castine 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 X 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 X, 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 X, 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 XI – 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 M.R.S.A., § 4452.
- B. The penalties contained in Title 30-A M.R.S.A., § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer may, upon identifying a violation, 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 XII – 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 XIII – 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 XIV – 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 Study 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 - area of the building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

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

Conditional Use - means a use that because of its potential impact on surrounding areas and structures is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development -a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of 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 Zones AE or A, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member 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 Zones AE or 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. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

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.

Flood Insurance Study - see **Flood Elevation Study**.

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

Floodway Encroachment Lines - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

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), North American Vertical Datum (NAVD) 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.L. 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, North American Vertical Datum (NAVD) 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.J., 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 in 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. when not designated on the community's Flood Insurance Rate Map, it 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 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 XV – 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(e) Rev. 01/16
Reviewed SRG

CASTINE HISTORIC PRESERVATION ORDINANCE



ENACTED BY THE TOWN IN MEETING ASSEMBLED THE 27TH DAY OF MARCH 2006
AND AS THEREAFTER AMENDED.

ATTEST: THIS IS A TRUE DOCUMENT. THE *CASTINE HISTORIC PRESERVATION ORDINANCE*, HAS BEEN IN
EFFECT WITHOUT CHANGE FROM 27 MARCH 2006 TO THE DATE HEREOF, EXCEPT AS AMENDED
THROUGH 27 MARCH 2010, AS SHOWN.

DATED: 27 MARCH 2010

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

CASTINE HISTORIC PRESERVATION ORDINANCE

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ARTICLE 1. GENERAL PROVISIONS

1.1 TITLE

This Ordinance shall be known as the *Castine Historic Preservation Ordinance*. It shall be referred to herein as the "Ordinance."

1.2 REPEAL OF OTHER ORDINANCES

The *Castine Historic Preservation Ordinance* in existence at the time of the adoption of this Ordinance is hereby repealed. That repeal does not affect or prevent any pending or future prosecution for violations or abatement of violations of that repealed ordinance.

1.3 AUTHORITY

This Ordinance is adopted in accordance the legislative authority granted to the Town by Maine State Law, Title 30-A M.R.S.A., § 3001.

1.4 INTENT [\[Am 1\]](#)

The intent of this Ordinance is to provide a legal framework within which the residents of the Town of Castine can protect the historic, architectural and cultural heritage of significant areas, landmarks and sites in Castine, while accepting as appropriate new construction that is compatible. The intent of the ordinance is to safeguard, in the face of intensified growth pressures, the structures and areas that give beauty and pleasure to residents, attract visitors and new residents, give the Town its distinctive character, and educate the community about its past. Once destroyed, historic architecture, areas, sites, and scenic resources cannot be replaced. To prevent such losses this ordinance endeavors to:

1.4.1 protect the outward appearance and architectural features of designated sites or landmarks and structures within designated districts and individual historic properties;

1.4.2 prevent the demolition or removal of designated historic properties, sites, landmarks and significant historic structures within designated districts;

1.4.3 preserve the essential character of designated districts and historic properties by protecting design and spatial relationships of groups of buildings and structures;

1.4.4 accept new buildings and structures in designated districts that are designed and built in a manner, which is compatible with the character of the district.

1.5 PURPOSE [\[Am 1\]](#)

It shall be the purpose of this Ordinance to permit the designation of lands, buildings and structures within the Town, as historic sites, historic districts, or individual historic properties, or historic landmarks.

1.6 USES PERMITTED

The uses permitted in historic districts and individual historic properties and at historic sites or historic landmarks shall be those set forth in the *Zoning Ordinance of the Town of Castine, Maine* for the zone in which such district, site, property or landmark is located.

1.7 STANDARDS INCORPORATED BY REFERENCE [\[Am 1\]](#)

The following are adopted by this reference and made a part of this ordinance with the same force and effect as though set out in full herein.

1.7.1 *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36 CFR Part 68 in the July 12, 1995 Federal Register), 1995 or most recent edition.*

1.7.2 *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (36 CFR Part 67), 1990 or most recent edition.*

1.7.3 *The Castine Historic Preservation Design Manual, 2007 or most recent edition.*

1.7.4 All architectural and archaeological surveys conducted by architectural historians and archaeologists recognized by the State Historic Preservation Commission and on file in the Town Office.

1.7.5 Pursuant to Title 30-A M.R.S.A., § 3003, a copy of each publication adopted by reference above has been and shall be on file in the office of the Town Clerk for public inspection and use.

ARTICLE 2. DEFINITIONS

2.1 **ARCHAEOLOGICAL SITE:** A geographic location of the remains of prehistoric life or of historic human beings. These include but are not limited to, structures, artifacts, terrain features, graphics (paintings or drawings, etc.) and the evidence of plants or animals.

2.2 **ARCHITECTURAL FEATURE:** Any feature that helps give a structure its distinctive architectural character. Such character defining features include but are not limited to columns, pilasters, cornice boards, brackets, balustrades, quoins, fanlights, corner boards, window and door frames, and transoms. [\[Am 1\]](#)

2.3 **CASTINE HISTORIC PRESERVATION DESIGN MANUAL:** A set of criteria for evaluating proposed changes in historic properties, based on *The Secretary of the Interior's Standards for Rehabilitation*, for the use of the Historic Preservation Commission or other appointed body that has the responsibility of overseeing a specific local historic structure, area, site, or district. [\[Am 1\]](#)

2.4 **COMPATIBILITY:** The relationship between buildings of scale, height, proportion and mass and their relationship to the viewscape. See § 2.25 for definition of viewscape. [\[Am 1\]](#)

2.5 **CONTRIBUTING PROPERTY:** A contributing property means and includes any building, other structure or site that by age, location, design, setting, materials, workmanship or association adds to the district's sense of time and place and historical development or is capable of yielding important information about an historically significant period. Ordinarily buildings that have been built within the 75 years prior to the year of application shall not be considered to contribute to the significance of a district unless a justification concerning their historical or architectural merit is given by the referenced

surveys, § 1.7.4, or the historical attributes of the district are considered to be less than 75 years old. See § 2.19 for the definition of non-contributing properties. [\[Am 1\]](#)

- 2.6 DETERIORATION FROM NEGLECT:** Deterioration of any structural or exterior architectural feature of a property from inadequate maintenance to the extent that it creates an irremediably detrimental effect on the life and character of that historic structure or landmark and/or creates health and safety violations.
- 2.7 HISTORIC DISTRICT:** A geographically definable area possessing a significant concentration or linkage of sites, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this Ordinance as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by historical association. [\[Am 1\]](#)
- 2.8 HISTORIC INTEGRITY:** The authenticity of a property's historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship and association) that existed during the property's prehistoric or historic period.
- 2.9 HISTORIC LANDMARK:** Any site feature or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which is associated with historic personages or important events in local, state or national history which has been designated in accordance with this Ordinance. [\[Am 1\]](#)
- 2.10 HISTORIC PRESERVATION CERTIFICATE:** A document issued by the Historic Preservation Commission that assures compliance with the provisions of this Ordinance.
- 2.11 HISTORIC SITE:** A parcel of land of special significance in the history or prehistory of the Town and its inhabitants, or upon which an historic event has occurred, or an historic site by virtue of usage and which has been designated as such in accordance with this Ordinance. The term "historic site" shall also include any improved parcel or part of it on which is situated an historic landmark, and any abutting parcel or part of it used as and constituting part of the premises on which the historic landmark is situated as may be designated in accordance with this Ordinance.
- 2.12 INDIVIDUAL HISTORIC PROPERTY:** A property that is worthy of preservation because it possesses historic integrity and local, regional, state, or national significance. Important properties may include structures, sites, and objects significant in American history, archaeology, architecture, engineering, or culture, which have been designated as such in accordance with this Ordinance. [\[Am 1\]](#)
- 2.13 MAINTENANCE:** The keeping of a resource in good repair, e.g., painting, protection from weather and decay and replacement of deteriorating elements, to preserve its integrity.
- 2.14 MAJOR CHANGE:** Major changes are additions or alterations to a structure or site, or a large-scale change that affects the character of the structure or the related viewscape.
- 2.15 MINOR CHANGE:** Minor changes are small-scale alterations to a structure or site that do not significantly affect its appearance and are easily reversible. Minor changes may

include improvement projects such as lighting, sidewalks, paving and curbing. [\[Am 1\]](#)

- 2.16 NATIONAL REGISTER OF HISTORIC PLACES:** A register assigned by The National Historic Preservation Act of 1966 as amended that recognizes buildings, sites, districts, structures, and objects significant in American history, archaeology, architecture, engineering, or culture, and identifies them as worthy of preservation.
- 2.17 NATIONAL REGISTER-ELIGIBLE PROPERTY:** An historic property that is eligible for inclusion in the Register because it meets the National Register criteria, which are specified in the Department of the Interior regulations at 36 CFR 60.4.
- 2.18 NATIONAL REGISTER-LISTED PROPERTY:** An historic property that has been formally listed in the National Register of Historic Places and accepted by the Secretary of the Interior, who is represented for purposes of the decision by the Keeper of the National Register.
- 2.19 NON-CONTRIBUTING PROPERTY:** A non-contributing property means and includes any building, other structure or site that does not add to the district's sense of time and place and historical development; or one where the location, design, setting, materials, workmanship or association have been so altered or have so deteriorated that the overall integrity of the building, structure, or site has been irretrievably lost. Although changes to a non-contributing property may not have historical significance, they may affect the historic integrity of the viewscape and the district as a whole. [\[Am 1\]](#)
- Ordinarily buildings that have been built within the 75 years prior to the year of application shall not be considered to contribute to the significance of a district unless a strong justification concerning their historical or architectural merit is given by the referenced surveys, § 1.7.4, or the historical attributes of the viewscape are considered to be less than 75 years old. Age shall be determined based on the architectural surveys on file in the Town Office. In the case of a disagreement, an architectural historian recognized by the Maine State Historic Preservation Commission shall be consulted. [\[Am 1\]](#)
- 2.20 OBJECT:** A construction that is primarily artistic or utilitarian in nature or is relatively small in scale and simply constructed. Although it may be, by nature and design, moveable, an object is associated with a specific setting or environment.
- 2.21 SECRETARY OF THE INTERIOR'S STANDARDS:** *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (36 CFR Part 68 in the July 12, 1995 Federal Register), 1995 or most recent edition, are the national standards to guide work undertaken on historic properties. The intent of the *Standards* is to assist in the long-term preservation of historic structures and features. *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (36 CFR Part 67), 1990 or most recent edition, are used to evaluate rehabilitation projects on certified historic structures for federal tax credits. [\[Am 1\]](#)
- 2.22 SIDING:** The covering of exterior vertical or nearly vertical wall surfaces, excluding architectural features.

- 2.23 SITE:** The location of a significant object, structure, or event.
- 2.24 STRUCTURE:** A building, or 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. The term includes structures temporarily or permanently located, such as decks, fences, and walls. [\[Am 1\]](#)
- 2.25 VIEWSCAPE:** The public setting in which a structure, site, or landmark is located. It is the immediate visible neighborhood of the street or public land associated with such a structure, including such things as fences, sidewalks and lights. A viewscape is not synonymous with scenic views, for example water views possessed by individual property owners, but encompasses the public view of a street, neighborhood or public land. Every kind of structure is considered in the context of its viewscape. A district may include many viewscales. [\[Am 1\]](#)
- 2.26 VISIBLE FROM THE STREET:** Any site or structure that can be seen from any public street or way abutting the subject property. [\[Am 1\]](#)

ARTICLE 3. CASTINE HISTORIC PRESERVATION COMMISSION

3.1 GENERAL

This Ordinance establishes the Castine Historic Preservation Commission as a municipal body. The members of the Commission shall be appointed by the Board of Selectmen, shall be residents of the Town of Castine and shall have the interest, knowledge, experience, capability and demonstrated desire to promote historic preservation in the Town consistent with the meaning of Article 1 of this Ordinance. The members of the Commission (hereinafter, Commissioners) shall serve without compensation.

3.2 MEMBERSHIP [\[Am 1\]](#)

The Castine Historic Preservation Commission (hereinafter, the Commission) shall consist of five (5) regular Commissioners and two (2) associate Commissioners.

3.3 TERMS OF OFFICE

All Commissioners serving at the adoption of this ordinance shall continue until the expiration of their current term. Thereafter, all regular Commissioners shall be appointed to serve for staggered terms of three (3) years. All associate Commissioners shall be appointed to serve a one (1) year term. They may participate fully in the deliberations of the Commission but without vote unless standing in for an absent Commissioner. Commissioners may serve no more than two (2) consecutive full terms.

3.4 TRAINING

All Commissioners are encouraged to maintain and develop their knowledge of historic preservation and are expected to attend a yearly training seminar in architectural history and preservation standards offered in conjunction with the Maine Historic Preservation Commission.

3.5 VACANCIES

Should a vacancy occur, the Board of Selectmen may appoint a replacement to serve

for the unexpired term of that Commissioner, whether regular or associate. In the event of an absence of a regular Commissioner from a meeting, the chairperson shall designate an associate Commissioner, who shall have full authority to sit in the place of the absent member.

3.6 CONFLICTS OF INTEREST

In the event of a direct or indirect personal or financial interest in the subject of review, the Commission member will refrain from all deliberations and voting on the subject. The remaining members of the Commission shall decide by vote when a conflict is present.

3.7 OFFICERS

Annually and normally at its June meeting, the Commission shall elect a chairperson, vice-chairperson and secretary by majority vote of its members. The secretary shall keep the minutes of the proceedings of the Commission and shall record the vote of each Commissioner on each question decided by the Commission. All records maintained and/or prepared by the secretary are public records and may be inspected at during normal business hours at the municipal office.

3.8 REMOVAL FROM OFFICE

The Board of Selectmen may dismiss, prior to the expiration of his/her term, a regular or associate member for just cause, after notice and hearing.

3.9 QUORUM

To conduct the business of the Commission, at least three (3) Commissioners (regular or associate) must be present. Regardless of the number of Commissioners present and voting, a majority of at least three (3) affirmative votes is required to decide every question.

3.10 RULES OF PROCEDURE

The Commission shall be governed by the most recent revision of *Robert's Rules of Order*.

3.11 MEETINGS AND PUBLIC NOTICE

All proceedings of the Commission shall be conducted in accordance with the provisions of the Freedom of Access Law, Title 1 M.R.S.A., § 401-410. Public notice and the agenda shall be posted at the municipal office seven (7) days prior to the meeting date with the exception of work sessions for which there shall be two (2) days notice. Written notice to applicant and abutters shall be made pursuant to § 11.1 of the Ordinance.

3.12 DUTIES AND POWERS

3.12.1 Assist, advise and educate residents, property owners, and officials of the various departments of the Town of Castine concerning the physical and financial aspects of preservation, renovation rehabilitation and re-use of historic and/or archaeological sites, structures, buildings or landmarks.

3.12.2 Assist, advise and educate residents, property owners, and officials of the various departments of the Town of Castine on the requirements of this Ordinance.

- 3.12.3** Provide continuing education to the community on historic preservation issues.
- 3.12.4** Process applications for Historic Preservation Certificates and Historic Preservation Certificates for Demolition.
- 3.12.5** Serve as an advisor to the Town regarding historical and cultural resources.
- 3.12.6** Recommend to the Board of Selectmen the establishment and/or revision of historic and archaeological sites, historic landmarks, historic buildings, and historic districts, in accordance with the procedures detailed in Article 5 of this Ordinance.
- 3.12.7** Review all proposed National Register nominations for properties within the Town of Castine.
- 3.12.8** Conduct a continuing survey of local historic and cultural resources in accordance with the guidelines of the Maine Historic Preservation Commission.
- 3.12.9** Recommend to the Board of Selectmen a schedule of fees based on the costs of notification, review and construction. Any fee may be adjusted as circumstances require by vote of the Board of Selectmen, after notice and hearing. Fees shall at all times not exceed the reasonable cost of processing, review, regulation and supervision of the application by the Town and its consultants. Fee adjustments shall take effect immediately upon approval and shall be inserted into this Ordinance and incorporated herein as though originally enacted as part hereof. Fee adjustments by the Board of Selectmen shall be identified as such and include the date of adjustment.
- 3.12.10** Solicit grants, fees, appropriations and gifts of money and service dedicated to its functions, to hire clerical and technical assistance, publish educational materials, conduct surveys of properties or otherwise carry out its duties.
- 3.12.11** Request reports and recommendations from the Town departments and other organizations and sources that may have information or advice with respect to an application.
- 3.12.12** Appoint special committees to assist the Commission in the performance of its duties as necessary. Special committees shall meet pursuant to § 3.10 of the Ordinance.
- 3.12.13** Adopt bylaws and/or additional procedures consistent with the intent of the Ordinance and any applicable local, state and federal legislation.
- 3.12.14** Waive any procedural rule adopted by the Commission, upon good cause shown and with the approval of a majority of the Commissioners present and voting.

3.13 EXPERTS AND CONSULTANTS

On the recommendation of the Commission, the Board of Selectmen may appoint expert persons to serve in an advisory or on a consultant basis to assist the Commissioners in

the performance of their functions. Such other persons need not be residents of the Town and may, by authorized prearrangement with the Commission and Selectmen, receive compensation. Any fee required for processing an Historic Preservation Certificate shall be borne by the applicant.

ARTICLE 4. CRITERIA FOR ESTABLISHMENT OF HISTORIC DISTRICTS, HISTORIC SITES, INDIVIDUAL HISTORIC PROPERTIES AND HISTORIC LANDMARKS

4.1 GENERAL

One (1) or more of the following characteristics, without limitation as to cultural or chronological period, shall serve to qualify an historic district, historic site, individual historic property, historic landmark or archaeological site, as defined in Article 2 of this Ordinance, to be established in accordance with this Ordinance:

- 4.1.1** Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of Castine and the nation, including sites and buildings at which the public may gain insight or see examples either of particular items or of larger patterns in the North American heritage.
- 4.1.2** Structures or sites importantly associated with historic personages.
- 4.1.3** Structures or sites importantly associated with historic examples of a great idea or ideal.
- 4.1.4** Structures or structural remains and sites embodying examples of architectural types of specimens valuable for study or representation of a period, style, or method of building construction, of community organization and living or of landscaping; or a single notable structure or a single site representing the work of a master builder, designer, architect or landscape architect.
- 4.1.5** Structures contributing to the visual continuity of an historic district.
- 4.1.6** Structures or sites listed on or eligible for listing on the National Register of Historic Places and structures or sites listed as or eligible for listing as a National Historic Landmark.

ARTICLE 5. ESTABLISHMENT OF HISTORIC DISTRICTS, INDIVIDUAL HISTORIC STRUCTURES, HISTORIC SITES AND HISTORIC LANDMARKS

5.1 GENERAL [\[Am 1\]](#)

- 5.1.1** Historic districts, individual historic properties, sites and landmarks shall be established by amendment to this Ordinance. Amendments may be proposed by the Board of Selectmen, the Planning Board, petition signed by fifty (50) voters registered in the Town, or the property owner in the case of an individual historic property.

- 5.1.2** Recommendations for Historic Landmark status for individual structures or landmarks outside a designated Historic District shall be considered at the request of the property owner only.
- 5.1.3** An application for designation of sites, landmarks, districts and individual properties for historic preservation shall be in writing and shall include the information required by Sections 5.2 - 5.5 that is appropriate. The chairperson will call a meeting of the Commission within thirty (30) days from the date of receipt of the application for the purpose of formulating the Commission's recommendation concerning the proposed amendment.
- 5.1.4** Upon acceptance of the proposal to designate an historic site, landmark, district or individual historic property, the Commission shall prepare a proposed amendment to Article 6 of this Ordinance. The proposed amendment shall include a description of the historic district, site, landmark or individual historic property with the date it was adopted.

5.2 HISTORIC SITES OR LANDMARKS

- 5.2.1** A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the structure or site, including a consideration of scale, materials, workmanship and spatial qualities, as relevant.
- 5.2.2** A concise statement of how the structure or site meets the review criteria of Article 4 above.
- 5.2.3** A series of photographs of the structure, and/or a site map, illustrating significant details described in § 4.1.1 above.

5.3 HISTORIC DISTRICTS

- 5.3.1** A concise statement of the remaining physical elements that make this area an historic district and a description of building types and architectural styles and periods represented.
- 5.3.2** A concise statement of how the district meets the review criteria of Article 4 above.
- 5.3.3** A justification of the boundaries of the district.
- 5.3.4** A description of the types of structure that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures.
- 5.3.5** A map showing all district structures with the identification of contributing structures.

5.4 EXPANSION OF EXISTING DISTRICTS

- 5.4.1** A concise statement of the physical elements that justify an expansion of an

existing district, an explanation detailing how the expansion is consistent with the character of the district, and description of building types and architectural styles and periods represented.

5.4.2 A concise statement of how the expansion of an existing district meets the review criteria of Article 4 above.

5.4.3 A justification of the expanded boundaries of the district.

5.4.4 A description of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures in the historic district's proposed expansion area.

5.4.5 A map showing all district structures in the proposed expansion area with an identification of contributing structures.

5.5 **INDIVIDUAL HISTORIC PROPERTIES** [\[Am 1\]](#)

An amendment to establish an individual historic property may only be proposed by the property owner.

5.5.1 A concise statement of the physical elements that make this an historic property and a description of the building type, architectural style, and period represented.

5.5.2 A concise statement of how the property meets the review criteria of Article 4 above.

5.5.3 A map showing the location of the structure.

5.6 **REVIEW, STUDIES AND RECOMMENDATIONS**

Before making its recommendation concerning the proposed establishment of an historic district, individual historic property, historic site or historic landmark, the Commission shall conduct research on the proposal. The Commission shall forward a draft of the proposal/application to the Maine Historic Preservation Commission for review and comment. The Commission will make a report to the Selectmen on every request received.

5.7 **PUBLIC HEARING AND FINAL REPORT**

Before a final report is made to the Selectmen, the Castine Historic Preservation Commission shall hold a public hearing on the request, after due notice is published twice in a newspaper of general circulation in the Town at least twelve (12) days and seven (7) days prior to the hearing. Written notice of the proposal shall also be given at least ten (10) days prior to the hearing to the applicants, owners of all property abutting or to be included within the proposed designation, and all other persons found by the Commission to have a special interest in the proposal. Failure of any such person to receive notice of the public hearing shall not necessitate another hearing or invalidate any action of the Commission. A copy of the proposal shall be sent, at the same time, to the chairperson of the Planning Board for review and recommendation at the next regular meeting of that Board. Not later than sixty (60) days after the public hearing, the Commission shall submit a final report with its recommendations to the Board of Selectmen.

5.8 PROPOSED AMENDMENT

Upon acceptance of the proposal to designate an historic, site, landmark, district or individual historic property, the Commission shall prepare a proposed amendment to Article 6 of this Ordinance. The proposed amendment shall include a description of the historic district, site, landmark or individual historic property with the date it was adopted.

5.9 ACTION BY THE BOARD OF SELECTMEN

Upon receipt of the Commission's recommendation to amend the Ordinance, as provided above, the Board of Selectmen at its next regular meeting shall place the proposed amendment on the warrant for the next town meeting.

ARTICLE 6. HISTORIC DISTRICTS, HISTORIC SITES AND HISTORIC LANDMARKS DEFINED

For the purpose of creating the metes and bounds description of an historic district, north is defined as the direction along Main Street toward Battle Avenue, south is defined as the direction along Main Street toward Water Street, east is defined as direction along Court Street toward Spring Street and west is defined as the direction along Court Street toward Tarratine Street. Streets and lot lines approximately parallel to Main Street are north-south and streets and lot lines approximately parallel to Court Street are east-west.

6.1 HISTORIC DISTRICT 1

Historic District 1 was established June 7, 1995 and includes a portion of the Town bounded and described as follows:

Beginning at a point being the southeast corner of the intersection of Court Street and Pleasant Street (also being the northwest corner of Lot 90, Map 21); thence south along the east line of Pleasant Street to the northeast corner of the intersection of Pleasant Street and Perkins Street; thence east along the north line of Perkins Street to a point opposite the northwest corner of Lot 97, Map 21; thence south, perpendicular across Perkins street to the northwest corner of Lot 97, Map 21; thence south along the side lot line of Lot 97, Map 21 to the southwest corner of Lot 97, Map 21; thence east along the rear lot line of Lot 97, Map 21 to the southeast corner of Lot 97, Map 21; thence diagonally across Main Street to the southwest corner of Lot 80, Map 21; thence east along the side lot of Lot 80, Map 21 line to the southeast corner of Lot 80, Map 21; thence north along the rear lot line of Lot 80, Map 21 northeast corner of Lot 80, map 21; thence east along the side lot line of Lot 79, Map 21 to the southwest corner of Lot 71 Map 21; thence east along the irregular side lot line of Lot 71, Map 21 to the southeast corner of Lot 71, Map 21; thence diagonally across Green Street to the southwest corner of Lot 39, Map 21; thence east along the side lot line of Lot 39, Map 21 to the southeast corner of Lot 39, Lot 21; thence east along the irregular rear lot line of Lot 37, Map 21 to the southeast corner of Lot 37, Map 21; thence east along the rear lot line of Lot 36, Map 21; thence east along the rear lot line of Lot 35, Map 21 to the southeast corner of Lot 35, Map 21; thence north along the side lot line of Lot 35, Map 21 to the southwest corner of Lot 40A, Map 24; thence east along the rear lot line of Lot 40A, Map 24; thence east along the rear lot line of Lot 39, Map 24 to the southeast corner of Lot 39, Map 24; thence north along the side lot line of Map 39, Lot 24 to the

south line of Court Street; thence west along the south line of Court Street to a point opposite the southeast corner of Lot 8, Map 24; thence north, perpendicular across Court Street to the southeast corner of Lot 8, Map 24; thence north along the side lot line of Lot 8, Map 24 to the northeast corner of Lot 8, Map 24; thence east along the side lot line of Map 6, Lot 24 to the southeast corner of Map 6, Lot 24; thence east along the lot line of Lot 4, Map 24 to the southeast corner of Lot 4, Map 24; thence north along the irregular side lot line of Lot 4, Map 24 to the northeast corner of Lot 4, Map 24; thence west along the rear lot line of map 4, Lot 24; thence west along the rear lot Line of Map 3, Lot 24 to southeast corner of Lot 25, Map 21; thence north along rear lot line of Lot 25, Map 21; thence north along the rear lot line of Lot 1, Map 24 to the northeast corner of Lot 1, Map 24; thence west along the side lot line of Lot 1, Map 24 to the rear lot line of Lot 17, Map 20; thence north along the rear lot line of Lot 17 Map 20 to the south line of Battle Avenue; thence west along the south line of Battle Avenue to a point one hundred ninety (190) feet west of the north east corner of Lot 23, Map 30; thence south, parallel to the west line of Main Street to a point on the north line of Stevens Street; thence diagonally across Stevens Street to the northeast corner of Lot 25, Map20; thence south along the rear lot line of Lot 25, Map 20; thence south along the rear lot line of Lot 26, Map 20 to the southeast corner of Lot 26, Map 20; thence west along the side lot line of Lot 26, Map 20 to the east line of Pleasant Street; thence south along the east line of Pleasant Street to the to the northwest corner of Lot 22A, map 21; thence east along the side lot line of Lot 22A, Map 21 to the northeast corner of Lot 22A, map 21; thence south along the rear lot line of Lot 22A, Map 21; thence south along the rear lot line of Lot 18, Map21 to the southwest corner of Map 18, Lot 21; thence west along the side lot line of Map 18, Lot 21 to the east line of Pleasant Street, thence south along the east line of Pleasant Street to the northeast corner of the intersection of Court Street and Pleasant Street; thence south, across Court Street to the point of beginning.

ARTICLE 7. ACTIVITIES REQUIRING AN HISTORIC PRESERVATION CERTIFICATE

A property owner shall obtain an Historic Preservation Certificate for any of the following activities within any historic district or activities at any historic site, landmark, or individual historic property.

- 7.1** Activities that do not require building permits as specified in the *Zoning Ordinance of the Town of Castine*, but are covered by the provisions of this Ordinance. [\[Am 1\]](#)
- 7.2** Reconstruction, restoration, renovation and alteration: [\[Am 1\]](#)
 - 7.2.1** Contributing properties: Any change in the exterior appearance, as visible from the street or associated public land, of an historic landmark, site, individual historic property, or any structure, as defined in § 2.24, in an historic district by addition, reconstruction or alteration, except for exterior painting.
 - 7.2.2** Non-contributing properties: Major changes, as defined in § 2.14, except alterations that do not change the size or footprint of the structure.
- 7.3** New construction of a principal or accessory structure visible from the street or visible from public land associated with the structure where such structure will be located in an historic district. [\[Am 1\]](#)

- 7.4** Demolition of an historic landmark, individual historic property or any contributing structure in an historic district. [\[Am 1\]](#)
- 7.5** Moving an historic landmark, individual historic property or any contributing structure in an historic district. [\[Am 1\]](#)
- 7.6** Improvement projects and objects on contributing properties, such as lighting, sidewalks, raised walkways, handicapped access ramps, paving, curbing, signs, and satellite dishes larger than thirty-nine (39) inches in diameter located beyond the right-of-way of any public street or way, but visible from the street, and located within an historic district or affecting any historic site or landmark. [\[Am 1\]](#)

ARTICLE 8. ACTIVITIES REQUIRING AN HISTORIC PRESERVATION CERTIFICATE AND OTHER MUNICIPAL PERMITS

8.1 ACTIVITIES REQUIRING A BUILDING AND USE PERMIT

When an activity requiring an Historic Preservation Certificate also requires a Building and Use Permit from the Code Enforcement Officer, the applicant shall obtain the Historic Preservation Certificate before the Code Enforcement Officer issues a Building and Use Permit.

8.2 ACTIVITIES REQUIRING APPROVAL OF THE PLANNING BOARD

When an activity requiring an Historic Preservation Certificate also requires Site Plan Review and Approval by the Castine Planning Board, a condition of such approval by the Planning Board shall be that the applicant obtains an Historic Preservation Certificate before the Code Enforcement Officer issues any permit.

ARTICLE 9. ACTIVITIES NOT REQUIRING AN HISTORIC PRESERVATION CERTIFICATE

The following activities do not require a Historic Preservation Certificate:

- 9.1** The ordinary maintenance or repair of any exterior architectural feature of any structure or other improvement project when that repair does not involve a change in design or appearance. [\[Am 1\]](#)
- 9.2** Impermanent or reversible alterations such as storm windows, storm doors, window air conditioners, shutters, or paint color. [\[Am 1\]](#)
- 9.3** Lawn and garden objects and landscaping, including plantings, sculptures, walkways and walls of two feet or less in height. [\[Am 1\]](#)
- 9.4** Minor changes, as defined in § 2.15, to non-contributing properties. [\[Am 1\]](#)
- 9.5** Alterations to structures on non-contributing properties, which do not change the size or footprint of the structure. [\[Am 1\]](#)
- 9.6** The construction or alteration of any structure not visible from the street, as defined in §

2.26. [Am 1]

- 9.7 The construction, reconstruction, alteration or demolition of any structure where construction is in accordance with a valid building permit issued before establishing new districts, sites or landmarks designated by adoption of or amendment to this Ordinance.
- 9.8 Any public works project located within the right-of-way of any town road, street or way.
- 9.9 The construction, reconstruction, alteration, restoration or demolition of any feature which the Code Enforcement Officer shall certify is required because of an unsafe or dangerous condition to ensure public safety or when efforts to save such a feature have been declared impractical or uneconomic in response to concerns for public safety.

ARTICLE 10. APPLICATION PROCEDURES

10.1 GENERAL [Am 1]

An application for an Historic Preservation Certificate shall be submitted to the Code Enforcement Officer for any activity requiring a Certificate pursuant to Article 7. The application shall contain all information required by Section 10. The CEO shall forward the application to the Historic Preservation Commission and place the application on the agenda of the next regular meeting of the Commission. The CEO shall inform the Commission of applications proposing only minor changes, as defined in § 2.15. The meeting agenda shall be posted seven (7) days before the meeting. Work sessions shall be posted at least two (2) days in advance.

The Commission shall consider the application at a regular meeting and, within fifteen (15) days of the date of the meeting, approve, approve with conditions or deny the application pursuant to § 11.4 and § 11.5. By mutual agreement of the Commission and the applicant, either written or orally, on the record at a public meeting, the review period may be extended for a designated period.

10.2 APPLICATION CONTENTS [Am 1]

On the application form supplied by the Commission, the applicant shall state the location, use and nature of the matter for which a Certificate is requested. The application shall contain the following information or documentation unless the Commission expressly waives an item.

10.2.1 The property owner's name and mailing address.

10.2.2 The applicant's name, mailing address, and interest in the property, if the applicant is not the owner.

10.2.3 The 911 address and Tax Map and Lot number of the property.

10.2.4 The present use and zoning classification of the property.

10.2.5 A description of the activity requiring an Historic Preservation Certificate.

10.2.6 A drawing or drawings showing design and location of any proposed alteration or

new construction that the Commission may require. As it is used here, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show the architectural design, materials and visual textures of the exterior of the building(s), and including samples of materials. Drawing(s) are not required to be professionally prepared, but shall be clear, complete and specific.

10.2.7 Photographs of the building(s) involved and of adjacent buildings.

10.2.8 A site plan indicating improvements affecting appearance, such as fences and walls, walks, terraces, accessory buildings, lights, signs and other elements.

10.3 REPRESENTATION

Property owners are strongly urged to be present when their application is being considered. They may, however, be represented by an agent or attorney at any meeting of the Commission. If the property owner is not present, any person acting as the property owner's agent or attorney shall provide evidence of such authority.

ARTICLE 11. ADMINISTRATIVE PROCEDURES

11.1 NOTICE TO OWNERS [\[Am 1\]](#)

Before meeting to review an application for an Historic Preservation Certificate, the Commission shall notify by U.S. Mail the applicant, abutting property owners, and the owners of property within one hundred (100) feet of the property that is the subject of the application. The notice shall be sent to the person who receives the property tax bills at the address shown in the municipal tax records. Failure of any person to receive notice shall not necessitate another public meeting or hearing nor invalidate any action by the Commission.

11.2 HEARING

At the request of the applicant or any other person receiving notice under § 11.1 above or when the Commission deems it necessary, a public hearing on the application shall be conducted by the Commission.

11.3 PROCEDURE OF THE COMMISSION [\[Am 1\]](#)

The Commission shall consider the application at a meeting. A minor change, as defined in § 2.15, shall ordinarily be approved and without conditions. The judgment of at least one professional consultant may be obtained in reviewing any major change involving issues of design. (See § 3.13) Within fifteen (15) days of the date of the meeting, the Commission shall approve, approve with conditions, or deny the application pursuant to § 11.4 and § 11.5. The review period may be extended by mutual agreement of the Commission and the applicant, either written or oral, on the record at a public meeting.

11.4 APPROVAL

If the Commission finds the application meets the standards of evaluation as detailed in Article 12, it shall issue a decision to grant an Historic Preservation Certificate. Within seven (7) days of its decision, the Commission shall furnish the applicant a copy of the application, a written decision including written findings of fact supporting the decision and any written recommendations. The Commission shall also furnish copies of these

documents to the Code Enforcement Officer for filing in the Town Map & Lot files.

11.5 CONDITIONAL APPROVAL AND DISAPPROVAL

If the Commission does not find that the application meets the standards of evaluation herein, it shall either issue a decision to grant a Historic Preservation Certificate with conditions or issue a decision to deny an Historic Preservation Certificate. Within seven (7) days of its decision, the Commission shall furnish the applicant a copy of the application, a written decision including any conditions of approval and written findings of fact supporting the decision. The Commission shall also furnish copies of these documents to the Code Enforcement Officer for filing in the Town Map & Lot files.

ARTICLE 12. STANDARDS OF EVALUATION

12.1 GENERAL [\[Am 1\]](#)

The standards and requirements contained in Article 12, the U.S. Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, the Secretary of the Interior's *Standards for the Treatment of Historic Properties*, 1995 or most recent edition, *The Castine Historic Preservation Design Manual*, and with reference to the architectural and archaeological surveys of Castine on file in the Town Office shall be used in reviewing applications for Historic Preservation Certificates. The Commission's areas of focus shall be matters affecting the maintenance of historic structures, the protection of archaeological resources, and the preservation of the historic character of viewscales.

The standards of evaluation described below and elsewhere in this ordinance are intended for the evaluation of contributing properties. Changes to a non-contributing property are considered only insofar as they may affect the historic integrity of the viewscale or the district as a whole.

12.2 RECONSTRUCTION, RENOVATION AND ALTERATION [\[Am 1\]](#)

12.2.1 Except as specified in Article 9, a structure designated as an historic landmark or site or a structure located in a designated historic district, or related structures or improvements, such as walls, fences, light fixtures, steps, or paving located in a designated historic district, shall not be altered, and no Historic Preservation Certificate shall be issued for such actions unless these actions will preserve or enhance the historical and architectural character of the structure, and are visually compatible with the viewscale.

12.2.2 Every reasonable effort shall be made to use a property for its originally intended purpose or to provide compatible use for a property that requires minimal alteration to the structure or site and its environment.

12.2.3 Rehabilitation work shall not destroy or displace the distinguishing features or character of a structure and setting. Distinctive stylistic features such as chimneys, molding, brackets, windows, doorways, porches, sidewalks, fences, and lighting that characterize historic structures shall be preserved wherever possible.

- 12.2.4** All structures and sites shall be recognized as products of their own time.
- 12.2.5** Changes that may have taken place in the course of time are evidence of the history and development of a structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected. Features not original to the structure and that have not acquired their own significance are deemed non-contributing and, therefore, can be replaced according to standards under §12.2.7 or §12.2.10.
- 12.2.6** Distinctive stylistic features or examples of skilled craftsmanship that characterize a structure or site shall be treated with sensitivity.
- 12.2.7** Deteriorated architectural features of structures, or settings, such as balustrades, brackets, windows, porches, doorways, fences, sidewalks, and lighting, shall be repaired rather than replaced whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other structures.
- 12.2.8** The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other methods that will damage the historic building materials shall not be undertaken.
- 12.2.9** Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any project.
- 12.2.10** Contemporary design for alterations and additions to existing properties is permitted when it does not destroy significant historical, architectural or cultural material, and the design is compatible with the size, scale, material and character of the property, neighborhood or environment. For clarification see *The Castine Historic Preservation Design Manual*, Pt. II, pp. 42-43 and Pt. III, pp. 53-55.
- 12.2.11** Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

12.3. CONSTRUCTION OF NEW BUILDINGS AND OTHER STRUCTURES IN HISTORIC DISTRICTS [\[Am 1\]](#)

- 12.3.1** The construction of a new building or other structure shall be in keeping with the surrounding area and compatible, as defined in § 2.4, with other structures in the historic viewscape to which it is related.
- 12.3.2** The Commission shall review associated elements visible from the street, such as fences, walls, and signs to protect the district's viewscape.

12.4 VISUAL COMPATIBILITY FACTORS FOR NEW CONSTRUCTION AND ADDITIONS [\[Am 1\]](#)

Within historic districts, historic sites or landmarks, all new construction and all new additions shall be visually related.

12.4.1 Height

The height of proposed buildings and other structures shall be visually compatible with adjacent structures.

12.4.2 Proportion of Building's Façade

The relationship of the width of the building to the height of the front elevation shall be visually compatible with nearby buildings and open spaces.

12.4.3 Proportion of Opening within the Façade

The relationship of the width of the windows to the height of the windows and doors in a building shall be visually compatible with the windows and doors of nearby buildings.

12.5 DEMOLITION OR REMOVAL [\[Am 1\]](#)

An historic landmark, or any structure in an historic district or any attached structure, whether residential or commercial, shall not be demolished or removed and an Historic Preservation Certificate to do so shall not be issued unless one of the following conditions is met:

12.5.1 the structure has been identified by the Commission as non-contributing or incompatible with the historic district in which it is located, or

12.5.2 the property owner can demonstrate that it cannot be renovated or reconstructed so as to earn an economic return on its value in its present location as determined by a qualified real estate appraiser.

ARTICLE 13. MAINTENANCE AND REPAIR

The property owner or the person in charge of an individual historic property, a structure within an historic district or of an historic landmark shall not allow that structure or landmark to fall into a state of deterioration by neglect. This condition consists of the deterioration of any exterior structural or architectural feature to such a degree that it would produce, in the judgment of the Commission, an irretrievably detrimental effect on the life and character of that historic structure or landmark and that could lead to a claim that demolition is necessary for public safety. When the Commission acquires evidence of such deterioration, it shall notify the Code Enforcement Officer who will in turn notify the property owner of the potential violation of this ordinance. This condition of deterioration includes but is not limited to:

13.1 the deterioration of exterior walls or other vertical supports;

13.2 the deterioration of roofs or other horizontal members, including the ineffective waterproofing of exterior walls, roofs and foundations, as well as broken windows and doors;

13.3 the deterioration of exterior chimneys;

- 13.4** the deterioration of exterior plaster or mortar;
- 13.5** the deterioration of any feature to the extent that it would create or permit the creation of any hazardous or unsafe condition.

ARTICLE 14. APPEALS

14.1 ADMINISTRATIVE APPEALS

An administrative appeal of any decision of the Commission may be taken by any party or person aggrieved thereby to the Zoning Board of Appeals pursuant to Article 14 of the *Zoning Ordinance of the Town of Castine, Maine*.

14.2 VARIANCE APPEALS

An appeal for a variance may be taken to the Zoning Board of Appeals pursuant to Article 14 of the *Zoning Ordinance of the Town of Castine, Maine*.

14.3 FURTHER APPEALS

A party aggrieved by the decision of the Zoning Board of Appeals may appeal it to Superior Court within forty-five (45) days from the date of the original decision pursuant to Title 30-A M.R.S.A., § 2691 and § 4353 and Maine Rules of Civil Procedure, Rule 80B.

ARTICLE 15. VALIDITY AND SEVERABILITY

If any provision of this Ordinance shall be declared invalid for any reason by any court of competent jurisdiction, that declaration shall not be taken to affect the validity of any other provision of this Ordinance. To this end, the provisions of this Ordinance are hereby declared to be severable.

ARTICLE 16. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance or statute which also applies to the proposed activity, the requirement imposing the more restrictive or higher standard, as determined by the Board of Selectmen, shall govern.

ARTICLE 17. ADMINISTRATION AND ENFORCEMENT

- 17.1** An Historic Preservation Certificate issued under this Ordinance shall expire if the authorized activity does not commence within one (1) year of the date of issue and if the activity is not completed within two (2) years of said date. The Commission may extend the Certificate for up to one (1) year for good cause.

- 17.2** This Ordinance shall be administered by the Commission and enforced by the Code Enforcement Officer (CEO).

- 17.3** The CEO shall investigate all complaints of alleged violations of this Ordinance, and shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to Certificate approvals.
- 17.4** The CEO shall keep a complete record of all essential transactions, including applications submitted, Certificates granted or denied, variances granted or denied, revocation actions, violations investigated, violations found, and fees collected.
- 17.5** If the CEO finds that any provision of the Ordinance is being violated, the CEO shall notify the person responsible for the violation in writing, indicating the nature of the violation and ordering the action necessary to correct it. A copy of the notice and order shall be submitted to the property owner, the Board of Selectmen and the Castine Historic Preservation Commission. A copy of the notice shall be maintained as a permanent record in the Map and Lot file. Any such notice is not a prerequisite to bringing any legal action noted in § 17.6, and the failure to give notice shall not in any way affect such legal action.
- 17.6** The Board of Selectmen, upon notice from the CEO, shall institute any and all actions, and proceedings, either legal or equitable, including seeking injunctions against violators 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 Castine. The Board of Selectmen, or their authorized agent, is hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and assessing fines without Court action. Such agreements should 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 verified erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith.
- 17.7** 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 assessed a monetary penalty on a per-day basis in accordance with Title 30-A M.R.S.A., § 4452.

ARTICLE 18. AMENDMENTS

This Ordinance has been amended as indicated on the following dates:

Amendment 1 [[Am 1](#)] 27 March 2010



APPENDIX A: TOWN SIDEWALK AND STREET GUIDELINES [\[Am 1\]](#)

- All street surfaces should be constructed of asphalt cement concrete or Portland cement concrete.
- In general, the varying width and position of the sidewalks as they presently occur on the streets should remain the same. Efforts should be made to retain a grassy buffer strip between sidewalk and curb.
- As sidewalks are repaired, they should be replaced with exposed aggregate Portland cement concrete.
- If curbing is necessary, it should be granite. We do not recommend adding curbing to all areas just to have curbs.
- The levels of the sidewalks should be adjusted where necessary but not entirely redesigned.
- When sidewalks are replaced, they should conform to ADA regulations.

TOWN OF CASTINE PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE



ENACTED BY THE TOWN IN MEETING ASSEMBLED THE 12TH DAY OF MAY 2012.

ATTEST: This is a true document. The *Town of Castine Property Assessed Clean Energy (PACE) Ordinance* has been in effect without change from May 12, 2012 to the date hereof.

Dated: May 12, 2012

Signature: _____

AFFIX SEAL

Susan M. Macomber
Castine Town Clerk

TOWN OF CASTINE PROPERTY ASSESSED CLEAN ENERGY ORDINANCE

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE 1 – GENERAL PROVISIONS

1.1 Title

This Ordinance shall be known and may be cited as the “Town of Castine Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

1.2 Administration

This Ordinance shall be administered by the Efficiency Maine Trust (the “Trust”).

1.3 Purpose

By and through this Ordinance, the Town of Castine declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

1.4 Enabling Legislation

The Town of Castine enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature – “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as the “Property Assessed Clean Energy Act” or the “PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE 2 – DEFINITIONS

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

2.1 Energy saving improvement. An improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- A.** Will result in increased energy efficiency and substantially reduced energy use and:
 - 1.** Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - 2.** Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
- B.** Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2.2 Municipality. The Town of Castine

2.3 PACE agreement. An agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

2.4 PACE assessment. An assessment made against qualifying property to repay a PACE loan.

2.5 PACE district. The area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

2.6 PACE loan. A loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

2.7 PACE mortgage. A mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

2.8 PACE program. A program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

2.9 Qualifying property. Real property located in the PACE district of the Municipality.

2.10 Renewable energy installation. A fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

2.11 Trust. The Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE 3 – PACE PROGRAM

3.1 Establishment; funding. The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

3.2 Amendment to PACE program. In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE 4 – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

4.1 Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE 5 – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

5.1 Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the

Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

1. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
2. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
3. the Trust, or its agent, will disburse the PACE loan to the property owner;
4. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
5. the Trust, or its agent, will be responsible for collection of the PACE assessments;
6. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
7. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

5.2 Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article 5, §5.1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

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CASTINE RENTAL HOUSING ORDINANCE



ENACTED BY THE TOWN IN MEETING ASSEMBLED

THE 2ND DAY OF JUNE 2018

(AND AS THEREAFTER AMENDED)

ATTEST: THIS IS A TRUE DOCUMENT.

DATED: 2 JUNE 2018

SIGNATURE: _____

SUSAN M. MACOMBER
CASTINE TOWN CLERK

AFFIX SEAL

CASTINE RENTAL HOUSING ORDINANCE

ARTICLE I. RENTAL UNIT LISTING

Section 1. Purpose.

The purpose of this ordinance is to provide a program for the listing of residential rental properties located within the Town of Castine ("Town") providing the town with emergency contact information and to provide owners and managers basic safety guidelines for housing. The Ordinance does not create a licensing program, and the fact that a rental property is listed with the town should not be construed to mean that the town has made any determination that the property is fit for human habitation, or that it complies with any codes, ordinances, statutes or regulations. Nor does this Ordinance create a duty by the Town to verify, and the Town has not taken any action to verify whether the property is fit for human habitation, or that it complies with any codes, ordinances, statutes or regulations. Nothing in this Ordinance shall create any cause of action or claim against the Town or its officials or employees.

Section 2. Definitions.

Any undefined term shall have the meaning ascribed thereto in the Town's Zoning Ordinance. If a term is not defined in this article or the Zoning Ordinance, it shall have its customary dictionary meaning.

Dwelling shall mean a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters and containing cooking, sleeping and toilet facilities physically separated from any other rooms or dwelling units which may be in the same building.

Habitable room shall mean any room used for sleeping, living, cooking or dining purposes, but excluding closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces.

Owner shall mean any person, agent, firm, corporation or other legal entity having a legal or equitable interest in a rental unit or rental property, including but not limited to a mortgagee in possession, the beneficiary of a trust, or the holder of a life estate.

Rental property shall mean any property (including associated land, buildings, accessory structures, accessory dwelling units, common areas, parking areas, and other appurtenances) used or occupied as, or containing, any rental unit(s).

Rental unit means a dwelling unit, rooming unit, or habitable room that is occupied for residential purposes in exchange for consideration.

Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Town official shall mean Town Manager or his/her designee.

Transient occupancy shall mean occupancy that is less than two weeks duration in the same or similar units owned by the same owner.

Section 3. Applicability.

This article applies to all rental units or rental property located within the Town of Castine, but shall not apply to the following housing arrangements unless the arrangements were created to avoid the application of this article:

- (a) Transient occupancy in a hotel, motel, inn, or other similar lodging facility.
- (b) Group homes, community living arrangements, or foster homes.
- (c) Hospital, nursing home, congregate care facility, assisted living facility, extended medical care facility, or other similar facility.
- (d) On-campus residential facility which is owned, operated or managed by Maine Maritime Academy.

Section 4. Required Listing of rental units and rental properties.

(a) No later than August 15 of each year, the Owner of any rental unit or rental property shall list such rental unit or rental property with the town official. Listing shall be renewed annually.

(b) The listing shall be made on such form (Annual Rental Listing Form) and in accordance with such instructions as may be provided by the town official, and shall include at least the following information:

- (1) The names and addresses (both street and mailing) of all owners of the rental unit or rental property. If the owner is a corporation or other legal entity, the names and addresses of its officers, partners, members, or trustees shall be provided.
- (2) Emergency contact information for the owner, including addresses, telephone numbers and e-mail addresses, if any.
- (3) The name, address (both street and mailing), and emergency contact information for any local agent, including telephone numbers and e-mail address, if any.

(c) Basic Safety Guidelines for Housing shall be included on the Annual Rental Listing Form to provide safety information to owners and managers.

(d) The designation of a local agent does not relieve the owner of the responsibility for compliance with this article.

(e) The owner shall list the rental unit or property in a timely manner. If a rental unit or rental property is not listed by the deadline established in this Article, the late fee shall be \$25. Such late fee may be increased by vote of the Selectboard. If a rental unit is not listed during a calendar year in which it has been in existence, the late fee shall be due retroactively.

(f) No owner or local agent shall lease, rent or permit the occupancy of any rental unit or rental property unless the unit or property is listed in accordance with this Ordinance.

Section 5. Transition provisions.

The initial registration of any rental unit or rental property existing prior to August 14, 2018, shall be made by not later than August 15, 2018.

ARTICLE II. GENERAL PROVISIONS

Section 1. Penalties.

Any person who is found to be in violation of any provision or requirement of this Ordinance shall be subject to a civil penalty as set forth in 30-A M.R.S.A. § 4452 (<http://legislature.maine.gov/legis/statutes/30-A/title30-Asec4452.html>). Each violation of a separate provision or requirement shall constitute separate offenses and penalties may be assessed on a per-day basis. In addition, if the Town is the prevailing party in an enforcement action, said person shall also be liable for all reasonable expenses incurred by the Town in the enforcement of this Ordinance, including but not limited to staff time involved in the investigation and prosecution of the violation(s), attorney's fees, expert witness fees, and costs. All civil penalties shall inure to the benefit of the Town of Castine.

Section 2. Severability.

If any provision of this Ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Ordinance shall not be invalidated.



Town of Castine
Annual Rental Listing Form
Castine Rental Housing Ordinance

1. Property Address		Rental Type	
Tax Map _____ Lot # _____		(Check all that apply)	
Street # _____ Street Name _____		<input type="checkbox"/> Single Family Residence	
***Rental Listing Information (ownership, manager or emergency contact, property, and tenant information) must be updated every year.		<input type="checkbox"/> Two-Family	
Total number of tenants at this location _____		<input type="checkbox"/> Mobile Home	
Total number of on-site parking spaces _____		<input type="checkbox"/> Accessory Dwelling Unit	
		<input type="checkbox"/> Single Room(s)	
		Zoning District _____	
2. Owner Information (If owner is a corporation or similar entity, provide name of key contact person)			
Last Name _____		First Name _____	
Business Name _____			
Mailing Address			
Street # _____	Street Name _____	PO Box _____	City _____ State _____ Zip Code _____
Telephone # _____		2nd Telephone # _____ E-Mail Address _____	
3. Property Manager Information (If same as above, check here: _____)			
Last Name _____		First Name _____	
Business Name _____			
Mailing Address			
Street # _____	Street Name _____	PO Box _____	City _____ State _____ Zip Code _____
Telephone # _____		2nd Telephone # _____ E-Mail Address _____	
4. Emergency Contact Information			
Is there an emergency contact other than the names listed above? Yes _____ No _____			
Last Name _____		First Name _____	
Telephone # _____		2nd Telephone # _____ E-Mail Address _____	
Thank you.			
Please submit this completed Rental Listing Form to: Code Enforcement Office, Town of Castine , 67 Court Street (mail to: P. O. Box 204) Castine, Maine 04421			
All Rental Listing Forms must be filed by August 15 or a \$25 late fee per unit will be charged.			
Units Listed on or before August 15 _____		Units Listed after August 15 _____	
		Late Fee: _____ Total Fee: _____ x \$25/Unit = \$ _____	

5. Certification

I certify that the information provided above is true and complete. Further, I acknowledge that designating a local agent does not relieve the owner from responsibility of complying with this and other state and local regulations.

Authorized Signature: _____ Date: _____

Printed Name: _____ Date: _____

Basic Safety Guidelines for Housing

APARTMENTS (Multi-family Dwelling Unit)

Each apartment door shall be labeled (i.e. Apartment 1, Apartment A, etc.)

BUILDING ADDRESS

All buildings must have black street numbers on a white reflective background, placed in a location that is visible from the street in all weather conditions.

DETECTORS (reference Maine State Fire Marshal Detector Requirements updated 05-10-2018)

Electric-powered (with battery back-up) smoke alarms shall be inside each bedroom, as well as 15' outside the bedroom, and on each level, if applicable. Detectors are recommended near fuel burning heating systems. Smoke alarms should be replaced every 10 years.

At least one carbon monoxide detector (electric powered with battery back-up) shall be in the apartment, located within 15' of the bedroom.

Talking detectors or units with flashing light shall be used for individuals with disabilities.

ELECTRICAL

Extension cords are not allowed, except for temporary use (i.e. cleaning, construction, etc.)

Electrical panels shall be covered and easily accessed. All fuses/ circuit breakers shall be the proper size and all clearly labeled. Screw in fuses should not be used.

Electrical receptacle boxes must have cover plates.

EXITS

In most cases, two well-lit stair exits are required from each building, typically stair and hallway. These exits should not be blocked by anything, including snow or personal belongings. No doors can be nailed shut, padlocked or blocked.

All fire escapes shall be in good condition with clear access.

Bedroom windows must be large enough for tenants to evacuate from if necessary; unobstructed and egressable.

FIRE EXTINGUISHERS

One extinguisher shall be provided on each level, located in plain sight, and inspected annually.

HEATING EQUIPMENT

The apartment's heating equipment shall be in good working order with no fuel leaks (including oil tanks), be properly vented; and, in the case of a furnace/boiler, have an emergency switch.

STORAGE/TRASH

Stairs and hallways shall be clear of any trash or personal belongings, including bicycles, furniture, and appliances.

Combustible and flammable liquids and gases are not allowed inside the building unless they are stored in labeled lockers.

There should be a designated area or dumpster outside of the apartment for accumulated trash.

SEWER SYSTEM ORDINANCE OF THE TOWN OF CASTINE, MAINE



ENACTED BY THE TOWN IN MEETING ASSEMBLED

THE 24TH DAY OF MARCH 1997

(AND AS THEREAFTER AMENDED)

ATTEST: THIS IS A TRUE DOCUMENT. THE *SEWER SYSTEM ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM 24 MARCH 1997 TO THE DATE HEREOF, EXCEPT AS AMENDED THROUGH 23 AUGUST 2004, AS SHOWN.

DATED: 23 AUGUST 2004

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

SEWER SYSTEM ORDINANCE OF THE TOWN OF CASTINE

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ARTICLE 1: DEFINITIONS

1.1 TERMS DEFINED

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance will be as follows:

ACCESSIBLE: Having easy access to an appliance, plumbing fixture, or equipment, but which first may require the removal of an access panel or similar obstruction. [Am. #1; 08-23-04]

BACKWATER VALVE: A device or valve installed in a building drain or a building sewer subject to a potential backflow that will prevent drainage or waste from backing into the building or into a fixture and causing an unsanitary or flooding condition. [Am. #1; 08-23-04]

BENEFITED PROPERTY OWNERS: Owners of real estate abutting a public right-of-way containing a public sewer, or having buildings within 200 feet of a public sewer, or who are connected to a public sewer.

BUILDING DRAIN: The lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning eight (8) feet outside of the building wall. [Am. #1; 08-23-04]

BUILDING SEWER: The horizontal extension from the building drain to the public sewer or other place of disposal. [Am. #1; 08-23-04]

CODE ENFORCEMENT OFFICER (CEO): A person appointed by the Board of Selectmen to administer and to enforce this and other Town ordinances and State codes. Under this Ordinance, the CEO's responsibility extends downstream from the junction of the building sewer and the building drain. [Am. #1; 08-23-04]

DEVELOPER: Any person who undertakes (a) to construct simultaneously more than one housing unit on a given tract or land subdivision, or (b) to construct a structure containing three or more dwelling units.

GARBAGE: The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HEARING: Any regular or special meeting of the Utility Board at which a person has an opportunity to be heard on a specific matter that has been placed on the agenda for that meeting.

INDUSTRIAL WASTE: The high strength liquid or waste from industrial processes as distinct from domestic sewage.

INTERCEPTOR: A device designed and installed so as to separate and retain deleterious, hazardous or undesirable matter, from normal wastes, and permit normal sewage or liquid wastes

to discharge into the disposal system. Examples of deleterious, hazardous or undesirable matter are grease, oil, corrosives, sand and gravel. [[Am. #1; 08-23-04](#)]

LOCAL PLUMBING INSPECTOR (LPI): A person appointed by the Board of Selectmen to enforce the State of Maine Internal Plumbing Rules, the Maine Subsurface Wastewater Disposal Rules and this Ordinance. Under this Ordinance, the LPI's responsibility extends upstream from the junction of the building sewer and the building drain. [[Am. #1; 08-23-04](#)]

OWNER: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land. [[Am. #1; 08-23-04](#)]

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. [[Am. #1; 08-23-04](#)]

PUBLIC SEWER: A common sewer directly controlled by public authority. [[Am. #1; 08-23-04](#)]

SANITARY SEWER: A sewer which carries only sewage, and to which storm, surface and ground waters are not intentionally admitted.

SELECTMEN: Those duly elected municipal officers who exercise executive powers and are the approval authority for recommendations of the Utility Board, except where action by a Town meeting is legally required.

SEWAGE (WASTEWATER): Liquid and water-carried wastes from such places as residences, commercial buildings, industrial plants and institutions. [[Am. #1; 08-23-04](#)]

SEWERAGE SYSTEM: All facilities including the treatment plant, mains, pumps, etc. for carrying, treating and disposing of sewage. [[Am. #1; 08-23-04](#)]

SLUG: Any substance released into the in a discharge at a rate and/or concentration, which interferes with the operation of the wastewater treatment plant.

STATE PLUMBING CODE(S): The Maine Subsurface Wastewater Disposal Rules, 10-144 CMR 241 and the State of Maine Internal Plumbing Rules, 10-144 CMR 238. [[Am. #1; 08-23-04](#)]

STORM DRAIN OR DITCH: A pipe or conduit, which carries storm and surface waters and drainage, but excludes sewage and industrial wastes.

STUB: That section of the building sewer within the public right-of-way, extending from the sewer main to the property line at the edge of the public right-of-way. [[Am. #1; 08-23-04](#)]

SUPERINTENDENT: The Waste Water Treatment Plant (Pollution Control Facility) Operator, who has the responsibility for the day-to-day operation and maintenance of the municipal sewer system. [[Am. #1; 08-23-04](#)]

TEST-PITTING: The excavation of the junction between the sewer main and the building sewer to determine the condition of the building sewer and whether or not it conforms to this Ordinance and to other applicable regulations.

TOWN: The Town of Castine, Maine, or any of its legally elected or appointed officers, officials, or agents including the CEO, LPI, Superintendent, or the Town Engineer.

TOWN ENGINEER: An individual who is licensed to practice as a registered Professional Engineer in the State of Maine and is either employed or retained by the Town.

TOWN MANAGER: The individual appointed by the Board of Selectmen to perform that function. [Am. #1; 08-23-04]

UTILITY ACCESS HOLE: A “manhole” as commonly defined.

UTILITY BOARD: The Board created by the Town and appointed by the Board of Selectmen to administer the Sewer System Ordinance of the Town of Castine, Maine. [Am. #1; 08-23-04]

ARTICLE 2: GENERAL

2.1 SHORT TITLE, REPEAL OF PREVIOUS REGULATIONS

This regulation shall be known and may be cited as the Sewer System Ordinance of the Town of Castine, Maine, and will be referred to herein as “this Ordinance.” This Ordinance hereby supersedes and repeals the Sewer Regulations of the Town of Castine, Maine including all previously adopted amendments and shall become effective upon passage. Any violation of the Sewer Regulations, which existed prior to the adoption of this Ordinance, shall be subject to the provisions of those Sewer Regulations.

2.2 CONFLICTING ORDINANCES OR LAWS

In general, this Ordinance is complementary to other Town Ordinances affecting the use of land. If a conflict occurs within this Ordinance or between this Ordinance and any other Federal, State or Local rule, regulation, ordinance, statute or other restriction, the more restrictive provision shall control.

2.3 VALIDITY

The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

2.4 LANGUAGE

“Shall” is mandatory, while “may” is permissive. Words used in the present tense include the future. Gender and number are inclusive and interchangeable. Where terms are not defined in this Ordinance, they will have the ordinary accepted meanings such as the context implies.

ARTICLE 3: USE OF PUBLIC SEWER REQUIRED

3.1 GENERAL

3.1.1 It is unlawful to dispose of any sewage, industrial wastes, or other polluted waters within the Town except where suitable treatment has been provided in accordance with Federal, State, and Local laws.

3.1.2 Every building or structure in which plumbing fixtures are installed shall be connected either to the public sewerage system or to an approved, private wastewater system. All construction, installations, and connections are to be in compliance with the rules and regulations of the Maine Department of Environmental Protection (DEP), the Maine Department of Human Services (DHS), and this Ordinance.

3.2 APPLICATIONS, PERMITS, PETITIONS, AND PROPOSALS

3.2.1 Before undertaking any construction or other activity governed by this Ordinance, an applicant shall apply to the Town Manager’s office for all necessary approvals and pay all charges and fees. A permit will be issued if the reviewing authority finds that the application is in conformance with all applicable provisions of this Ordinance. The street opening permit (see Section 5.9) and the connection permit (see Section 5.5) may be issued by either the Town Manager or the Code Enforcement Officer (CEO). The applicant will be advised as to whether or not the proposed connection will require a review (as in the case of the artificial lifting of sanitary sewage) by the Utility Board. Other than in an emergency the Town Manager’s office shall be given not less than three (3) business days advance notice of the time and date the work is to be performed in a Town street.

3.2.2 A petition for a connection postponement, a connection exemption, or a sewer extension shall be submitted to the Town Manager, who shall place the request on the Utility Board’s agenda for consideration. All such petitions must be received by the Town Manager at least ten (10) days prior to a Board meeting for consideration at that meeting. The Board shall issue a written response to the petitioner within forty-five (45) days following the hearing.

- 3.2.3** A proposal to discharge wastes of unusual volume, strength or character, or of a change in the wastes already being discharged into the sewerage system shall be submitted to the Town Manager, who shall place the request on the Utility Board's agenda for consideration. All such proposals must be received by the Town Manager at least ten (10) days prior to a Board meeting for consideration at that meeting. The Board shall issue a written response to the proposer within forty-five (45) days following the hearing.

3.3 CONNECTION TO PUBLIC SEWER REQUIRED

- 3.3.1** Every building that requires the disposal of sewage or in which plumbing fixtures are installed, which is located on premises which (a) abut on a street or public way containing a public sewer and (b) provided that the building to be served is within 200 feet of the public sewer, shall be connected to the public sewer at the owner's expense. Within ninety (90) days following the receipt of a request from the Town, the owner shall cease to use any other method for the disposal of sewage unless a public health issue exists, whereupon connection to the public sewer shall be immediate.

- 3.3.2** Upon petition (see Section 3.2.2), the Utility Board may postpone the requirement for connection to the public sewer. The applicant must certify that the current wastewater disposal system is functioning properly and meets present State Plumbing Code standards for design and installation; or in the case of a licensed overboard discharge system, those of the Maine Department of Environmental Protection (DEP). A written report of compliance to this effect prepared by a licensed Site Evaluator or other professional approved by the Utility Board must be submitted with the postponement petition.

If the disposal system malfunctions or fails, the postponement shall be revoked and connection to the public sewer shall be required. Prior to any such revocation, however, the applicant shall be provided with written notice of such revocation and an opportunity for a hearing.

The maximum duration of a postponement will be two (2) years, after which time a renewal may be granted provided that a written certification that the system is still properly functioning is submitted.

3.4 CONNECTION EXEMPTION

The Utility Board may, upon petition (see Section 3.2.2) supported by documentation, grant an exemption from the requirement for connection where special circumstances exist. Such special circumstances may include, but are not limited to, the presence of ledge, a prohibition by State law or regulation against excavation, etc. Such exemption, however, shall not nullify existing Federal, State, or Local rule, regulation, ordinance, statute or other restriction. Any such exempted wastewater disposal system must meet

State Plumbing Code or Maine Department of Environmental Protection (DEP) requirements. Further, in granting an exemption, the Utility Board may impose additional conditions that will ensure that the purposes of this Ordinance shall be met.

ARTICLE 4: PRIVATE SEWAGE DISPOSAL

4.1 PUBLIC SEWER UNAVAILABLE; PRIVATE SYSTEM REQUIRED

Where a public sanitary sewer is not available under the provisions of Section 3.3, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article; the Subsurface Wastewater Disposal Rules of the Maine Department of Human Services (DHS), administered by the Local Plumbing Inspector (LPI); or the Overboard Discharge Rules of the Maine Department of Environmental Protection (DEP); and the Zoning Ordinance for the Town of Castine.

4.2 SANITARY MAINTENANCE REQUIRED

The private sewage disposal system shall be operated and maintained, as specified in Section 4.1, at the owner's expense except for the disposal of septic wastes as provided for by law.

4.3 MALFUNCTIONING FACILITIES

A private sewage disposal system, which is not in compliance with the provisions of Section 4.1 shall be repaired or replaced. Failure to correct malfunctioning facilities may result in the Town's correcting the malfunction in accordance with the provisions of 30-A M.R.S.A. Section 3428.

4.4 AVAILABILITY OF PUBLIC SEWER

At such time as a public sewer becomes available, connection shall be made in accordance with the provisions of Section 3.3. To minimize safety hazards, any septic tank or cesspool which is abandoned shall be filled with sand or gravel after breaking open and removing the top.

ARTICLE 5: CONNECTION OF BUILDING SEWER TO PUBLIC SEWER

5.1 CONNECTION AND MAINTENANCE COSTS

The owner shall be responsible for the connection to the public sewer main. This responsibility includes the costs of installing, connecting, and maintaining the piping to the sewer main.

5.2 PROHIBITED CONNECTIONS

The owner shall not connect roof downspouts, exterior foundation drains, cellar drains, sump pumps, or other sources of surface runoff or ground water infiltration to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer. The owner shall provide a separate drainage and disposal system for any surface water inflow or ground water infiltration either generated on or flowing from the owner's property.

5.3 SEPARATE BUILDING SEWERS REQUIRED

5.3.1 A separate and independent building sewer shall be provided for each building unless the Utility Board approves the installation of an approved private central collection system connected to the Town sewer through a utility access hole furnished and installed at the owner's expense.

5.3.2 A building sewer expected to require frequent maintenance, owing to the volume and/or character of the sewage it discharges, shall be connected to the public sewer through a utility access hole at the owner's expense. The location of this utility access hole and the building connection to it or to an existing utility access hole shall be as specified by the Superintendent.

5.3.3 Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5.4 EXISTING BUILDING SEWERS

Existing building sewers may be connected to new buildings only if they are found, on examination by the Superintendent, to meet all requirements of this Ordinance.

5.5 CONNECTION SPECIFICATIONS AND DESIGN STANDARDS

5.5.1 The provisions of this Article shall be considered to supplement the provisions of the State Plumbing Code with respect to the building sewer and its connection to the public sewer. In the event of a conflict between this Article and the State Plumbing Code the more restrictive provision shall prevail.

5.5.2 The building sewer shall conform to the State Plumbing Code and to the specifications set forth in the *Guidelines For Design And Construction Of Sewers* which is found in Appendix A. Any deviation from the prescribed procedures and materials must be approved by the Town Engineer as being the equivalent of or superior to those specified before installation.

5.6 CONNECTION TO BUILDING

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor or as close to the floor as possible. A building sewer shall be laid in such a direction or at such a safe distance that a bearing wall shall not be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade, proper slope (see Appendix A.1.e.), and in straight alignment insofar as possible.

5.7 ARTIFICIAL LIFTING OF SANITARY SEWAGE

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be pumped and discharged into the building sewer. The Utility Board shall review at the time of application and in consultation with the Town Engineer the adequacy of the pump station design (see Section 3.2.1).

5.8 BACKWATER VALVES

Check valves shall be installed in all buildings connected to the Town sewerage system. Damages arising from the failure to install such valves are the liability of the owner. Valves shall be installed so that their working parts are readily accessible for service and repair.

5.9 SAFEGUARDS REQUIRED: EXCAVATIONS, RESTORATION, AND DAMAGES

All sewer related excavations are to be adequately guarded with barricades and lights so as to protect the public from harm. All streets, sidewalks, and other public property disturbed by the work shall be restored, at the owner's expense, to a condition that meets or exceeds the original condition as determined by the Town Manager or his authorized designee. The owner shall be liable for indemnifying the Town for a period of twelve (12) months, for any loss or damage to Town property that may directly or indirectly be occasioned by the installation of the building sewer line.

5.10 INSPECTION

The Superintendent shall be notified when the building is ready to be connected to the public sewer. Open trenches are not to be backfilled until inspected by the Superintendent or his authorized designee. Inspection shall not be unreasonably delayed.

5.11 DISCONNECTION OF BUILDING SEWER

Before dismantling or moving a building connected to a public sewer, the owner shall notify the Superintendent, who shall determine the serviceability of the building sewer. In a manner approved by the Town, the owner shall seal the entrance to a serviceable

building sewer or shall remove any unserviceable building sewer and seal its entrance to the public sewer.

ARTICLE 6: REPLACEMENT OF AN EXISTING BUILDING SEWER, INCLUDING SEPARATION OF SEWAGE AND STORM WATER

6.1 AUTHORITY

Under the provisions of this Ordinance the Town has the authority to ensure that building sewers meet the minimum standards set forth in the Ordinance. Accordingly, the building owner shall maintain (see Section 5.1), by repair or by replacement, a malfunctioning or defective building sewer and/or shall install (see Section 5.2) such drains as shall be necessary to separate sewage from storm water.

6.2 REPLACEMENT OF DEFECTIVE BUILDING SEWERS

Upon excavation of the junction of a building sewer and the public sewer, if any of the following conditions is found a new building sewer shall be installed at the owner's expense:

6.2.1 Deteriorated pipe as indicated by cracks, holes and excessive rust;

6.2.2 Construction with nonconforming materials such as, but not limited to, vitrified clay and orangeburg; and

6.2.3 Ground water leakage into the building sewer.

The decision to replace a building sewer shall be made by the Town. All work shall be performed in accordance with the provisions of this Ordinance.

6.3 SEPARATION OF SEWAGE AND STORM WATER

Under the authority granted in Article 11 of this Ordinance the Town may inspect premises to ascertain compliance with the provisions of Sections 5.2 and 8.1 of this Ordinance. Upon a finding by the Town of combined sewage and storm drainage, separation of sewage and storm drainage in accordance with the provisions of this Ordinance shall be provided at the owner's expense.

6.4 TOWN BUILDING SEWER REPLACEMENT PROCEDURE

6.4.1 While the Town is replacing a sewer main, and building inspection and trenching indicate that a building sewer has deteriorated and/or is nonconforming, the Town shall replace the building sewer from the sewer main to the property line at the edge of the public right-of-way. The owner shall have sixty (60) days in which to

install and connect a new building sewer to the stub provided by the Town. The total cost of the building sewer, including the cost of the stub, shall be borne by the owner. Further, the owner shall bear the expense of separating sanitary sewage from and disposing of any ground, surface, and/or storm water. All work must be performed in accordance with the provisions of this Ordinance. The owner may retain his own contractor or negotiate an agreement with the Town's contractor to replace the building sewer and/or storm drain. [Am. #1; 08-23-04]

6.4.2 The Town may utilize test-pitting and an inspection of the premises to determine whether or not it is necessary to replace the building sewer. Should replacement be necessary, the provisions noted above shall apply, except that the Town shall not provide a contractor for line replacement and that the owner shall have sixty (60) days in which to complete the necessary work. The cost of any test-pitting shall be borne by the Town. [Am. #1; 08-23-04]

6.4.3 Failure by the owner to correct a defective or malfunctioning building sewer shall result in the Town's correcting the malfunction in accordance with the provisions of Title 30-A M.R.S.A. Section 3428.

ARTICLE 7: SEWER EXTENSIONS

7.1 DESIGN, INSPECTION, APPROVAL, AND DOCUMENTATION

7.1.1 No sewer extension is to be constructed and connected to the Town's sewerage system without the express approval of the Utility Board (see Section 3.2.2). The Board's decision shall be governed by, but is not confined to, such criteria as the ability of the sewerage system to process existing potential load and the proposed additional load, public health considerations, environmental impact, and monetary cost.

7.1.2 All approved extensions to the sewerage system (mains and building sewers) shall be properly designed and constructed in accordance with this Ordinance (Article 5 and Appendix A) and with prevailing professional standards of practice and care. Before construction can proceed, plans and specifications shall be submitted to the Town Engineer for review and approval. The design of sewers shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

7.1.3 The construction of the sewer extension shall be subject to periodic inspections by the Town Engineer. These inspections, along with the review and approval procedure noted above, shall be paid for by the party requesting the sewer extension, except where the Town participates in the cost of constructing the extension. In such a case, agreement between the parties with respect to the prorating of costs shall be reached prior to the start of construction. The Town

Engineer's decisions shall be final in matters of quality and methods of construction. Upon completion, and before final approval and acceptance (if constructed within a public right-of-way), reproducible as-built drawings shall be furnished to the Town.

7.2 ALLOCATION OF COSTS

- 7.2.1** The Utility Board may recommend to the Town the construction of, under public contract, a sewer extension including individual building sewers from the sewer main to the property line at the edge of the public right-of-way. The property owner shall be responsible for construction of the building sewer from the property line to the building and shall be responsible for the total cost of the building sewer.
- 7.2.2** If the Town does not elect to construct or to participate in the construction of a sewer extension, the developer or person requesting the extension may construct and shall pay for the extension, if such extension is approved by the Utility Board.
- 7.2.3** In accordance with the provisions of Title 30-A M.R.S.A. Sections 3441-3445, benefited property owners may be assessed up to one-half (1/2) the cost of the construction of the sewer extension. A higher assessment may be charged, however, if 75% or more of the benefited property owners petition the Town and agree to pay a higher assessment that is specified in their petition. Notwithstanding the preceding, the Utility Board is under no obligation to approve the petitioned sewer extension.

7.3 TOWN PROPERTY

All sewer extensions constructed within a public right-of-way at private expense, after final approval by the Town Engineer and acceptance by the Utility Board on behalf of the Town, shall become the property of the Town and shall thereafter be maintained by the Town. Said sewers, after their acceptance by the Town shall be guaranteed against defects in material or installation for twelve (12) months. The guarantee shall be in a form provided for by the Town; at the sole discretion of the Town, a maintenance bond or certified check may be demanded as part of the guarantee.

7.4 PRIVATE PROPERTY

- 7.4.1** In addition to being constructed in accordance with the provisions of this Ordinance, sewer extensions and their ancillary building sewers located on private property shall be held to the same maintenance standards as those on public property.

- 7.4.2** No sewer extension presently located on private property shall be accepted by the Town and become the property of the Town unless and until it conforms to the provisions of this Ordinance.

ARTICLE 8: USE OF PUBLIC SEWER

8.1 DISCHARGE OF UNPOLLUTED DRAINAGE PROHIBITED

Storm water, cooling water, swimming pools, cellar drains, roof drains, and all such unpolluted drainage shall not be discharged into the Town's sewers.

8.2 OTHER PROHIBITED DISCHARGES

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewers:

- 8.2.1** Any liquid or vapor having a temperature higher than 150° Fahrenheit.
- 8.2.2** Any water or waste containing more than 100 parts per million, by weight, of fat, oil, or grease whether emulsified or not.
- 8.2.3** Any gasoline, benzene, naphtha, fuel oil, lubricating oils, or other flammable or explosive liquids, solids, or gases.
- 8.2.4** Any garbage that has not been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewer.
- 8.2.5** Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, or any other solid or viscous substance capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage treatment plant.
- 8.2.6** Any waters or wastes having a pH lower than 6.0 or higher than 8.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewer system or downstream treatment plant.
- 8.2.7** Any waters or wastes containing toxic or poisonous substances of any kind.
- 8.2.8** Any waters or wastes containing Total Suspended Solids (TSS) greater than 450 parts per million by weight or a five-day Biochemical Oxygen Demand (BOD) greater than 400 parts per million.
- 8.2.9** Any noxious and malodorous gas or substance capable of creating a public nuisance.

8.2.10 Any high strength process wastewater of industrial or heavy manufacturing origin.

8.2.11 Any wastewater from septic tanks, holding tanks, or chemical toilets.

8.2.12 Any wastewater containing medical wastes.

8.2.13 Any wastewater that has color or dye that cannot be removed by the treatment plant process and which consequently imparts color to the treatment plant's effluent.

8.2.14 Any waters or wastes containing substances which are not amenable to treatment or reduction by the waste treatment process employed; which may inhibit treatment plant processes, sludge quality, or sludge disposal; which, after treatment, may not meet the requirements of other governing agencies.

8.3 DILUTION OF DISCHARGE PROHIBITED

No discharger or user shall increase the use of potable or process water, in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this Ordinance.

8.4 INTERCEPTORS OR TRAPS

8.4.1 Interceptors or traps shall be installed by all owners, at their expense, for any flammable waste, sand, or other substances identified in Section 8.2.

8.4.2 In accordance with the State Plumbing Code, grease traps shall be installed in those "...establishments where grease may be introduced into the drainage or sewage system in quantities that can effect line stoppage or hinder sewage treatment or private sewage disposal." Such establishments include "...restaurants, cafes, lunch counters, cafeterias, bars and clubs, hotels, hospitals, sanitariums, factories, school kitchens or other establishments..." Such interceptors shall not be required for private living quarters or dwelling units unless a home occupation, as defined in the Zoning Ordinance for the Town of Castine, necessitates such an installation.

Notwithstanding the preceding paragraph, the requirement that an interceptor be installed may be waived if it can be demonstrated, to the satisfaction of the Town, that such an installation is not needed. Any such determination is to be guided by, but not limited to, consideration of such factors as (1) the presence or absence of an observable and/or measurable grease or oil discharge, (2) the menu and type of food preparation, (3) the number of meals prepared and of dishes washed, and (4) the use of a pre-rinse sink or a pot-wash sink.

8.4.3 The Utility Board reserves the right to review the plans for any proposed interceptor installation. All interceptors shall be of a type and capacity approved by the Local Plumbing Inspector (LPI) and conforming to the State Plumbing Code. Interceptors shall be located so as to be readily and easily accessible for cleaning and inspection. Where installed, all grease, oil, and sand interceptors or traps shall be maintained by the owner, at the owner's expense, in continuously efficient operation at all times.

8.5 PUMP STATIONS AND THE ARTIFICIAL LIFTING OF SANITARY SEWAGE

Where a pump station is installed to lift sanitary sewage, steps shall be taken to minimize the possibility of introducing slug loads of septic sewage into the sewerage system. If the wet well is not to be used for a prolonged period (a month or more), solids shall be removed from the wet well and force main by flushing them with at least twice their water volume.

ARTICLE 9: PRETREATMENT FACILITIES

9.1 PRETREATMENT REQUIRED

9.1.1 Any waters or wastes discharged into the sewerage system exhibiting characteristics that do not meet the limits set forth in Section 8.2 or having an average daily flow greater than two (2%) percent of the average daily flow of the Town shall be subject to a review by the Utility Board. The review, at the expense of the person requesting the discharge, will be performed by the Board in consultation with the Town Engineer and, as appropriate, other knowledgeable authorities and/or experts.

9.1.2 The owner shall provide and bear the expense of such pretreatment as may be necessary to reduce objectionable characteristics or constituents to within the limits provided for in Section 8.2, and to control the quantities and rates of discharge of such waters or wastes into the sewerage system.

9.1.3 Plans, specifications, and any other pertinent information relating to proposed pretreatment facilities shall be submitted to the Utility Board for review, at the owner's expense, by the Town Engineer. No construction of pretreatment facilities shall begin until such a review has been completed.

9.2 MAINTENANCE OF PRETREATMENT FACILITIES

Where pretreatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner and at the owner's expense.

9.3 MONITORING OF DISCHARGES AND RECORD KEEPING

All persons with pretreatment requirements discharging into a public sewer shall install, use, and maintain such monitoring equipment as the Superintendent may reasonably require. In addition to recording and reporting the results of such monitoring to the Superintendent, records shall be made available upon request by the Superintendent to other agencies having jurisdiction over discharges to the receiving waters.

9.4 MEASUREMENT, TEST, AND ANALYSIS STANDARDS

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in Section 8.2 shall be at the owner's expense and shall be in accordance with accepted methods and standards of waste and wastewater examination. All measurements and tests shall be taken at the control utility access hole provided for in Section 5.3.2, or at another suitable sampling location approved by the Superintendent.

9.5 UNUSUAL WASTES

9.5.1 Unusual wastes are characterized by their ability to adversely impact the sewerage system including the collection system, pump stations, treatment plant processes (both physical/chemical and biological), effluent, and final sludge quality.

9.5.2 Before the Town accepts any wastes of unusual volume, strength or character, the person concerned shall provide the Utility Board with a proposal (see Section 3.2.3) for pretreatment that will be satisfactory to both parties. The cost of reviewing any such proposal shall be borne by the person submitting the proposal.

9.5.3 The Utility Board reserves the right to determine which wastes it will accept, deny, or for which it will require pretreatment even if the waste's characteristics are not expressly limited in this Ordinance.

ARTICLE 10: PROTECTION FROM DAMAGE

10.1 PROHIBITED ACTIONS

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances, or equipment which is a part of the municipal sewerage system. Any person violating this provision shall be subject to prosecution to the full extent of the law.

10.2 LIABILITY INSURANCE

Prior to work being performed, a contractor shall present to the Town a certificate showing proof of liability insurance coverage and of such other construction insurance as

workmen's compensation, etc. All types and amounts of insurance are to be as is appropriate and customary as determined by the Town for the work being performed on the public sewerage system.

ARTICLE 11: POWER AND AUTHORITY OF INSPECTORS

11.1 AUTHORITY TO INSPECT

The Town reserves the right of reasonable access to all premises served by the public sewerage system, at reasonable and mutually convenient times, for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance.

Inspections shall be performed by duly authorized individuals and/or employees of the Town bearing proper credentials and identification.

ARTICLE 12: ENFORCEMENT

12.1 NOTICE OF VIOLATION

Any person found to be violating any provision of this Ordinance (except Section 10.1) shall be advised by the Code Enforcement Officer (CEO) or the Local Plumbing Inspector (LPI), that a violation exists. If the violation is not corrected, the offender shall be notified in writing of the nature of the violation and a reasonable time limit to correct the violation. The offender shall, within the time stated in such notice, permanently cease all violations.

12.2 PENALTY

Any person who continues to violate any provision of this Ordinance after having received notice of such violation shall be subject to a fine recommended by the Utility Board and set by the Selectmen of not less than \$100.00 and not more than \$2,500.00 per violation. Each day of violation after notification shall constitute a separate offense with respect to each violation.

12.3 OTHER APPROPRIATE ACTION

To remedy any violation of this Ordinance, the proper authorities of the Town, may institute any appropriate action or proceeding, including an injunction to prevent any act, which violates this Ordinance.

12.4 LIABILITY TO THE TOWN

Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation.

ARTICLE 13: ADMINISTRATION

13.1 SEWER RATES, ASSESSMENTS, AND FEES

Sewer rates applied to metered water use, assessments, and fees are established by the Selectmen at the recommendation of the Utility Board and are listed in Appendix B of the Ordinance and shall be publicly available at the Town office. Rates may be changed from time to time and a special rate may be assigned to any property owner who contributes a significant quantity of unusual, atypical, or high strength waste into the sewerage system. Charges will be billed at a regular interval established by the Selectmen at the recommendation of the Utility Board. Collection shall be enforced in accordance with the provisions of 30-A M.R.S.A. Section 3406. [[Am. #1; 08-23-04](#)]

13.2 APPEALS OR REQUESTS FOR ABATEMENT

- 13.2.1** An appeal from a decision of the Code Enforcement Officer (COE) or the Local Plumbing Inspector (LPI) shall be filed with the Town Manager within thirty (30) days of that decision. A request for abatement from an assessment, bill, fee, or rate shall be filed with the Town Manager within thirty (30) days of whatever brought about the request.
- 13.2.2** Any such appeal or request for abatement shall be received by the Town Manager at least ten (10) days prior to a Utility Board meeting for consideration at that meeting.
- 13.2.3** An appeal from a decision of the Code Enforcement Officer (CEO) or the Local Plumbing Inspector (LPI), or a request for abatement occasioned by a bill shall be the responsibility of the Utility Board.
- 13.2.4** A request for abatement resulting from an assessment, fee, or rate shall be the responsibility of the Selectmen and shall be referred to them, by the Utility Board, along with a recommended ruling for disposition.
- 13.2.5** Any decision by the Utility Board or Selectmen to uphold, modify, or deny an appeal or a request for abatement shall (a) take into consideration the proviso that such a decision shall neither compromise the intent of this Ordinance nor lead to the impairment of the integrity, physical and financial, of the public sewerage system so as to endanger the health and welfare of the Town, (b) be supported by substantial evidence of record, and (c) be neither arbitrary nor capricious.

13.2.6 A written notice of a decision shall be sent to the applicant within forty-five (45) days following the hearing.

13.2.7 If dissatisfied, the aggrieved party may appeal the decision of the Utility Board or that of the Selectmen to the Superior Court as provided by the laws of the State of Maine.

13.3 ORDINANCE AMENDMENT

13.3.1 An amendment to this Ordinance may be initiated by the Utility Board, provided a majority of the Board has so voted; or by request of the Selectmen to the Utility Board; or by written petition of a number of voters equal to ten (10) percent of the number of votes cast, in the municipality, in the last gubernatorial election. Such amendment to this Ordinance shall be adopted by a majority vote at a regular or a special Town meeting and shall, unless otherwise specified, become effective upon passage.

13.3.2 Revisions of Appendix A, *Guidelines for Design and Constructions of Sewers* and Appendix B, *Schedule of Sewer Rates, Assessments and Fees* shall not be considered an amendment of the Ordinance. The Board of Selectmen upon the recommendation of the Utility Board may revise said appendices. [Am. #1; 08-23-04]



APPENDIX A

TOWN OF CASTINE GUIDELINES FOR DESIGN AND CONSTRUCTION OF SEWERS

1. Sewer design including sewer collectors, interceptors, and building services shall be in accordance with the following minimum guidelines:
 - a. Pipe material shall be PVC and manufactured in accordance with ASTM Specification D 3034, or cement lined ductile iron conforming to ASTM Specification A 746; or other material approved by the Superintendent.
 - b. All joints shall be prepared and installed in accordance with the manufacturer's recommendations, and shall be gastight and watertight. Joint materials shall be as follows:
 - (1) PVC - ASTM D 3212
 - (2) Ductile Iron - AWWA C 111
 - c. Minimum internal pipe diameter for gravity collectors and interceptors shall be eight (8) inches and shall be four (4) inches for building sewers.
 - d. Branch fittings for house services shall be PVC wyes or tees, or PVC or ductile iron saddles, as appropriate, with stainless steel straps and "O-ring" seal set in mastic to affect a watertight connection.

Fittings shall be of a style and material designed specifically for connection to sewer material that exists in public way. If, in the opinion of the Superintendent, an appropriate fitting is not available to properly connect the building sewer material to the public sewer material, the Superintendent may require an approved section of suitable sewer material to be spliced into the public sewer. Appropriate splicing connections, Fernco or equal, shall be used to connect the new fitting to either end of the existing public sewer which shall first be cut evenly and smoothly prior to installation of the spliced section. In no case will connection by hole cutting, pipe protrusion, and mortaring be allowed.

- e. Minimum slope of sewer pipe shall be as in the following table:

	<u>Pipe Diameter</u>	<u>Minimum Slope in Feet Per 100 Feet</u>
Building services	4"	2.08 (1/4" per foot)
	6"	1.04 (1/8" per foot)
Sewer lines	8"	0.40
	10"	0.28
	12"	0.22
	14"	0.17
	15"	0.15
	16"	0.14

- f. Sewer pipe shall be laid on a minimum 6" of screened gravel or crushed stone bedding material.

- g. Screened gravel shall have the following gradation:

<u>Sieve Size</u>	<u>% By Weight Passing</u>
1 inch	100
3/4 inch	90 - 100
3/8 inch	20 - 55
#4 mesh	0 - 10
#8 mesh	0 - 5

- h. 3/4" Crushed Stone: Durable, clean angular rock fragments obtained by breaking and crushing rock material. Sieve analysis by weight:

<u>Sieve Size</u>	<u>% Passing by Weight</u>
1"	100
3/4"	95 - 100
1/2"	35 - 70
3/8"	0 - 25
No. 200	0 - 2

- i. The screened gravel bedding shall be brought to at least six (6) inches over the top of the pipe.

- j. Backfill material shall then be placed and compacted. Suitable backfill material shall be the following or a combination of the following:

- (1) Excavated material that will compact to the compaction requirements.

- (2) Native material that does not contain rocks larger than 6" in any dimension.
 - (3) Dry clay backfill free from lumps.
 - (4) Wet clay that alone would pump, but when mixed with sand and/or gravel will be stable and will compact.
- k. Compaction densities specified herein shall be the percentage of the maximum density obtainable at optimum moisture content as determined and controlled in accordance with ASTM D 698, depending on the material size. Field density tests shall be made in accordance with ASTM D 1556 (Sand-Cone Method), ASTM D 2167 (Rubber Balloon Method), or ASTM D 2922 (Nuclear Method). Each layer of backfill shall be moistened or dried as required, and shall be compacted to the following densities:
- (1) Pipe bedding material and trench sand 92%
 - (2) Suitable backfill under paved or shoulder areas 95%
 - (3) Gravel base:
 - (a) Under paved areas 95%
 - (b) In shoulder areas 95%
 - (4) Unpaved areas 90%
 - (5) Beside structures: foundation walls, retaining walls, and tank walls 95%
- l. A minimum pipe wall thickness of SDR 35 shall be used for all sewer lines and services. Minimum pipe thickness for deep burial or special applications shall be determined by methods outlined in ASCE Manuals and Reports on Engineering Practice - No. 60/WPCF Manual of Practice - No. FD-5 "Gravity Sanitary Sewer Design and Construction", latest edition.

Pipe thickness shall be calculated on the following criteria:

Safety Factor	2.0
Load Factor	1.7
Weight of Soil	120 lbs./cu. ft.
Wheel Loading	16,000 lbs.

- m. All excavations required for the installation of sewer extensions shall be open trench work unless approved by the Superintendent. No backfill shall be placed until the work has been inspected.

- n. Utility access holes shall be constructed at all changes in slope or alignment or at intervals not exceeding 400 linear feet, unless acceptable to the Superintendent, and shall be precast concrete.
- (1) Precast utility access hole sections shall conform ASTM C 478; cement shall be Type II with a minimum compressive strength of 4,000 psi.
 - (2) Precast base and barrel sections shall have tongue and groove joints, with two strips of 1" diameter butyl rubber base joint sealant that permits installation in temperatures from -20°F to 120°F, as manufactured by Kent Seal or equivalent.
 - (3) Each section of the precast utility access hole shall have two (2) holes for the purpose of handling and setting. These holes shall be tapered and shall be plugged with nonshrink mortar or grout in combination with concrete plugs after installation.
 - (4) Pipe to utility access hole joints shall be Interpace CP Series, flexible utility access hole sleeve, manufactured to fit diameter and size of pipe without use of gaskets, "Link-Seal Century Line" Model CS100 by Thunderline Corporation with sleeve seal equal to "Link-Seal", or equivalent.
 - (5) All manholes shall be wrapped in a minimum of 4 layers of high grade polyethylene frost wrap 6 mils thick to a minimum depth of 7 feet.
 - (6) Dampproofing for concrete shall be semi-mastic type Horn "Dehydratine #4," "RIW Marine Emulsified Liquid" by Toch Bros., Inc., "Hydrocide 600" by Sonneborn, or equivalent.
 - (7) Utility access hole rungs shall be Aluminum alloy 6061-T6, reinforced plastic rungs, or polypropylene reinforced with steel rod, with a minimum width of 16", 12" on center. Aluminum to be cast into concrete must be coated with bituminous paint.
 - (8) After the excavation has been done and leveled, one (1) foot of bedding material shall be placed in the bottom of the excavation, leveled, and thoroughly compacted.
 - (9) Precast concrete utility access hole sections shall be set so as to be vertical and with sections in true alignment, 1/4-inch maximum tolerance to be allowed.

- (10) The top of the precast reinforced concrete unit shall be set at a grade that will allow a minimum of one and a maximum of three precast concrete risers before setting the cast iron frame and cover.
- (11) The inside and outside of the masonry work of all utility access holes shall be plastered with a 1:2 Portland cement mortar. The thickness of the mortar shall be one-half (1/2) inch, and the mortar shall be carefully spread and thoroughly troweled, leaving a smooth, substantially water proof surface. The mortar shall be extended to completely cover the outside and inside surfaces of all masonry work.
- (12) The concrete utility access holes shall have a channel passing through the bottom, which corresponds in shape with the lower two-thirds of the pipe. Inverts shall be cast in place or precast concrete, 3000 psi minimum strength. Side inverts shall be curved and main inverts (where direction changes) shall be laid out in smooth curves of the longest possible radius. The top of the shelf shall slope to drain towards the flowing through channel.
- (13) Utility access holes shall be constructed as the sections of the pipelines between them are completed, and, unless this is done, the Superintendent shall have the authority to stop trenching and pipe laying until utility access hole construction is brought up properly. All ground water shall be kept away from any newly placed concrete or freshly laid masonry work until new cement has properly set and a watertight job is obtained.
- (14) All surfaces to be dampproofed shall be clean, smooth, dry, and free from loose material. Brush the dampproofing onto the outside concrete utility access hole surface and fill all voids. Apply in two (2) coats and conform to the covering capacity of the material used in strict accordance with the manufacturer's recommendations and directions and applied by the manufacturer of the utility access holes. Contractor shall apply dampproofing to masonry. Do not apply dampproofing in freezing or wet weather.
- (15) Iron castings for utility access hole frames and covers shall be the same as used on the Town's existing interceptor sewer system or equivalent.
 - (a) Utility access hole frames and covers shall be ductile iron free from cracks, holes, swells, and cold shuts. The quality shall be such that a blow from a hammer will produce an indentation on an edge of the casting without flaking the metal. Frames and covers shall be machine seated and provided with a gasket so as to provide a tight, even fit.

- (b) Covers shall be solid and shall have the word “SEWER” (3” high) cast on the top. Frames and covers shall be certified as meeting H-20 loading and shall be compatible with existing frames and covers.
 - (c) Casting shall be given one (1) coat of cold-tar pitch varnish at the factory before shipment, and said coating shall be smooth and tough and not brittle.
 - (d) Frames shall be set concentric with the top of the masonry and in full bed of mortar so that the space between the top of the utility access hole masonry and the bottom flange of the frame shall be completely filled and made watertight. A thick ring of mortar extending to the outer edge of the masonry shall be placed all around and on top of the bottom flange. Mortar shall be smoothly finished and have a slight slope to shed water away from the frame.
- 2. All sewers shall satisfy requirements of a leakage test before they are accepted by the Town. The leakage test shall be as follows:
 - a. For each size of pipeline, an initial leakage test shall be made on the first section of the pipeline completed between two adjacent utility access holes. Thereafter, the leakage tests shall be made on sections of approved lengths of completed pipeline, which in no case shall exceed 1,000 feet.
 - b. Each section shall be tested upon its completion.
 - c. Air checking of sewer lines shall be as follows:
 - (1) After backfilling sewer line from utility access hole to utility access hole, the Contractor shall conduct an air leakage test in the presence of the Superintendent, using low pressure air.
 - (2) The equipment used shall meet the following minimum requirements:
 - (a) Pneumatic plugs shall have a sealing length equal to or greater than the diameter of the pipe to be inspected.
 - (b) Pneumatic plugs shall resist internal test pressures without requiring external bracing or blocking.
 - (c) All air used shall pass through a single control panel.
 - (d) Three individual hoses shall be used for the following connections:

- (i) From control panel to pneumatic plugs for inflation.
- (ii) From control panel to sealed line for introducing the low pressure air.
- (iii) From sealed line to control panel for continually monitoring air pressure rise in the sealed line.

(3) Procedures:

- (a) All pneumatic plugs shall be seal tested before being used in the actual test installation. One length of pipe shall be laid on the ground and sealed at both ends with the pneumatic plugs to be checked. Air shall be introduced into the plugs to 25 psig. The sealed pipe shall be pressurized to 5 psig. The plugs must hold against this pressure without having to be braced.
- (b) After a utility access hole to utility access hole reach of pipe has been backfilled and cleaned, and the pneumatic plugs are checked by the above procedure, the plugs shall be placed in the line at each utility access hole and inflated to 25 psig. Low pressure air shall be introduced into this sealed line until the internal air pressure reaches 4 psig greater than the average back pressure of any ground water that may be over the pipe. At least two minutes shall be allowed for the air pressure to stabilize.
- (c) After the stabilization period (3.5 psig minimum pressure in the pipe), the air hose from the control panel to the air supply shall be disconnected. The portion of line being tested shall be termed "Acceptable" if the time required in minutes for the pressure to decrease from 3.5 to 2.5 psig (greater than the average back pressure of any groundwater that may be over the pipe) shall not be less than:

$$T = 0.085 \frac{(DK)}{(Q)}$$

Where:

- T = Shortest time, in seconds, allowed for the air pressure to drop 1.0 psig,
- K = 0.000419 DL, but not less than 1.0,
- Q = 0.0015 cubic feet/minute/square feet of internal surface,
- D = Nominal pipe diameter in inches
- L = Length of pipe being tested in feet.

Table 1 indicates the time required for various lengths and pipe sizes.

TABLE 1

SPECIFICATION TIME REQUIRED FOR A 1.0 PSIG PRESSURE DROP
FOR SIZE AND LENGTH OF PIPE INDICATED FOR Q = 0.0015

1 Pipe Diameter (in)	2 Minimum Time (min sec)	3 Length for Minimum Time (ft)	4 Time for Longer Length (sec)	Specification Time for Length (L) Shown (min:sec)							
				100 ft	150 ft	200 ft	250 ft	300 ft	350 ft	400 ft	450 ft
4	3:46	397	.380 L	3:46	3:46	3:46	3:46	3:46	3:46	3:46	3:46
6	5:40	398	.854 L	5:40	5:40	5:40	5:40	5:40	5:40	5:42	6:24
8	7:34	298	1.520 L	7:34	7:34	7:34	7:34	7:36	8:52	10:08	11:24
10	9:26	239	2.374 L	9:26	9:26	9:26	9:53	11:52	13:51	15:49	17:48
12	11:20	199	3.418 L	11:20	11:20	11:24	14:15	17:05	19:56	22:47	25:38
15	14:10	159	5.342 L	14:10	14:10	17:48	22:15	26:42	31:09	35:36	40:04
18	17:00	133	7.692 L	17:00	19:13	25:38	32:03	38:27	44:52	51:16	57:41
21	19:50	114	10.470 L	19:50	26:10	34:54	43:37	52:21	61:00	69:48	78:31
24	22:40	99	13.674 L	22:47	34:11	45:34	56:58	68:22	79:46	91:10	102:33
27	25:30	88	17.306 L	28:51	43:16	57:41	72:07	86:32	100:57	115:22	129:48
30	28:20	80	21.366 L	35:37	53:25	71:13	89:02	106:50	124:38	142:26	160:15
33	31:10	72	25.852 L	43:05	64:38	86:10	107:43	129:16	150:43	172:21	193:53
36	34:00	66	30.768 L	51:17	76:55	102:34	128:12	153:50	179:29	205:07	230:46

- (d) In areas where groundwater is known to exist, the contractor shall install a 1/2 inch diameter capped pipe nipple, approximately 10" long, through the utility access hole wall on top of one of the sewer lines entering the utility access hole. This shall be done at the time the sewer line is installed. Immediately prior to the performance of this leakage test, the groundwater shall be determined by removing the pipe cap, blowing air through the pipe nipple into the ground so as to clear it, and then connecting a clear plastic tube to the nipple. The plastic tube shall be held vertically and a measurement of the height in feet of water over the invert of the pipe shall be taken after the water has stopped rising in this plastic tube. The height in feet shall be divided by 2.3 to establish the pounds of pressure that will be added to all readings. (For example, if the height of water is 11.5 feet, then the added pressure will be 5 psig. This increases

the 3.5 psig to 8.5 psig, and the 2.5 psig to 7.5 psig. The allowable drop of one pound and the timing remain the same.)

- (e) If the installation fails to meet this requirement, the Contractor shall, at his/her own expense, determine the source of the leakage. He/she shall then repair or replace all defective materials and/or workmanship.
- d. Utility access holes shall be tested by plugging the pipes and filling the utility access holes with water for an exfiltration test, or by an air vacuum test.
 - (1) Water exfiltration test:
 - (a) Fill utility access hole to allow for concrete absorption, and leave overnight.
 - (b) Following morning, fill utility access hole to a level no less than one (1) foot above the beginning of the utility access hole taper, and test for 8 hours.
 - (c) Water level shall be carefully marked, and at end of following 8-hour period, sufficient water shall be added to bring water level back to mark. Water added shall be supplied from a metered source and quantity so added shall be converted to gallons per day lost through utility access hole leakage.
 - (d) The loss of water shall be less than one (1) gallon per day per foot of depth of utility access hole.
 - (e) If the measured exfiltration exceeds the allowable rate, the necessary repairs shall be made by the Contractor, to reduce the leakage.
 - (f) In areas with a high groundwater table, the Superintendent may require a visual infiltration test rather than an exfiltration test. In this case, all leaks or weepings visible from the inside of the utility access hole shall be repaired, and the utility access hole made watertight.
 - (2) Air vacuum test:
 - (a) Utility access holes shall be tested by a vacuum test immediately after assembly of the utility access hole and connecting pipes and before any backfill is placed around the utility access holes, and again after backfilling.

- (b) All lift holes shall be plugged with nonshrink grout and all pipes entering the utility access hole shall be plugged, taking care to securely brace the plugs and pipe.
- (c) The test shall be made using an inflatable compression band, vacuum pump and appurtenances specifically designed for vacuum testing utility access holes. Test procedures shall be in accordance with the equipment manufacturer's recommendations.
- (d) After the testing equipment is in place, a vacuum of 10" of Hg shall be drawn on the utility access hole. The utility access hole will be considered to have passed the test if the vacuum does not drop more than 1" of Hg in one minute.
- (e) If the utility access hole fails the initial test, the Contractor shall locate the leakage and make proper repairs as directed by the Superintendent, and re-tested until a satisfactory test result is obtained.

APPENDIX B

SCHEDULE OF SEWER RATES, ASSESSMENTS AND FEES

Quarterly Base Rate	\$75.00 for first 800 cubic feet
Excess Rate	\$13.25 per 100 cubic feet above the 800 CF base usage
Assessments	\$0.00
Connection Fee	\$700.00

Appendix B added by [[Am. #1; 08-23-04](#)]



Paul R. LePage
GOVERNOR

STATE OF MAINE
Department of Public Safety
Office of State Fire Marshal
52 State House Station
Augusta, ME 04333-0052

John E. Morris
COMMISSIONER

Joseph E. Thomas
STATE FIRE MARSHAL

Smoke Detector and Carbon Monoxide Detector Requirements for Single-Family and Multi-family Buildings, or Rentals- updated 05/10/18

The information below summarizes the general requirements currently in law and code for installation, placement and maintenance of smoke detector and carbon monoxide (CO) detectors in Maine. For more information, you can view the smoke detector law online at: [Title 25, §2464: Smoke detectors](#) and the CO detector law online at: [Title 25, §2468: Carbon monoxide detectors](#) . If you need specific NFPA code information, please call our office at (207) 626-3870.

Smoke Detectors

Existing Single-Family buildings:

**** Detectors can be hardwired with a battery backup or powered by a battery. Check the manufacturer's date on the back of the detector for guidance on when to replace the detector (recommended every 10 years).**

Locations where detectors should be placed:

- In each bedroom
- In the area of each bedroom (in the hallway or in the room you travel through to reach a bedroom)
- All levels of the building (basement, main floor, each additional floor)

✓ A smoke detector installed within 20 feet of a bathroom or kitchen must be a photoelectric-type detector, but smoke detectors in a bedroom within 20 feet of a kitchen or bathroom can be ionization-type detectors.
Steam from kitchens and bathrooms may increase false alarms from ionization detectors.

PREVENTION * LAW ENFORCEMENT * RESEARCH

OFFICES LOCATED AT: 45 CIVIC CENTER DRIVE, AUGUSTA, MAINE 04330
(207) 626-3870 ADMINISTRATION/ INVESTIGATIONS (207) 287-3659 TDD (207) 287-6251 FAX
(207) 626-3880 INSPECTIONS/ PLANS REVIEW

Michelle Mason Webber

Existing Multi-Family buildings:

**** Detectors must be hard-wired.**

Locations where detectors should be placed:

- In the area of each bedroom (in the hallway or in the room you travel through to reach a bedroom)
- All levels of the building (basement, main floor, each additional floor)
- An apartment building more than 3 stories in height must have hard-wired smoke detectors in hallways and corridors.

Transfer (sale or exchange) of Single-Family building:

- ✓ A person shall install smoke detectors in the acquired dwelling within 30 days of acquisition or occupancy of a single-family dwelling, whichever is later, if smoke detectors are not already present, and shall certify at the closing of the transaction that the purchaser will make the proper installation. This certification must be signed and dated by the purchaser.

**** Detectors can be hardwired with a battery backup or powered by a battery.**

Locations where detectors should be placed:

- In each bedroom
- In the area of each bedroom (in the hallway or in the room you travel through to reach a bedroom)
- All levels of the building (basement, main floor, each additional floor)

Transfer (sale or exchange) of Multi-Family building:

- ✓ A person shall install smoke detectors in the acquired multiapartment building within 30 days of acquisition or occupancy of the dwelling, whichever is later, if smoke detectors are not already present, and shall certify at the closing of the transaction that the purchaser will make the proper installation. This certification must be signed and dated by the purchaser.

**** Detectors must be hard-wired.**

Locations where detectors should be placed:

- In the area of each bedroom (in the hallway or in the room you travel through to reach a bedroom)
- All levels of the building (basement, main floor, each additional floor)
- An apartment building more than 3 stories in height must have hard-wired smoke detectors in hallways and corridors.

Rentals

**** Multi-Family dwellings: Detectors must be hard-wired**

**** Single-Family dwellings: Detectors can be 10-year sealed, tamper-resistant, battery-powered smoke detectors**

- ✓ In a unit occupied under the terms of a rental agreement or under a month-to-month tenancy, at the time of each occupancy the landlord shall provide smoke detectors if they aren't already present, and they must be in working condition. After notification of deficiencies, in writing, by the tenant, the landlord shall repair or replace the smoke detectors.
 - ✓ Tenants shall keep the smoke detectors in working condition, test them periodically to make sure they work, and refrain from disabling them.
-

Carbon Monoxide Detectors

Existing Single-Family buildings:

- ✓ Carbon monoxide detectors aren't required by statute or code, but **it is strongly recommended that carbon monoxide detectors be placed in these buildings. These can be 10-year sealed, tamper-resistant, battery-powered detectors.**

Existing multi-family buildings, fraternity or sorority house or dormitory; a children's home, emergency children's shelter, children's residential care facility, shelter for homeless children or specialized children's home; a hotel, motel, inn or bed and breakfast licensed as an eating and lodging place or a lodging place:

**** Required detectors shall be powered by the building's electrical system with a battery backup, a sealed detector with a 10-year battery, or part of a fire/CO detection system.**

Locations where detectors should be placed:

- Outside of each sleeping area (in the hallway or in the room you travel through to reach a bedroom)

New additions to an existing single-family building or conversion of a building to a single-family home, multi-family building, fraternity or sorority house or dormitory; a children's home, emergency children's shelter, children's residential care facility, shelter for homeless children or specialized children's home; a hotel, motel, inn or bed and breakfast licensed as an eating and lodging place or a lodging place:

**** Required detectors shall be powered by the building's electrical system with a battery backup, a sealed detector with a 10-year battery, or part of a fire/CO detection system.**

Locations where detectors should be placed:

- Outside of each sleeping area (in the hallway or in the room you travel through to reach a bedroom)

Rentals

**** Required detectors shall be powered by the building's electrical system with a battery backup, a sealed detector with a 10-year battery, or part of a fire/CO detection system.**

Locations where detectors should be placed:

- Outside of each sleeping area (in the hallway or in the room you travel through to reach a bedroom)
- ✓ In a unit occupied under the terms of a rental agreement or under a month-to-month tenancy, at the time of each occupancy the landlord shall provide carbon monoxide detectors if they aren't already present, and they must be in working condition. After notification of deficiencies, in writing, by the tenant, the landlord shall repair or replace the carbon monoxide detectors.
 - ✓ Tenants shall keep the carbon monoxide detectors in working condition, test them periodically to make sure they work, and refrain from disabling them.

Transfer (sale or exchange) of single-family building:

- ✓ A person shall install carbon monoxide detectors in the acquired dwelling within 30 days of acquisition or occupancy of a single-family dwelling, whichever is later, if carbon monoxide detectors are not already present, and shall certify at the closing of the transaction that the purchaser will make the proper installation. This certification must be signed and dated by the purchaser.

**** Required detectors shall be powered by the building's electrical system with a battery backup, a sealed detector with a 10-year battery, or part of a fire/CO detection system.**

Locations where detectors should be placed:

- Outside of each sleeping area (in the hallway or in the room you travel through to reach a bedroom)

Transfer (sale or exchange) of multi-family building:

- ✓ A person shall install carbon monoxide detectors in the acquired multiapartment building within 30 days of acquisition or occupancy of the dwelling, whichever is later, if carbon monoxide detectors are not already present, and shall certify at the closing of the transaction that the purchaser will make the proper installation. This certification must be signed and dated by the purchaser.

**** Required detectors shall be powered by the building's electrical system with a battery backup, a sealed detector with a 10-year battery, or part of a fire/CO detection system.**

Locations where detectors should be placed:

- Outside of each sleeping area (in the hallway or in the room you travel through to reach a bedroom)

Transfer (sale or exchange) of fraternity or sorority house or dormitory; a hotel, motel, inn or bed and breakfast licensed as an eating and lodging place or a lodging place:

**** Required detectors shall be powered by the building's electrical system with a battery backup, a sealed detector with a 10-year battery, or part of a fire/CO detection system.**

Locations where detectors should be placed:

- Outside of each sleeping area (in the hallway or in the room you travel through to reach a bedroom)

SUBDIVISION ORDINANCE OF THE TOWN OF CASTINE, MAINE



ENACTED BY THE TOWN IN MEETING ASSEMBLED THE 6TH DAY OF
NOVEMBER 2012 AND AS THEREAFTER AMENDED.

ATTEST: THIS IS A TRUE DOCUMENT. THE *ZONING ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS BEEN
IN EFFECT WITHOUT CHANGE FROM 6 NOVEMBER 2012 TO THE DATE HEREOF, EXCEPT AS AMENDED.

DATED: SEPTEMBER 23, 2013

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

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SUBDIVISION ORDINANCE OF THE TOWN OF CASTINE

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• Amendment 1	September 23, 2013
Article amended: 8.	

ARTICLE 1: PURPOSE

The purposes of this Ordinance are:

- 1.1** To promote the development of an economically sound and stable Town;
- 1.2** To assure that new development in the Town of Castine meets the goals and conforms to the policies of the current Comprehensive Plan of the Town of Castine;
- 1.3** To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.4** To protect the environment and conserve the aesthetic, natural and cultural resources of the Town; and
- 1.5** To assure a minimal level of service and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting proposed uses and structures.



ARTICLE 2: AUTHORITY AND ADMINISTRATION

2.1 AUTHORITY

- A.** This Ordinance is adopted pursuant to the home rule authority of municipalities as provided in Article VIII, part 2, section 1 of the Maine Constitution and with the provisions of Title 30-A MRSA §§4401-4408.
- B.** This Ordinance shall be known as and may be cited as the “Subdivision Ordinance of the Town of Castine, Maine.” Applications pending at the time of adoption of this Ordinance shall be governed by Title 1 MRSA §302.

2.2 ADMINISTRATION

- A.** The Planning Board of the Town of Castine, hereinafter called the Board, shall administer this ordinance.
- B.** The provisions of this ordinance shall pertain to all land and buildings proposed for subdivisions within the boundaries of the Town of Castine, hereinafter called the Town or Castine.

2.3 SEVERABILITY

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

2.4 CONFLICT

Should any section or provision of this Ordinance be found to be in conflict within this Ordinance or in conflict with other local, state or federal statutes, ordinances or regulations, the more stringent section or provision shall prevail.

2.5 AMENDMENTS

- A.** This ordinance may be amended by a majority vote at a Town meeting.
- B.** A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

2.6 EFFECTIVE DATE AND REPEAL OF OTHER ORDINANCES

- A.** This Ordinance shall take effect upon its adoption by a majority of the voters at a Town meeting.
- B.** The Subdivision Ordinance in effect at the time this Ordinance is adopted is repealed. That repeal does not affect or prevent any pending or future prosecution for violations or abatement of violations of the repealed ordinance.



ARTICLE 3: ADMINISTRATIVE PROCEDURE

3.1 WRITTEN AGENDA

In order to establish an orderly, equitable and efficient procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall have a written agenda prepared by the Code Enforcement Officer, hereinafter called the CEO, after consultation with the Chairman of the Board for each regularly scheduled meeting. The agenda shall be prepared no less than ten (10) days in advance of the meeting, distributed to the Board members, abutters of any proposed subdivision and any applicants appearing on the agenda and posted at the Town office

3.2 AGENDA REQUEST

Applicants shall submit a written request to the CEO that they be placed on the Board's agenda at least fourteen (14) days in advance of a scheduled meeting. Applicants who attend a meeting but are not on the agenda may be heard after all agenda items have been completed, but only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the agenda.



ARTICLE 4: PREAPPLICATION MEETING, SKETCH PLAN & SITE INSPECTION

4.1 PURPOSE

The purpose of the preapplication meeting and site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification and engineering by the applicant.

4.2 PROCEDURE

- A.** The applicant shall present the sketch plan and make a verbal presentation regarding the site and the proposed subdivision.
- B.** Following the applicant's presentation the Board may ask questions and make suggestions to be incorporated by the subdivider into the application, and the applicant may ask questions of the Board.
- C.** The date of the on-site inspection is selected.

4.3 SUBMISSION

The preapplication sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which need not be elaborate or professionally done, should be supplemented with general information to indicate the applicable zone, describe or outline the existing conditions of the site and the proposed development. It will be especially helpful to the Board and the subdivider for site conditions such as steep slopes, wet areas, tree and vegetative cover be identified in a general manner. The sketch plan should be superimposed on or accompanied by a copy of the Tax Assessor's Map(s) on which the property is located. The sketch plan shall be accompanied by:

- A.** A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
- B.** A copy of that portion of the Hancock County Soil Survey covering the subdivision showing the outline of the proposed subdivision.
- C.** Any requests to relax the normal density standards of the Castine Zoning Ordinance in order to create dwelling units that are affordable, in accordance with the provisions of the Zoning Ordinance.

4.4 CONTOUR INTERVAL AND ON-SITE INSPECTION

On-Site Inspection. Within thirty (30) days after the preapplication meeting the Board shall hold an on-site inspection of the property. The applicant or a designated representative shall be present to answer questions and must have placed "flagging" at the centerline of any proposed street(s), at the approximate intersections of streets and at lot corners prior to the site inspection. The Board may choose not to conduct on-site inspections when a foot or more of snow is on the ground, when site amenities

may be or are obscured or during inclement weather. During hunting season, the Board may delay on-site inspections for reasons of safety. Notice of the on-site inspection shall be made as required by Title 1 MRSA §401-410 (Public Right to Know Law), and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

Next Meeting. At its next scheduled meeting, the Board shall discuss the on-site inspection and record various conditions or features found. The Board shall then notify the applicant in writing of the highlights of its findings and also the contour interval required.

4.5 RIGHTS NOT VESTED

The preapplication meeting, the submittal or review of the sketch plan or the site inspection shall not be considered the initiation of the review process for the purposes of bringing the Plan under the protection of Title 1 MRSA §302 (Construction and Effect of Repealing and Amending Acts).

4.6 ESTABLISHMENT OF A FILE

Following the preapplication meeting the Board shall establish a permanent file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting(s) and all subsequent applications, correspondence, record of meetings and proceedings shall be maintained in the file.



ARTICLE 5: FINAL PLAN

5.1 PROCEDURE

- A. Application Submittal.** Within six months after the on-site inspection by the Board, the subdivider shall submit an application to the Board for approval of a final plan. Applications shall be submitted to:

Castine Planning Board
Attn: C.E.O.
P.O. Box 204; 67 Court Street
Castine, ME 04421-0204

or delivered by hand to the Town office. Failure to submit an application within six months may require the resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan plus any recommendations made by the Board. The Board shall not accept or approve final plans not sealed and signed by a professional land surveyor. [Title 30-A MRSA §4403(3)(D)]

- B. Fees.** All applications for final plan approval shall be accompanied by a non-refundable application fee of \$50 per lot or dwelling unit for the first 10 lots or dwelling units, and \$25 per lot or dwelling unit in excess of 10 lots or dwelling units, payable by check to the Town. Should the Board determine it needs advice from independent consulting or legal services, the applicant shall pay into the special account the estimated costs of those services. If the balance in the special account is drawn down by 75%, the Board shall notify the applicant of the amount necessary to replenish the account and the applicant shall deposit funds necessary to replenish the account in the required amount.
- 1. Advertising and Posting.** An additional fee of \$100.00 shall be required to cover the costs of advertising and postal notification of a public hearing.
 - 2. Account Balance.** If any balance remains in the account the applicant shall request a refund. In response, the Town will provide an accounting of any portions spent and the balance within thirty (30) days.
- C. Escrow Account.** A single Planning Board "special account" held by the Town treasurer shall be used for all escrow fees.
- D. Meeting Attendance.** The applicant, or a duly authorized representative, shall attend the meeting of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's receipt of the plan until the next meeting, which the applicant attends.
- E. Application Receipt and Notifications.** Upon receipt of an application for final plan approval the Board shall:
- 1.** Issue a dated receipt to the applicant.

2. Notify by regular mail to the addresses shown on assessment records all owners of abutting property that an application for subdivision approval has been submitted specifying the location of the proposed subdivision and a general description of the project.
 3. Notify the Town Clerk of Penobscot if any portion of the subdivision includes or crosses their Town boundary, is in the watershed of their public water supply or can be accessed only by a local road leading from Penobscot.
- F. Determination of Complete Application.** Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- G. Receipt for Complete Application.** Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination.
- H. Public Hearing.** The Board shall hold a public hearing within thirty days of determining it has received a complete application and shall publish a notice of the date, time and place of the hearing in a local newspaper at least two times. The date of the first published notice shall be at least 14 days prior to the hearing. A copy of the notice shall be sent to the applicant by certified mail, return receipt requested or hand-delivered. A copy of the notice shall also be posted at the Town office and on the Town's website.
- I. 30-Day Decision on Application.** Within thirty days following the public hearing the Board shall make findings of fact and conclusions relative to the criteria contained in Title 30-A MRSA §4404 and the standards in this Ordinance. If the Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, they shall approve the final plan. If the Board finds that any of the criteria of the Statute or the standards of this Ordinance has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board. Conditions shall either appear on the plan or in a separate document recorded in the registry of deeds under the name of the applicant and property owner at the time of approval.
- J. Land Surveyor to Seal and Sign.** The Board shall not accept or approve a plan that is not sealed and signed by a professional land surveyor. [Title 30-A MRSA §4403(3)(D)]

5.2 SUBMISSION

Subdivision plans shall consist of two reproducible, stable based transparencies (to be recorded at the Registry of Deeds and filed at the Town office) and five copies of one or more maps or drawings drawn to a scale of not more than 200 feet to the inch. Plans

shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board and for any conditions of approval. Five copies of all information accompanying the plan shall be submitted. In addition, one copy of the plan(s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches along with all accompanying information shall be mailed to each Board member by the applicant no less than seven days prior to the meeting. The Board may also require additional information to be submitted where it finds necessary to determine whether the criteria of Title 30-A MRSA §4404 are met. The following items shall be submitted as part of the application for Final Subdivision Approval unless the applicant submits a written waiver request, and is granted a waiver from one or more of the submission requirements pursuant to Article 10.

A. Application form.

B. Location Map. A location map drawn at a scale adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the Town. The location map shall show:

1. existing subdivisions in the proximity of the proposed subdivision;
2. location and names of existing and proposed streets;
3. boundaries and designations of zoning districts; and
4. an outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.

C. Final Plan and Related Information. The Final Plan shall include the following information.

1. **Name.** Proposed name of the subdivision or identifying title, the name of the Town plus the Tax Assessor's Map and Lot numbers.
2. **Condominium Declaration.** For condominiums, a copy of the condominium declaration.
3. **Road Association Articles.** For subdivisions involving common road maintenance, a copy of the road association articles of incorporation and by-laws, which shall include enforceable provisions ensuring common road maintenance.
4. **Boundary Survey.** A standard boundary survey of the parcel giving complete descriptive data by bearings and distances and certified by a registered land surveyor. (All contiguous land in common ownership must be included.) The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

5. **Right, Title or Interest.** Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. A copy of all deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
6. **Deed Restrictions.** A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
7. **Sewage Disposal.** Indication of the type of sewage disposal to be used in the subdivision.
 - a. **Utility Board.** The Utility Board will provide a written statement indicating that adequate capacity to collect and treat the waste water is available and shall be provided and approving the design and plans for extensions and connections if sewage disposal is to be accomplished by connection to the public sewer,
 - b. **Test Pit.** If a sewage disposal is to be accomplished by subsurface wastewater disposal systems, a map of sites tested and test pit analyses prepared by a licensed site evaluator shall be provided. The map shall indicate all passing or failed test pits dug on the site.
8. **Water Supply.** Indication of the type of water supply system(s) to be used in the subdivision.
 - a. **Public Water.** If water is to be supplied by public water supply, a written statement from the Utility Board shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the design and plans for extensions and connections. A written statement from the Fire Chief stating approval of the location of fire hydrants, if any, shall also be submitted.
 - b. **Private Wells.** Since adequate ground water resources to support one and two family homes in both quantity and quality are generally available throughout the Town, only a general statement from a well driller or hydrogeologist attesting to an adequate water supply shall be submitted. However, if the subdivision is located near an identified potential source of pollution, the results of a primary inorganic water analysis performed upon a well on the parcel to be subdivided or from wells on adjacent parcels between the parcel to be subdivided and the potential contamination source shall be provided.
9. **Date, North Arrow, Scale.** The date the Plan was prepared, North arrow and graphic map scale.
10. **Names.** The names and addresses of: the owner of record; subdivider; individual or company who prepared the plan; and all adjoining property owners.
11. **Soil Survey.** A soil survey identifying wetland areas regardless of size.

- 12. Physical Features.** The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 42 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and any restrictions to be placed on clearing of existing vegetation.
- 13. Affordable Housing.**
- a. Location of any lots or dwelling units intended for affordable housing.
 - b. A copy of all documents to be utilized to ensure the sustained affordability of these lots or dwelling units.
- 14. Rivers.** The location of all rivers, streams and brooks within or adjacent to the proposed subdivision.
- 15. Zoning.** The location of any zoning boundaries, i.e. Watershed, Resource Protection, Shoreland, effecting the subdivision.
- 16. Utilities.** The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 17. Streets, Easements, Buildings, Open Spaces.** The location, names and present widths of existing streets and highways, existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and be reproduced on the ground. These lines shall be tied to reference points previously established.
- 18. Unique/Natural Features.** The location of any open space, scenic views, historical or archaeological sites to be preserved and a description of proposed improvements and their future management.
- 19. Dedications.** All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town of all public open spaces shown on the plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the subdivider or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the Town, written evidence that the Town officers are satisfied with the legal sufficiency of the written offer to convey title shall be included. No conveyance can be made unless first approved by the voters at Town meeting.
- 20. Flood Plains.** If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as

depicted on the Town's Flood Insurance Rate Map shall be delineated on the plan.

- 21. Wildlife Habitat.** Areas within or adjacent to the proposed subdivision identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries.
- 22. Financial and Technical Capacity.** Evidence of a financial and technical capacity to complete the project.
- 23. Contour Lines.** Contour lines at the interval previously specified by the Board after the on-site inspection (see Article 4) and showing elevations in relation to Mean Sea Level.
- 24. Traffic Impact Analysis.** Commercial or Industrial Subdivisions shall require a traffic impact analysis.
 1. The analysis shall contain an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
 2. If 40 or more parking spaces will be provided or the subdivision is projected to generate more than 400 vehicle trips per day, a traffic impact analysis shall be prepared and submitted by a Registered Professional Engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak-hour volume, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site, neighboring streets which may be effected, and recommended improvements to maintain the safe desired level of service on all effected streets.

5.3 REQUIRED SUBMISSIONS FOR WHICH A WAIVER MAY BE GRANTED

The following items shall be submitted as part of the Final Plan Application unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board.

- A. Hydrogeologic Assessment.** A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology shall be submitted when the subdivision is not served by a public sewer and
 1. Any part of the subdivision is located over a sand and gravel aquifer as shown on a map entitled "Hydrogeologic Data for significant Sand and Gravel Aquifers", by the Maine Geological Survey, current edition; or
 2. The subdivision has an average density of more than one dwelling unit per 80,000 square feet.

Other. The Board shall require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse

impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; cluster developments in which the density of the developed portion is more than one dwelling per 80,000 square feet; and any proposed use of a shared or common subsurface waste water disposal system. Hydrogeologic assessments shall be conducted in accordance with the provisions of Article 8.

- B. Storm Water Management Plan.** A storm water management plan prepared by a Registered Professional Engineer shall be prepared in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006, if the proposed subdivision involves road construction or grading which changes drainage patterns or if the addition of impervious surfaces such as roofs, driveways and streets is more than 10% of the area of the subdivision. The plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.
- C. Erosion and Sedimentation Control Plan.** An erosion and sedimentation control plan shall be prepared in accordance with the *Environmental Quality Handbook*, current edition, published by the Maine Soil and Water Conservation Commission. If street, driveway or house construction will occur on sites with slopes steeper than 10%; the plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.
- D. Archaeological Survey.** An archaeological survey by a state certified archaeologist shall be conducted of properties identified by the Maine Historic Preservation Commission or the Castine Comprehensive Plan as containing historical or archaeological sites.

5.4 FINAL APPROVAL AND FILING

- A. Approval and Filing.** Upon findings of fact and determination that all standards in Title 30-A MRSA §4404 and of this Ordinance have been met, and upon voting to approve the subdivision, no fewer than three members of the Board voting in the affirmative, the Board shall sign the final plan. The Board shall specify in writing its finding of facts and reasons for any conditions or denials. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. In accordance with Title 30-A MRSA §4406(1)(B) a required variance or Title 38 exemption not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall cause the subdivision to become null and void.
- B. Phased Development.** At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the

Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

- C. Plan Modifications.** No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised final plan is first submitted and the Board approves any modifications, in accordance with Article 6. The Board shall make findings that the revised plan meets the criteria of Title 30-A MRSA §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- D. Limitations of Approval.** The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Expiration of Approval.** Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.



ARTICLE 6: REVISIONS TO APPROVED PLANS

6.1 PROCEDURE

If a proposed change requires the revision of an approved plan for any reason including creating additional lots or dwelling units or relocating rights-of-way or property boundaries, the procedures for final plan approval shall be followed. If a proposed change does not require a revision to the approved plan, the CEO is authorized to issue written approval and shall transmit a copy of the approval to the Board.

6.2 SUBMISSION

The applicant shall submit a copy of the approved plan as well as three copies of the proposed revisions. The application shall also contain enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance and the state statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet upon which the original plan is recorded at the Registry of Deeds.

6.3 SCOPE OF REVIEW

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed, unless the change affects other parts of the approved plan



ARTICLE 7: INSPECTION AND ENFORCEMENT

7.1 INSPECTION OF REQUIRED IMPROVEMENTS

- A. Subdivider Responsibilities.** At least five days prior to commencing construction of required infrastructure improvements, the subdivider or builder shall:
- 1. Notification to Town.** Notify the Code Enforcement Officer (CEO) in writing of the time the subdivider or builder proposes to commence construction of such improvements so inspections can be made. The purpose of the inspections is to assure that all Town specifications, requirements and conditions of approval are met during construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Payment to Town.** Deposit with the Town Manager a check for the amount of 2% of the estimated costs of the required improvements to pay for all costs of inspection. If funds remain after satisfactory completion of construction and cleanup, the surplus shall be refunded within 30 days to the subdivider or builder as appropriate. Whenever the inspection account is drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of required improvements.
 - 3. Special Municipal Account.** A single Planning Board "special account" held by the Town Treasurer shall be used for all escrow fees.
- B. Notification of Non-compliance.** If the inspector finds that any of the required improvements have not been constructed in accordance with the approved plans and specifications, the inspector shall notify the CEO, the Board, subdivider and builder. The selectmen shall take any legal or equitable steps necessary to preserve the Town's rights.
- C. Pre-winter Inspection.** At the close of the construction season of each year during which construction was done on the site, the CEO shall inspect the site and submit a report to the Board indicating whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed and appear to be adequate. The report shall discuss any problems encountered and contain recommendations to correct those problems.
- D. Monuments.** Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered land surveyor stating that all monumentation shown on the plan has been installed.
- E. Street Construction Certification.** Upon completion of street construction and prior to a vote by the Town selectmen to submit a proposed public way to a Town meeting for acceptance, a written certification signed by a registered professional engineer selected by the Town shall be submitted to the selectmen at the expense of the applicant, certifying that the proposed public way meets the design and construction requirements of the approved plan and this Ordinance. Upon completion underground utility construction and prior to a vote by the Board of

Selectmen to accept the utility, a written certification signed by a registered professional engineer selected by the Town shall be submitted to the Selectmen at the expense of the applicant, certifying that the utility meets the design and construction requirements of the approved plan and this Ordinance. "As Built" plans of streets and all utilities shall be submitted to the Town prior to acceptance.

- F. Maintenance of Improvements.** The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Town or their control is placed with a lot owners association.

7.2 VIOLATIONS AND ENFORCEMENT

- A. No recording prior to Approval.** No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in conformance with this Ordinance.
- B. Sales and Building Prohibited.** A person shall not convey, offer or agree to convey, sell, lease, develop or build upon any land or dwelling unit in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. Sales Restricted to Lots Shown.** No person shall sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot. This restriction shall apply to new lots created within the five year period following the approval of the original plan. This restriction does not apply to areas marked as "reserved" on the plan.
- D. Utility Prohibitions.** No public utility, water or sewer district, Utilities Board or any utility company of any kind shall serve any lot in a subdivision which has not been approved by the Board.
- E. Development without Approval.** Development of a subdivision without Board approval shall be a violation of this Ordinance. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided for in this Ordinance and recorded in the Registry of Deeds.
- F. Construction Prohibition.** No lot in a subdivision may be sold, leased or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this Ordinance.
- G. Violations.** Violations of the above provisions of this section or of any other provision of this Ordinance are a nuisance and shall be punished in accordance with the provisions of Title 30-A MRSA §4452, Enforcement of Land Use Laws and Ordinances.
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ARTICLE 8: PERFORMANCE STANDARDS

Note: Statutory review criteria are shown in italics and can only be changed by act of the Legislature.

In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met before approving a subdivision plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have or will be met.

8.1 BASIC SUBDIVISION LAYOUT

A. Lots

1. **Perpendicular to the Street.** Wherever possible, side lot lines shall be perpendicular to the street.
2. **Prohibition of Further Division.** The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
3. **Lots on Opposite Side of a Water Body.** If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
4. **Lot Length to Width Ratio.** The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38 MRSA §480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.
5. **Lot Numbering.** In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

6. Suitable Soil. Each lot shall contain a minimum of 20,000 contiguous square feet of soil suitable for the installation of a subsurface wastewater disposal system in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

B. Utilities to be Underground. Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.

C. Monuments

- 1. Standard.** All survey monuments shall meet the requirements of the Maine Board of Registration of Land Surveyors.
- 2. Location on Streets.** Survey monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves, intersections or lot corners.
- 3. Location on Subdivision Boundaries.** Survey monuments shall be set at all corners and angle points of the subdivision boundary

8.2 POLLUTION

The proposed subdivision will not result in undue water or air pollution. In making this determination, it (the Board) shall at least consider:

- 1. The elevation of land above sea level and its relation to the flood plains;*
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;*
 - 3. The slope of the land and its effect on effluents;*
 - 4. The availability of streams for disposal of effluents; and*
 - 5. The applicable state and local health and water resource rules and regulations.*
- [Title 30-A MRSA §4404(1)]*

A. Erosion Plan. An erosion and sedimentation plan shall be prepared by the subdivider, approved by the Planning Board, and implemented prior to construction.

8.3 SUFFICIENT WATER

The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. [Title 30-A MRSA §4404(2)]

A. Connection to Public Supply. Any subdivision within 1,000 feet of an existing municipal water supply and which has sufficient property interest to connect to

the municipal water supply shall connect to the municipal water system at the expense of the subdivider. Connection to the municipal system and the complete water system within the subdivision shall comply with municipal standards and shall be reviewed and approved by a Town Engineer at the expense of the subdivider.

- B. Private Supply.** When a proposed subdivision is not served by the municipal water system, water supply shall be from individual wells or a community water system. The subdivider shall demonstrate there is adequate water on-site to supply the proposed subdivision.

8.4 MUNICIPAL WATER SUPPLY

The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used. [Title 30-A MRSA §4404(3)]

If a Town Engineer determines a proposed subdivision will generate a demand on the municipal water system beyond its current capacity, the subdivider shall be responsible for paying for upgrades necessary to alleviate existing deficiencies.

8.5 EROSION

The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results. [Title 30-A MRSA §4404(4)]

- A. Erosion Prohibited.** The proposed subdivision shall be designed to prevent eroding soil from entering water bodies, freshwater wetlands and adjacent properties.
- B. Erosion Plan.** All provisions of the approved erosion and sedimentation control plan shall be implemented during site preparation, construction and clean-up.

8.6 TRAFFIC

The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, Section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, Section 704 and any rules adopted under that section. [Title 30-A MRSA §4404(5)]

- A. Access and Circulation.** In general, provision shall be made for vehicular access to the subdivision and traffic circulation within the subdivision so as to provide safe and convenient circulation within the subdivision and on existing streets.
- B. Fire Access.** Streets shall be designed to facilitate the provision of access by fire protection and emergency services and approved by the Fire Chief.

- C. Street Names.** Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be approved by the Board of Selectmen. All traffic safety and control signs shall be installed as directed by the Board at the expense of the subdivider.
- D. Cleanup.** Following street construction, the subdivider shall accomplish a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, that site shall be indicated on the plan and suitably covered with fill and topsoil, limed, fertilized and seeded.

8.7 SEWAGE DISPOSAL

The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized. [Title 30-A MRSA § 4404(6)]

- A. Municipal System.** Any subdivision within 1000 feet of an existing municipal sewer main and which has sufficient property interest to connect to the municipal sewer system shall connect to the municipal sewer system at the expense of the subdivider. Connection to the municipal system and the complete system within the subdivision shall comply with municipal standards and shall be reviewed and approved by a Town Engineer and shall be installed at the expense of the subdivider.
- B. System Upgrades.** If a Town Engineer determines a proposed subdivision will generate a demand on the municipal sewer system beyond its current capacity, the subdivider shall be responsible for paying for upgrades necessary to alleviate existing deficiencies.
- C. Private Systems.** When a proposed subdivision is not served by the municipal sewer system, sewage disposal shall be by private subsurface wastewater disposal systems. The subdivider shall demonstrate there are suitable soils on site to support the proposed disposal system in accordance with the State of Maine Subsurface Wastewater Disposal Rules.

8.8 MUNICIPAL SOLID WASTE DISPOSAL.

The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized. [Title 30-A MRSA § 4404(7)]

If the additional solid waste from the proposed subdivision exceeds the capacity or would cause an unreasonable burden on Castine's Transfer Station, the applicant shall make alternative arrangements for the disposal of solid waste at his expense.

8.9 CULTURAL AND NATURAL VALUES

The proposed subdivision will not have an undue adverse effect on the scenic or natural

beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. [Title 30-A MRSA § 4404(8)]

A. Preservation of natural beauty and aesthetics.

Landscape Plan. The Board may require that the application include a landscape plan that will show the preservation of selected trees, the replacement of trees and vegetation, and graded contours.

B. Retention of open spaces and natural, archaeological or historic features.

- 1. Measures for Protection.** To the maximum extent possible, The subdivision plan shall include appropriate measures for the protection of areas indicated in the Comprehensive Plan as critical areas, or historic and archaeological areas.
- 2. Dedicated to Town.** Reserved open space may be dedicated to the Town of Castine.

C. Preservation of significant wildlife habitat.

- 1. Habitat Areas.** If any portion of a proposed subdivision lies within areas designated in the Comprehensive Plan as significant wildlife habitat, the applicant shall demonstrate that there will be no significantly adverse impacts on those habitat areas.
- 2. Water Rights-of-Way.** Any existing public rights of access to the shoreline of a water body shall be preserved by means of easements or rights-of-way or shall be included in the open space with provisions made for continued public access.

8.10 CONFORMITY WITH LOCAL ORDINANCES AND PLANS

The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans. [Title 30-A MRSA § 4404(9)]

Lot Size and Performance Standards. Except for cluster developments, as provided for in the Zoning Ordinance, all lots shall meet the minimum dimensional requirements of the Zoning Ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the Zoning Ordinance.

8.11 FINANCIAL AND TECHNICAL CAPACITY

The subdivider has adequate financial and technical capacity to meet the standards of this section. [Title 30-A MRSA § 4404(10)]

- A. Financial capacity.** The applicant shall document having adequate financial resources to construct the proposed improvements and meet the criteria of the Maine Statute and the standards of this Ordinance.
- B. Technical Ability.** The applicant shall document having adequate technical ability to construct the proposed improvements and meet the criteria of the Maine Statute and the standards of this Ordinance.

8.12 GROUND WATER

The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. [Title 30-A MRSA §4404(12)]

- A. Ground Water Quality.** When a hydrogeologic assessment is submitted, the assessment shall contain the following information:
 - 1. Existing Quality.** Data on the existing ground water quality from test wells in the subdivision or from existing wells on neighboring properties.
 - 2. Impacts.** An analysis of the effects of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from any potential contamination sources.
- B. Ground Water Quantity.** Ground water withdrawals by a proposed subdivision shall not adversely affect drilled wells beyond the boundaries of the subdivision.

8.13 FLOOD PLAIN MANAGEMENT AREAS

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. [Title 30-A MRSA §4404(13)]

8.14 FRESHWATER WETLANDS

All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district. [Title 30-A MRSA §4404(14)]

Freshwater wetlands shall be identified in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, published by the Federal Interagency Committee for Wetland Delineation, current edition.

8.15 RIVER, STREAM OR BROOK

Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9. [Title 30-A MRSA § 4404(15)]

8.16 STORM WATER

The proposed subdivision will provide for adequate storm water management. [Title 30-A MRSA § 4404(16)]

- A. Storm Water Plan.** Adequate provision shall be made for disposal of all storm water generated within the subdivision. A storm water management plan shall be prepared by the subdivider, approved by a Town Engineer, and implemented prior to construction.

8.17 SPAGHETTI-LOTS PROHIBITED

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1. [Title 30-A MRSA § 4404(17)]

8.18 IMPACT ON ADJOINING MUNICIPALITY

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located. [Title 30-A MRSA § 4404(19)]

8.19 LANDS SUBJECT TO LIQUIDATION HARVESTING

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal

reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, Township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14. [Title 30-A MRSA §4404(20)]

8.20 RESERVATION OR DEDICATION AND MAINTENANCE OF OPEN SPACE AND COMMON LAND, FACILITIES AND SERVICES

- A. Ownership.** All open space common land, facilities and property shall be owned by:
 - 1. Private Owners.** The individual owners of the lots, dwelling units or condominiums by means of a lot-owners association or condominium declaration; or
 - 2. Association.** An association that has as its principal purpose the conservation or preservation of land in essentially its natural state; or
 - 3. Town.** The Town of Castine.
- B. Further Division Prohibited.** Further division of the common land or open space shall be prohibited. When open space is to be owned by an entity other than the Town, there shall be a conservation easement deeded to the Town prohibiting future development.
- C. Notations on the Plan.** The common land or open space shall be shown on the plan with appropriate notations on the plan to indicate that it shall not be used for future building lots; and
- D. Covenants.** The subdivider shall provide the Board with copies of covenants for mandatory membership in the lot-owners association setting forth the owner's rights, interests and privileges in the association and the common property and facilities to be included in the deed for each lot or dwelling.
- E. By-laws.** The subdivider shall provide the Board with by-laws of the proposed lot-owners association specifying responsibilities and authority of the association, and maintenance and replacement of common facilities.

8.21 CLUSTER DEVELOPMENT

- A. Purpose.** To provide flexibility in the design of housing developments, allow for the creation of open space, provide recreational opportunities or protect important natural features from the adverse impacts of development by reducing the minimum lot size, as provided for in the Zoning Ordinance.
- B. Application procedure.** The Board may allow lots within subdivisions to be

reduced in area and width below the minimum normally allowed by this Ordinance where the Board determines that the benefits of the cluster approach will increase recreational opportunities or prevent the loss of natural features. Cluster developments shall be subject to the following:

1. **Minimum Parcel Size.** Cluster developments may be permitted only on parcels of sufficient size to create a cluster development with at least 4 lots. That portion of the parcel not utilized as a lot or road right-of-way shall be designated as permanent open space.
 2. **Density Calculation.** Maximum density shall be calculated by:
 - a. Determine the acreage of land suitable for development (suitable land) by subtracting from the parcel the land not suitable for development according to the provisions of Section 6.13 Land Not Suitable for Development, of the Zoning Ordinance;
 - b. Divide the total acreage of suitable land on the parcel to be subdivided by the minimum lot size for the District to determine the maximum number of dwellings to be allowed.
 3. **Minimum Lot Dimensions.** Each lot in a cluster development shall be in a contiguous configuration of at least 20,000 square feet with a minimum width of 100 feet. All structures constructed on each lot shall meet the minimum setback and lot coverage requirements established for a 20,000 square foot lot by the Zoning Ordinance.
 4. **Compliance with Other Requirements.** Cluster developments shall meet all requirements of this Ordinance.
 5. **No Direct Access to Streets.** No individual lot or dwelling unit shall have direct vehicular access onto a public street existing at the time of development.
 6. **Buffer.** No individual lot shall be located within 100 feet of a public street existing at the time of development.
 7. **Shorefront Lots.** Shore lot size and frontage shall not be reduced below the minimum required by the Zoning Ordinance.
 8. **No Further Division of Lots.** A lot for a dwelling unit created as part of a cluster development shall not be further divided, and notations to that effect shall be clearly stated on the plan.
 9. **No Further Division of Open Space.** A lot or parcel of land designated as open space shall not be further divided, and notations to that effect shall be clearly stated on the plan.
- C. Pursuant to Title 30-A M.R.S.A., § 4353 (4-C), the Planning Board, in reviewing a cluster subdivision under the applicable provisions of the Castine Subdivision

Ordinance, is allowed to approve development proposals that do not meet the dimensional standards otherwise required by Castine Zoning Ordinance, and such approval is not considered the granting of a variance. This authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws. This authority does not authorize the reduction of any dimensional standard in the Commercial District. In the Rural, Village I, Village II and Village III Districts, this authority does not authorize the reduction of any dimensional standard to less than the following: 1) minimum lot area – 50% of required area; 2) minimum lot width – 75% of required width; 3) maximum percent lot coverage – 50% of approved lot area; and 4) front, rear or side setback – 10 feet. [Am 1]

8.22 AFFORDABLE CLUSTER DEVELOPMENT

- A. Purpose.** To provide for affordable housing, and provide flexibility in the design of housing developments, allow for the creation of open space, provide recreational opportunities or protect important natural features from the adverse impacts of development by reducing the minimum lot size, as provided for in the Zoning Ordinance. All lots created under this section shall be reserved for “Affordable Housing” as defined by this Ordinance.
- B. Application procedure.** The Board may allow lots within subdivisions to be reduced in area and width below the minimum normally allowed by this Ordinance where the Board determines that the benefits of the cluster approach will provide affordable housing, decrease development cost, increase recreational opportunities or prevent the loss of natural features. Affordable cluster developments shall be subject to the following:
- 1. Minimum Parcel Size.** Affordable cluster developments may be permitted only on parcels of sufficient size to create a cluster development with at least 4 lots. That portion of the parcel not utilized as a lot or road right-of-way shall be designated as permanent open space.
 - 2. Density Calculation.** Maximum density shall be calculated by:
 - a. Determine the acreage of land suitable for development (suitable land) by subtracting from the parcel the land not suitable for development according to the provisions of Section 6.13, Land Not Suitable for Development, of the Zoning Ordinance;
 - b. Divide the total acreage of suitable land on the parcel to be subdivided by the minimum lot size for the District to determine the maximum number of dwellings to be allowed.
 - 3. Density Incentive.** The Planning Board may approve a density incentive of no more than 25%.
 - 4. Minimum Lot Dimensions.** Each lot in an affordable cluster development shall be in a contiguous configuration of at least 20,000 square feet with a minimum width of 100 feet. All structures constructed on each lot shall

meet the minimum setback and lot coverage requirements established for a 20,000 square foot lot by the Zoning Ordinance.

5. Compliance with Other Requirements.

- a. Affordable cluster developments shall meet all requirements of this Ordinance.
- b. Affordable cluster developments created in accordance with this Ordinance shall be subject to rules, restrictions and covenants pertaining to rental, resale, occupancy and income requirements as submitted by the developer to be approved by the Planning Board.

6. No Direct Access to Streets. No individual lot or dwelling unit shall have direct vehicular access onto a public street existing at the time of development.

7. Buffer. No individual lot shall be located within 100 feet of a public street existing at the time of development.

8. Shorefront Lots. Shore lot size and frontage shall not be reduced below the minimum required by the Zoning Ordinance.

9. No Further Division of Lots. A lot for a dwelling unit created as part of a cluster development shall not be further divided, and notations to that effect shall be clearly stated on the plan.

10. No Further Division of Open Space. A lot or parcel of land designated as open space shall not be further divided, and notations to that effect shall be clearly stated on the plan.

C. Pursuant to Title 30-A M.R.S.A., § 4353 (4-C), the Planning Board, in reviewing a cluster subdivision under the applicable provisions of the Castine Subdivision Ordinance, is allowed to approve development proposals that do not meet the dimensional standards otherwise required by Castine Zoning Ordinance, and such approval is not considered the granting of a variance. This authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws. This authority does not authorize the reduction of any dimensional standard in the Commercial District. In the Rural, Village I, Village II and Village III Districts, this authority does not authorize the reduction of any dimensional standard to less than the following: 1) minimum lot area – 50% of required area; 2) minimum lot width – 75% of required width; 3) maximum percent lot coverage – 50% of approved lot area; and 4) front, rear or side setback – 10 feet. [Am 1]

8.23 STREET DESIGN AND CONSTRUCTION STANDARDS

A. General Requirements.

1. Conformance of Street Designs. The Board shall not approve any

subdivision plan unless proposed streets are designed in conformance with the Town's *Roadway and Infrastructure Specifications and Ordinance* or any other Town ordinance or regulation. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any street or easement.

- 2. Detailed Construction Drawings.** Subdividers shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile and cross-section of the proposed streets and existing streets within 300 feet of all proposed intersections, in accordance with the requirements of the Town of Castine Road Construction Ordinance.
- 3. Review of Plans.** Upon receipt of plans for a proposed public street the Board shall forward a copy to the Town selectmen and engineer for review and comment. Plans for streets which are not proposed to be offered for acceptance by the Town shall be sent to a Town Engineer for review and comment.
- 4. Improvements to Existing Streets.** If the subdivider proposes improvements to existing numbered highways or Town streets the proposed design and construction details shall be approved in writing by the Maine Department of Transportation or the Town selectmen as appropriate.
- 5. Private Roads.** If the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town of Castine until they meet the Town street design and construction standards.”



ARTICLE 9: PERFORMANCE GUARANTEES

9.1 TYPES OF GUARANTEES

With submittal of the application for plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements taking into account the time-span of the construction schedule and the estimated inflation rate for construction costs: The conditions and amount of the performance guarantee shall be determined by the Board with the advice of a Town Engineer, Town Manager, Selectmen and a Town Attorney.

- A.** Either a certified check payable to The Town of Castine or a savings account or certificate of deposit naming The Town of Castine as owner to enable the Town of Castine to establish an escrow account.
- B.** An irrevocable letter of credit, approved by the Town Manager, from a financial institution establishing funding for the construction of the subdivision from which the Town of Castine may draw if construction is inadequate.

9.2 CONTENTS OF THE GUARANTEE

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking future inflation into account, provisions for inspection of each phase of construction by the Town of Castine, provision for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town of Castine shall have access to the funds in order to finish construction.

9.3 ESCROW ACCOUNT

A cash contribution to the establishment of an escrow account shall be made by either certified check made out to the Town of Castine, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer the Town of Castine shall be named as owner or co-owner and the consent of the Town of Castine shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the Town of Castine has found it necessary to draw on the account. In such case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

9.4 LETTER OF CREDIT

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and will not be used for any other project or loan.

9.5 PHASING OF DEVELOPMENT

The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting approval to those lots abutting that section of the proposed subdivision street, which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only after satisfactory completion of all requirements pertaining to previous phases.

9.6 RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction from reports of a Town Engineer and whatever other boards, agencies and departments which may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which release is requested.

9.7 DEFAULT

If, upon inspection, a Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the CEO, Selectmen, the Board and the developer or builder. The Selectmen shall take any steps necessary to preserve the rights of the Town of Castine.

9.8 IMPROVEMENTS GUARANTEED

Performance guarantees shall be tendered for all improvements required to meet the standards of this Ordinance and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.



ARTICLE 10: WAIVERS

10.1 Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless prohibited by these regulations or Maine law, provided the applicant has demonstrated that the performance standards of the Ordinance and the criteria of the Maine Subdivision Statute have been or will be met, the public health, safety and welfare are protected, and provided that the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance or this Ordinance.

10.2 Where the Board makes written findings of fact that due to special circumstances of a particular parcel proposed to be subdivided that the provision of certain required improvements is not requisite to provide for the public health, safety of welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements. This is subject to appropriate conditions and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance or this Ordinance and further provided that the performance standards of this Ordinance and the criteria of the Maine Subdivision Statute have been or will be met by the proposed subdivision. Evidence shall be presented to the Board in each specific case that each of the following conditions is met:

- A.** the granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property;
- B.** the conditions upon which the request for waiver is based are unique to the property for which the waiver is sought and not applicable to other property; and
- C.** because of the particular surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience or personal hardship, if the strict interpretation of this Ordinance is followed.

10.3 Before the Board shall consider a waiver, the specific section of this Ordinance shall be cited in writing to the Board for which the waiver is requested together with the reasons for such a waiver. Within the written request the applicant shall agree to a thirty (30) day extension of the established time limits to enable the Board to consider the request. In granting waivers to any portions of this Ordinance in accordance with Sections 10.1 and 10.2, the Board shall require such conditions as will assure that the purposes of this Ordinance are met.

10.4 Waivers shall be shown on the final plan.



ARTICLE 11: APPEALS

An aggrieved party may appeal any decision of the Board under these regulations to the Hancock County Superior Court within 30 days of the date of the vote of the Board.



ARTICLE 12: DEFINITIONS

12.1 For the purpose of interpreting the Subdivision Ordinance and Zoning Ordinance, the following terms, phrases and words, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary meaning.

12.2 The present tense when used includes the future; the singular includes the plural; the word “shall” means mandatory; the word “may” is permissive; the words “used” or “occupied” include the words “intended”, “designed” or “arranged to be used or occupied”; the word “structure” includes the word “building”; and the word “lot” includes the word “plot.”

12.3 The word “dwelling unit” as used in this Ordinance is synonymous to the word “lot.”

12.4 It is intended that this ordinance not be gender specific. Thus, when nouns or pronouns indicate or imply a male or female, such use shall also mean the other gender.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every 100 years.

ABUTTER / ABUTTING: Having a common boundary with, including lots which meet only at the corners. Streets, alleys or rights of way shall be deemed not to separate lots, and lots which would otherwise abut except for the width of an intervening street shall be deemed to abut.

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

ACCESSORY APARTMENT: The portion of a single-family residence used as separate living quarters by a second household. The accessory apartment will have no more than one thousand (1,000) gross square feet of floor area and will consist of no more than two (2) sleeping rooms, one (1) full bathroom, one (1) half bathroom one (1) kitchen/eating area and one (1) living/sitting room. The accessory apartment will require one (1) additional off-street parking space. The accessory apartment and residence will be served by common utility services.

AFFORDABLE HOUSING: Housing that meets the needs of families and others who wish to live in the Town of Castine, and whose household income is no more than 125% of the median income of Hancock County. This housing will be restricted by means of deed covenants (such as full-time occupancy, rental restrictions and resale restrictions), or other binding, long-term methods.

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

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

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

ANIMAL HUSBANDRY: The commercial raising of domestic animals or livestock for agricultural purposes. This term does not include the commercial raising or boarding of domestic animals for domestic purposes such as kennels; these domestic uses shall be deemed home occupations.

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

APPLICANT: The person, partnership, trust, fiduciary, business entity, agent of the owner or corporation applying for CEO or Planning Board approval. It may also be a proposed purchaser or an agent of a proposed purchaser whose purchase and sales agreement gives him the right to apply as a condition of sale.

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

ATTIC: That part of a building which is immediately below, and wholly or partly within, the roof framing.

AUTO SERVICE STATION / FILLING STATION: A commercial establishment open to the public, supplying engine fuel at retail, direct to the customer; the sale of lubricants, minor accessories and minor services for automobiles may be included.

AUTO REPAIR GARAGE: A commercial establishment open to the public where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

AUTOMOBILE GRAVEYARD: An “automobile graveyard” as defined in Title 30-A MRSA §3752 as amended.

AVERAGE DAILY TRAFFIC (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

BASAL AREA: The area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

BASEMENT: The substructure of a building with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level_ which may or may not be used for living space.

BED AND BREAKFAST: A facility in which breakfast is the only meal served and in which there are seven (7) or fewer rooms available for rent.

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.

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

BUILDING: Any roofed structure maintained or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. Where independent units with separate entrances are divided by walls, each unit is a building.

BULK STORAGE: The storage of liquids, solids or gases which are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk.

CAMPGROUND: Any land area used to accommodate two (2) or more parties in temporary living quarters including, but not limited to tents, recreational vehicles and/or towed travel trailers. Accessory uses, subject to Site Plan Review, include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

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

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

CERTIFICATE OF COMPLETION: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance, certifying completion of the project for which a permit was obtained. A Certificate of Completion is not otherwise a certificate of fitness, safety or suitability.

CERTIFICATE OF OCCUPANCY: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance upon compliance with all necessary provisions of the Zoning Ordinance, allowing the property owner to occupy the premises. A Certificate of Occupancy is not otherwise a certificate of fitness, safety or suitability.

CHURCH: A building, together with its accessory buildings and uses, where people regularly assemble for religious worship and which buildings, together with its accessory buildings, and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLUSTER HOUSING: A subdivision (neighborhood) in which the required density and open spaces are maintained in combination with a group of residences in close proximity.

CLUSTER SUBDIVISION: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

CLUSTER SUBDIVISION, AFFORDABLE: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located and which may qualify for a density incentive in return for the provisions of permanent open space and lots reserved for affordable housing.

COASTAL WETLAND: All tidal and sub-tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest annual high tide level as identified in tide tables published by the National Ocean Service. **Note:** All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

CODE ENFORCEMENT OFFICER (CEO): A person appointed by the Town Manager and confirmed by the Board of Selectmen to enforce this Ordinance and to assist the Planning Board in its administration.

COMMERCIAL USE: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent or result of which activity is the generation of revenue from the buying and selling of goods and/or services and the use of golf courses and other recreational facilities for which a payment is due from users; does not include rental of residential buildings and/or dwelling units other than boarding houses, bed & breakfasts, inns and hotels.

COMMON OPEN SPACE: Common elements or land within or related to a subdivision, not individually owned, which is designated & intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, which are typically used for maintenance and operation of open space or for outdoor recreation.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance or by a vote by the Board to waive the submission of required information.

COMPLETE SUBSTANTIAL CONSTRUCTION: The construction of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a planned unit development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

COMPREHENSIVE PLAN: A document or interrelated documents containing the elements established under Title 30-A MRS §4326, Sub-Sections 1 - 4, including the strategies for

an implementation program which are consistent with the goals and guidelines established under Title 30-A MRSA, Sub-Chapter II.

CURRENT EDITION: The most recent version of the cited regulation, technical manual or other publication.

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

a. Day Care Center: A Day Care Facility as defined in State statutes for thirteen (13) or more children on a regular basis; and

b. Day Care Home: A Day Care Facility as defined in State statutes for three (3) to twelve (12) children on a regular basis.

DBH: The diameter of a standing tree measured 4 ½ feet from ground level.

DECK: An accessory attachment to a principal structure with no roof or framed or screened walls. It may contain railings with screening and gates to enclose pets or children.

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

DEER FENCES: Fences specially constructed to prevent deer from attacking gardens or orchards. Such fences may be constructed of vertical posts of wood, steel or other suitable material and of horizontally strung wire or coarse wire mesh between such posts. No vegetation shall be allowed to grow upon and no other material may be attached to such wire or wire mesh, and no solid material such as wooden planking or woven matting may be fastened to or strung between posts at a height greater than six (6) feet.

DENSITY: The number of dwelling units per acre or square foot of land.

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

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

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

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

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

DWELLING: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters and containing cooking, sleeping and toilet facilities. The term shall include single-family, two-family and multiple-family dwellings, mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

- **Dwelling, Single Family:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family at a time.
- **Dwelling, Two-Family:** A detached or semi-detached building used as living quarters by two (2) families living independently of each other.
- **Dwelling, Multi-Family:** A building or portion thereof used as living quarters by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

EARTH MOVING: Any displacement, addition or subtraction of earth (including loam, clay, gravel, stone, etc.) from or to a given location.

EASEMENT: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

EASEMENT, CONSERVATION: An easement for the purpose of including, retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

ENGINEER, PROFESSIONAL: An individual licensed by the State of Maine to engage in the practice of professional engineering pursuant to Title 32 MRSA, Chapter 19, as amended.

ENGINEER, TOWN: Any Maine registered professional engineer employed or retained by the Town either as staff or as a consultant.

ENGINEERED SUBSURFACE WASTEWATER DISPOSAL SYSTEM: A subsurface wastewater disposal system designed, installed, and operated as a single wastewater unit to treat 2,000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater. All such systems shall be reviewed and approved by the Department of Health and Human Services prior to the issuance of a permit by the Local Plumbing Inspector.

ENLARGEMENT: An addition to the height, floor area or the volume of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

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.

EXPANSION OF A STRUCTURE: An increase in the height, floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches, and greenhouses. To be attached the extension must abut a common wall with the original structure.

EXPANSION OF USE: The use of more volume, floor area or ground area devoted to a particular use. In the Shoreland Overlay District, expansion of a use shall include the addition of four (4) or more weeks to the operating season of a use.

FAMILY: Two or more persons occupying a residence, who are related either by marriage, domestic partnership or consanguinity.

FENCE: An above-ground structure, including stone or brick walls, constructed for the purpose of dividing, defining or enclosing a lot or portion of a lot.

FLOODPLAIN: Either riverine or inland depression areas. Riverine floodplains are those areas contiguous to a river, stream, or stream bed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected one hundred (100) year flood elevation. Inland depression floodplains, not associated with a stream system, are low points to which surrounding lands drain.

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 surface areas of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

FLOWING WATER: Surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.

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 related activities but not timber harvesting and the construction, creation, or maintenance of roads.

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

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

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including but not limited to basements, slabs, sills, posts, frostwalls or other base consisting of concrete, block, brick or similar material.

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

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

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

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

FUNCTIONALLY WATER-DEPENDENT USE: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. These 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 and port facilities, shipyards and boatbuilding facilities, marinas, navigational aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot be reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Does not include private non-commercial boathouses, storage sheds, etc.

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

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

GREAT POND CLASSIFIED GPA: Any great pond classified GPA, pursuant to Title 38 MRSA, Article 4-A §465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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

HARVEST AREA: The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area

affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

HEIGHT: The vertical distance between the mean elevation of the original (prior to construction) grade at the building and the highest point of the roof. For buildings in the Shoreland Overlay District, the vertical distance between the mean elevation of the original grade at the downhill side of the building and the highest point of the roof. For those structures without roofs, the highest point of the structure. For buildings with multiple roofs, each roof shall be considered in relation to the original grade upon which that part of the structure rests.

HIGH INTENSITY SOIL SURVEY: A map prepared by a certified Soil Scientist, identifying the soil types down to one-eighth (1/8) acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a seasonal high water table or bedrock at that point. Single test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity surveys.

HOME OCCUPATION: An occupation or profession which can be conducted within the principal residential dwelling unit or an accessory structure on the premises where the applicant resides and: 1) which is clearly incidental to and compatible with the residential character of the property and neighborhood; 2) which employs no more than three (3) persons other than family members residing in the home; and 3) which meets all the requirements of this Ordinance.

HOSPITAL: An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

HOTEL AND INNS: A facility in which no more than twenty-four (24) rooms are available for rent. Meals may be served.

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

INCREASE IN NON-CONFORMITY OF A STRUCTURE: Any change in the structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body or yard setback distances, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which causes no further increase in the linear extent of non-conformity of the existing structure shall not be considered to increase non-conformity. (For example, there is no increase in non-conformity within a setback if an expansion extends no further into the required setback area than does any portion of the existing non-conforming structure.) A structure may expand laterally provided the expansion extends not closer to the point from which the

setback is measured. Included in this allowance are expansions which fill in irregularly shaped structures.

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

IN-LAW/CAREGIVER APARTMENT: The portion of a single-family residence used exclusively as separate living quarters by no more than two members of the homeowner's family or by a personal care attendant for the homeowner. The in-law/caregiver apartment will have no more than one thousand (1,000) gross square feet of floor area and will consist of no more than two (2) sleeping rooms, one (1) full bathroom, one (1) half bathroom one (1) kitchen/eating area and one (1) living/sitting room. The in-law/caregiver apartment and residence will be served by common utility services and will require one (1) additional off-street parking space.

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.

JUNKYARD: As used in this Ordinance the term junkyard means either:

- a. An "automobile graveyard" as defined in Title 30-A MRSA §3752 as amended; or
- b. A "junkyard" as defined in Title 30-A MRSA §3752 as amended.

LEVEL OF SERVICE: A qualitative measure that incorporates the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition, as established by the Institute of Transportation Engineer's *Transportation and Traffic Engineering Handbook*, 2nd edition.

LICENSED FORESTER: A forester licensed under Title 32 MRSA, Chapter 76.

LOADING AREA: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOCAL PLUMBING INSPECTOR (LPI): A person appointed by the Board of Selectmen to enforce the Maine Internal Plumbing Rules and the Maine Subsurface Wastewater Disposal Rules.

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

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land considered not suitable for development under the provisions of this Ordinance including land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

LOT COVERAGE: The maximum combined ground floor area of all principal and accessory buildings on a lot, divided by the area of such lot, the result expressed as a percentile. In the Shoreland Overlay District lot coverage also includes all unrevegetated areas.

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

a. Front Lot Line: That lot line which fronts upon or runs most nearly parallel to the nearest public highway, road or street.

b. Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance

from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

c. Side Lot Line: Any lot line other than a front or rear lot line.

LOT, NON-CONFORMING: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or dimensional requirements of this Ordinance.

LOT OF RECORD: A lot the dimensions of which are contained in a deed, instrument or plan recorded in the Hancock County Registry of Deeds.

LOT WIDTH: The horizontal distance between the side lot lines as measured at the road frontage or the site of the principal structure, whichever results in the greater width.

LOT WIDTH, MINIMUM: 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.

MANUFACTURED HOUSING OR HOME: A structural unit or units designed to be used as a dwelling, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

a. Pre HUD Code Mobile Home: A structure constructed prior to June 15, 1976, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

b. HUD Code Mobile Home: A structure constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development ("HUD") standard, meaning a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and

designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401, *et seq.*

- c. **State Certified Modular Home:** A structure the manufacturer certifies is constructed in compliance with the State's Manufactured Housing Act and regulations, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating air-conditioning or electrical systems contained therein. Such homes may not be more than one story in height but may have a non-habitable attic space.

MANUFACTURED HOUSING COMMUNITY: A parcel or adjoining parcels of land under single ownership, which has been planned and improved for the placement of three or more manufactured homes as defined above, where no more than 50% of the homes are "State Certified Modular Homes" that are no more than one story in height but may have a non-habitable attic space and where at least 50% of the homes are "Pre HUD Code Mobile Homes" or "HUD Code Mobile Homes", but shall not include a construction camp or a campground. "Manufactured Housing Community" is synonymous with "Mobile Home Park" as used in this Ordinance.

MARINA: A commercial wharf or other business establishment having frontage on navigable water within the town and providing for hire offshore mooring or docking facilities for boats as its principal use, and which may provide accessory services and facilities such as boat and boat-related sales, boat hauling, repair and construction, engine servicing, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, ice, water, and marine fuel.

MARKET: Premises in which produce, foodstuffs and/or manufactured goods are offered for retail sale to the general public.

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

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

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

MOBILE HOME PARK: See "MANUFACTURED HOUSING COMMUNITY" above.

MOTOR VEHICLE: Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any Maine public highway, or which is not being used for the purpose for which it was manufactured.

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

NATIVE: Indigenous to the local forests.

NEIGHBOR / NEIGHBORING: An abutter or a property owner situated within one hundred fifty (150) feet of a lot boundary.

NET RESIDENTIAL AREA: The total area available for the subdivision as shown on the proposed subdivision plan minus the area for streets or access.

NON-CONFORMING LOT: See “**LOT, NON-CONFORMING**” above.

NON-CONFORMING STRUCTURE: See “**STRUCTURE, NON-CONFORMING**” below.

NON-CONFORMING USE: See “**USE, NON-CONFORMING**” below.

NORMAL HIGH-WATER LINE (NON-TIDAL WATERS): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. **Note:** Adjacent to tidal waters, setbacks are measured from the upland edge of the coastal wetland.

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

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

OPEN SPACE: Undeveloped natural, wooded or unwooded land.

OPEN SPACE USE: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

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

PARKING AREA (SHORELAND ZONE): An area for parking motor vehicles excluding the area associated with a driveway used for parking two or fewer vehicles.

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

PERMITTING AUTHORITY: The person or entity responsible for issuing a particular permit or approval under this Ordinance. The permitting authority will be either the CEO or the Planning Board.

PERSONAL WIRELESS SERVICES: Any communications service which, for a fee to the public or a substantial portion thereof, provides for the transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent or received, and:

- a. is comprised of for-profit radio communications between mobile and fixed radio stations, and linked to public switched communications networks (example: commercial ship-to-shore radio facilities);
- b. which is transmitted or received by means of devices which do not require individual FCC licenses, but excluding direct-to-home satellite services (example: cellular telephone services); or
- c. which offers access to telephone exchange services or facilities for the purpose of origination or termination of telephone toll services by a common carrier of interstate or foreign radio transmissions.

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.

PESTICIDE: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

PIERS, DOCKS, WHARVES, BRIDGES, AND OTHER STRUCTURES OR USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND:

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

PLAN:

- a. **Sketch Plan:** Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review by the Board prior to submitting an application for subdivision approval.
- b. **Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval.

c. Recording Plan: An original of the paper and mylar versions of the final plan suitable for recording at the Registry of Deeds.

PLANNING BOARD: The Planning Board established by the Town on March 21, 1960.

PORCH: An accessory attachment to a principal structure having a roof, canopy, or awning. It may have framed or screened walls or railings with screening and gates to enclose pets or children.

PROJECT: Any activity requiring approval by the appropriate Permitting Authority under this Ordinance.

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.

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

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

RECREATIONAL FACILITY: A place designed and equipped for the participation in sports, leisure time activities, and other customary and usual recreation activities, including swimming pools, but 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.

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

- a.** Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
- b.** A cafeteria type operation where food and beverages generally are consumed within the restaurant building; or
- c.** A carry-out or delivery service, drive-in service, and service or consumption outside a fully enclosed structure, but excluding catering for off-premises consumption.

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

RIVER: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. **Note:** The portion of a river that is subject to tidal action is a coastal wetland.

ROAD OR STREET: A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding driveways as defined above.

a. Private Road or Street: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

b. Public Road or Street: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

c. Collectors: These roads handle internal traffic movements within a town or between a group of towns and are designed for moderate speed travel. The only collectors in Castine are State Highways, routes 166, 166A and 199.

d. Local: These are lightly traveled streets whose primary purpose is to serve residential areas. They are designed for slow speed travel and to carry low volumes of traffic short distances.

e. Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

f. Industrial or Commercial Street: Streets servicing industrial or commercial uses.

g. Private Right-of-Way: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

ROOM: A walled or partitioned portion of space within a structure or building as defined below:

a. Unfinished Room: A space only enclosed by open stud walls and/or exposed structural members of the building.

b. Finished Room: A space with any higher level of finish than that of an unfinished room.

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

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

SAND AND SALT PILES: A mixture of salt and sand or salt stored for winter road and yard maintenance.

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

- a. Setback, Front:** The setback between the front lot line and the nearest part of a structure or other regulated object or area.
- b. Setback, Rear:** The setback between the rear lot line and the nearest part of a structure or other regulated object or area.
- c. Setback, Side:** The setback between the side lot line and the nearest part of a structure or other regulated object or area.
- d. Setback, Shoreline:** The nearest horizontal distance from the normal high-water line of a water body or tributary stream or the upland edge of a wetland and the nearest part of a structure or other regulated object or area.

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

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

SHORE FRONTAGE: See FRONTAGE, SHORE

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

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

SHORELINE ACCESS: A stairway or similar structure to provide shoreline access in areas of steep slopes or unstable soils and where no reasonable access alternative exists on the property; the structure is limited to a maximum of four (4) feet in width and the structure shall not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Board of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 MRSA §480-C).

SIGNIFICANT RIVER SEGMENTS: See Title 38 MRSA §437, as amended.

SIGHT DISTANCE: The length of unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used herein as a reference for unobstructed road visibility.

SIGN: Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place, and which is visible to the public. A sign does not include any flag, pennant or insignia of a nation, State, town or other political entity. Whenever dimensions of a sign are specified they shall include frames. Each visible sign face shall constitute a separate sign, except that a sign with two (2) faces shall be considered one (1) sign so long as the distance between the faces does not exceed twelve (12) inches.

STREAM: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within the Shoreland Area.

STREET: See “**ROAD OR STREET**” above.

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, tents in place for ten (10) days or less, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes walls in the Shoreland Zone and structures temporarily or permanently located, such as decks, patios, raised walkways and satellite dishes larger than thirty-nine (39) inches in diameter.

STRUCTURE, ACCESSORY: A structure which is incidental and subordinate to the principal structure. 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.

STRUCTURE, NON-CONFORMING: A structure that does not meet the minimum setback, maximum height, maximum lot coverage or similar requirements for the zoning district in which it is located.

STRUCTURE, PRINCIPAL: A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same premises.

SUBDIVISION: The term shall be defined as in Title 30-A MRSA §4401, sub-§4, as amended.

SUBSTANTIAL COMPLETION / SUBSTANTIALLY COMPLETED: Completion of ninety percent (90%) of a permitted structure or use measured as a percentage of estimated total cost.

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

SUBSURFACE SEWAGE DISPOSAL SYSTEM: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under Title 38 MRSA §414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

SUBSURFACE SEWAGE DISPOSAL 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.

SUSTAINED SLOPE: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TELECOMMUNICATIONS TOWER: Any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access and phone services, and personal communications service (PCS) or pager service, but excluding private ham radio.

TIDAL WATERS: All waters affected by tidal action during the highest annual tide.

TIMBER HARVESTING: The cutting and removal of trees from their growing site for the primary purpose of selling or processing forest products, and the attendant operation of harvesting machinery, but not the construction or maintenance of roads. Timber harvesting does not include the cutting or removal of trees in the Shoreland Zone on a lot that has less than two (2) acres within the Shoreland Zone, the cutting of firewood for the non-commercial use of the property owner, the tipping or pruning of trees, the removal of dead wood, broken limbs or downed or broken trees for the purpose of mitigating a safety hazard, or the clearing of land for approved construction for which a lawful permit has been issued in accordance with State and local codes, ordinances, statutes, rules and regulations.

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.

TOWN: The Town of Castine, Maine.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership whether or not the tract is separated at any point by an intermittent or non-navigable stream, tidal waters where there exists no flow at low tide, or a private road established by the land owners or the abutting land owners. Lands 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. Private roads created before September 23, 1971 shall be considered the same as public roads.

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

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

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

USE, ACCESSORY: A use which is incidental and subordinate to the principal use. Accessory uses, when aggregated shall not subordinate the principal use of the lot.

USE, NON- CONFORMING: A use which is not a permitted use in the zoning district in which it is located.

USE, PRINCIPAL: A use other than one which is wholly incidental or accessory to another use on the same premises.

VEGETATION: All shrubs and other plants including all live trees of four and one-half (4½) feet or more in height, of whatever diameter.

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

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof, including roofed and screened porches.

WATER BODY: Any great pond, river or stream.

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

WALKWAY: A pedestrian access-way six (6) feet or less in width.

a. Private Walkway: A pedestrian access-way designated for private use and maintained by a property owner.

b. Public Walkway: A public thoroughfare, way, or easement permanently established for passage of persons.

WETLAND: A freshwater or coastal wetland.

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

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

a. Front Yard: The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

b. Rear Yard: The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

c. Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line.



TRAFFIC ORDINANCE OF THE TOWN OF CASTINE, MAINE



ENACTED BY THE BOARD OF SELECTMEN THE 6TH DAY OF SEPTEMBER, 2011


PETER F. VOGELL



DAVID G. UNGER


CONSTANTINO G. BASILE

ATTEST: THIS IS A TRUE DOCUMENT.

DATE: OCTOBER 2, 2017

SIGNATURE: _____


SUSAN M. MACOMBER
CASTINE TOWN CLERK

AFFIX SEAL

ARTICLE 1: GENERAL PROVISIONS

1.1 TITLE

This Ordinance shall be known as the "Traffic Ordinance of the Town of Castine, Maine" and shall be referred to herein as the "Ordinance."

1.2 REPEAL OF OTHER ORDINANCES

The "Traffic Ordinance of the Town of Castine, Maine" adopted on August 18, 2009 is hereby repealed.

1.3 AUTHORITY

This Ordinance is adopted by the Castine Board of Selectmen pursuant to the Constitution of the State of Maine, Article VIII-A, and Title 30-A M.R.S.A. § 3009, as amended.

1.4 PURPOSES

- To promote public safety, facilitate traffic flow and control speed on the travel ways and streets in the Town of Castine.
- This Ordinance does not exempt any person from compliance with all other applicable laws and regulations.

1.5 SEVERABILITY.

In the event that any section, subsection or provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, that declaration shall not be deemed to affect the validity of any other section, subsection or provision of this Ordinance. To this end, the provisions of this Ordinance are hereby declared to be severable.

1.6 DEFINITIONS

For the purpose of interpreting this ordinance, the following terms and their derivations shall have meanings as follows:

- **NORTH:** The direction along Main Street toward Battle Avenue and the direction along Routes 166 and 166A toward the Castine/Penobscot town line.
- **SOUTH:** The direction along Main Street toward Water Street and the direction along Routes 166 and 166A toward the village area of Castine.
- **EAST:** The direction along Court Street toward Spring Street.
- **WEST:** The direction along Court Street toward Tarratine Street.
 - Within the village area of Castine, streets approximately parallel to Main Street are north-south streets and streets approximately parallel to Court Street are east-west streets. In the rural area of Castine, streets intersecting Route 166 and Route 166A are east-west streets.
- **OVERNIGHT PARKING:** Parking for any period of time between 12:00 midnight and 6:00 am.
- **SEASONAL PARKING RESTRICTION (WINTER SNOWPLOWING SEASON):** November 1-April 30.
- **WEEKDAY:** Any day except Saturday, Sunday and Town holidays.

ARTICLE 2: PARKING RESTRICTIONS

Any illegally parked vehicle shall be ticketed and may be towed at the discretion of the town. Parking restrictions are both street specific and town-wide as follows:

2.1 BATTLE AVENUE

- No parking anytime in the travel lanes (inside the white edge lines) between Main Street and State Street.
- No parking, 8 am – 4 pm weekdays, on north side of street between Wadsworth Cove Road and Tarratine Street.
- No parking, 8 am – 4 pm weekdays, on south side of street between Tarratine Street and Main Street.
- No parking on the north side between Wadsworth Cove Road and 40 feet east of the Main Street intersection, as posted.
- No parking on north side from November 1 to April 30.

2.2 COURT STREET

- No parking, 8 am – 4 pm weekdays, on south side of street between Main Street and Green Street except for the posted fifteen (15) minute parking zone at Emerson Hall.
- No parking anytime on south side of street between the Castine Fire Department driveway and Main Street.
- Two (2) hour parking, 8 am – 4 pm weekdays, on north side of street between Main Street and Tarratine Street.

2.3 DRESSER LANE

2.4 DYER LANE

- No parking anytime on east side of street, as posted.

2.5 FORT GEORGE

- Two hour parking, 8 am – 4 pm weekdays.
- No overnight parking.
- No parking in driveway.
- No parking on grass.
- No parking at any time (facility closed) from November 1 to April 30 or as ordered by the Board of Selectmen.

2.6 FORT MADISON

- No overnight parking.
- No parking on grass.
- No parking at any time (facility closed) from November 1 to April 30 or as ordered by the Board of Selectmen.

2.7 GREEN STREET

- No parking at any time on east side of street, as posted.

2.8 LATOUR STREET

2.9 MADOCKAWANDO ROAD

2.10 MAIN STREET

- No parking, 8 am – 4 pm weekdays, on west side of street between Battle Avenue and Stevens Street, as posted.
- Two (2) hour parking, 8 am – 4 pm weekdays, on west side of street between Stevens Street and Court Street, as posted.
- Two (2) hour parking, 8am-4pm weekdays, on east side of street from Court Street to the Church, as posted.
- No parking on east side of street between the Church and Battle Avenue.
- No parking, 7 am – 8 am and 4:15 pm – 5 pm, in the Post Office loading zone any day the Post Office is open, as posted.
- Fifteen (15) minute Post Office patron parking, from 9am to 12 noon, any day the Post Office is open, one (1) space above and below the mid-block crosswalk, both sides of the street.
- Fifteen (15) minute parking, 8 am – 4 pm weekdays, in the first two spaces on west side of street north of Water Street, as posted.
- Two hour parking from 6am to 4pm, on the east side of street, between Water Street and second alley up the hill (DeRaaf/Granoff), as posted. (No exemptions)

2.11 MILL LANE

2.12 PERKINS STREET

- No parking anytime on south side of street from Pleasant Street to Main Street, as posted.

2.13 PLEASANT STREET

- No parking anytime on east and west sides of street between Perkins Street and Water Street, as posted.
- No parking anytime on west side of street at MMA driveways and crosswalks as posted and/or marked.
- No parking, 8 am – 4 pm weekdays, on east side of street between Court Street and Battle Avenue, as posted.

2.14 SCHOOL STREET

- No parking anytime on Town Common side of street, as posted.
- No parking during school hours in front of 13 and 17 School Street, as posted.

2.15 SEA STREET

2.16 STATE STREET

- No parking anytime on east and west sides of street, as posted.

2.17 STEVENS STREET

- No parking anytime on north and south sides of street, as posted.

2.18 TARRATINE STREET

- Two hour parking, 8 am – 4 pm weekdays, on east and west sides of street between Court Street and Battle Avenue, except for no parking area on west side across from MMA driveway, as posted.

2.19 TOWN DOCK

2.19 TOWN DOCK

- Three (3) hour parking 6 am – 11 pm, from May 1 to October 31.
- Thirty (30) minute parking in loading zone spaces.
- From November 1 to April 30, no parking restrictions (other than 4 one-hour spaces) between 6am and 12 midnight.
- No overnight parking (12 midnight – 6 am) from November 1 to April 30 in any parking space except as follows:
 - the first twelve (12) spaces south of the flagpole on ODD days, as posted.
 - the twelve (12) spaces east of ODD day spaces on EVEN days, as posted.
- No parking anytime in the pump station driveway.
- No parking anytime on or blocking the public boat launch ramp.
- Parking any trailer is prohibited from June 15 to September 15. A boat trailer attached to a vehicle may park for up to one (1) hour while launching or retrieving a boat.
- Four (4) year-round one-hour spaces facing Town Dock, as posted.

2.20 WADSWORTH COVE ROAD

- No parking anytime on east side of street from Battle Avenue to 600 feet north of Battle Avenue, as posted.
- No parking anytime on west side of street between the Fort George driveway and Battle Avenue, as posted.
- No parking on north side of Fort George (on state property), as posted
- No parking, 8 am – 4 pm weekdays, on west side of street from the Fort George driveway to 600 feet north of Battle Avenue, as posted.
- No overnight parking at Backshore Beach or Backshore Pond parking area, as posted.

2.21 WATER STREET

- No parking anytime on north and south side of street from Pleasant Street to Main Street except for the posted fifteen (15) minute parking zone across from the market.
- Parking on south side of street between Main Street and Green Street is limited to passenger cars and pick-up trucks that do not extend beyond the marked spaces.
- No parking anytime on south side of street from Green Street to #107 Water Street.
- No parking anytime on north side of street from Main Street to Green Street.
- No parking anytime on north side of street from Dyer Lane to 40 feet east of Dyer Lane.
- Fifteen (15) minute parking, 8 am – 4 pm weekdays, in the first two spaces on south side of street east of Main Street, as posted.

2.22 PROHIBITED PARKING, TOWN-WIDE AT ALL TIMES

- Parking within ten (10) feet of the corner at any intersection.

- Parking to obstruct a fire hydrant, public sidewalk, crosswalk, driveway or road.
- Parking at a distance greater than twelve (12) inches from face of curb, with five (5) minute grace period at Post Office.
- Double parking on any town street.

2.23 HANDICAP PARKING

- Parking is restricted to vehicles displaying a handicap registration plate or placard issued pursuant to Title 29-A M.R.S.A. § 521 - § 523 or a similar regulation for another state at the following locations when identified by signage with the international symbol for accessibility:
 - Two year-round spaces at the Town Dock, as posted.
 - One space on the south side Water Street at Main Street adjacent to the front entry to 27 Water Street, as posted.
 - One space on Battle Avenue in front of Castine Golf Club, when posted.
 - One space in front of Emerson Hall when posted.
 - One space on School Street at the Unitarian Church Parish Hall when posted. [Am#1-06/03/2013]

2.24 SEASONAL PARKING RESTRICTIONS

- In order to facilitate snow removal from town streets and to minimize the potential for damage to private owned vehicles, there shall be no overnight (any time during the period between 12:00 midnight and 6:00 am) parking on the paved surface or within four (4) feet of the paved surface of any town street or parking lot during the winter snowplowing season, November 1 to April 30. Any property owner or tenant may request the Board of Selectmen grant an exemption to the "within four (4) feet" provision of this section for the current snowplowing season. The applicant for this exemption must demonstrate that no alternative parking could exist on the property.

2.25 LONG TERM PARKING

- No vehicle shall park in an otherwise unrestricted parking area on Main Street from Court Street to Water Street and Water Street from Pleasant Street to Green Street, for more than twenty-four (24) hours.
- No vehicle shall park in an otherwise unrestricted parking area on any other town street or town property for more than ninety-six (96) hours.

2.26 TEMPORARY PERMIT PARKING

- A property owner or contractor may apply to the Town Manager for a temporary permit that will allow the contractor to park one (1) vehicle in time restricted areas in the immediate vicinity of the work site for up to nine (9) hours per day while working. The permit shall be valid for up to six (6) months and can be renewed.
- A property owner or contractor may apply to the Town Manager for a temporary permit that will allow the contractor to park one (1) vehicle in a no

parking zone in the immediate vicinity of the work site for up to nine (9) hours per day while working. The permit shall be valid for up to thirty (30) days and cannot be renewed.

- A property owner or contractor may apply to the Town Manager for a temporary permit that will allow the contractor to park one (1) trailer or dumpster, or store material in a no parking zone in front of the work site. The permit shall be valid for up to thirty (30) days and cannot be renewed.
- The holder of a commercial fishing license or the crew of a commercial fishing vessel, moored or registered in Castine, may apply to the Town Manager for a temporary permit that will exempt one (1) vehicle from the time limit on the Town Dock while actively engaged in commercial fishing. The permit shall be valid for up to six (6) months and can be renewed.
- The owner of a commercial vessel, moored or registered in Castine, may apply to the Town Manager for a temporary permit that will exempt one (1) vehicle from the time limit on the Town Dock while the vessel is underway. The permit shall be valid for up to six (6) months and can be renewed.

2.27 EXCEPTIONS

- When off-street parking is not available, the owner of a residence, which abuts a street with time-limited parking, and their guests are exempt from the time limit when parked on the street directly in front of said residence, except in the Commercial District. Guest parking limited to 72 hours without prior written approval by the Town.
- Vehicles displaying a handicap registration plate or placard issued pursuant to Title 29-A M.R.S.A. § 521 or § 523 or a similar regulation in another state may park for twice the posted time limit in time restricted parking spaces.
- The Harbor Master is exempt from the time limit on the Town Dock when working.
- Commercial delivery vehicles are exempt from the parking restrictions while making deliveries to Castine businesses, residences or institutions.

2.28 Construction Controls

- The Town Manager shall have the authority to restrict parking relative to construction as required.

ARTICLE 3: SPEED LIMITS

All speed limit signs shall be designed and installed in accordance with the *Manual on Uniform Traffic Control Devices* (MUTCD).

3.1 The speed limit on all town streets is 25 miles per hour (MPH) unless otherwise posted.

3.2 Specific posted speed limits other than 25 MPH:

- 35 MPH – Wadsworth Cove Road from Route 166 to Backshore Road.
- 20 MPH – Court Street from State Street to Tarratine Street.
- 20 MPH – Water Street.
- 15 MPH – Court Street School Zone

ARTICLE 4: TRAFFIC CONTROL

Traffic control in Castine shall be accomplished with posted signs and painted cross walks. All signs and pavement marking used for traffic control shall be designed and installed in accordance with the *Manual on Uniform Traffic Control Devices* (MUTCD). Traffic control sign and cross walk locations are as follows:

4.1 STOP SIGNS

- Court Street at Tarratine Street.
- Dresser Lane at Perkins Street.
- Dresser Lane at Court Street.
- Green Street at Water Street.
- LaTour Street at Battle Avenue.
- LaTour Street at Perkins Street.
- Madockawando Road at Battle Avenue.
- Madockawando Road at Perkins Street.
- Main Street at Battle Avenue.
- Mill Lane at Route 166A (The Shore Road).
- Perkins Street at Main Street.
- Pleasant Street at Battle Avenue.
- State Street at Court Street.
- State Street at Route 166.
- Stevens Street at Main Street.
- Stevens Street at Pleasant Street.
- Tarratine Street at Battle Avenue.
- Tarratine Street at Perkins Street.
- Wadsworth Cove Road at Route 166 (Castine Road).
- Wadsworth Cove Road at Battle Avenue.
- Water Street eastbound at Main Street.
- Water Street eastbound at Green Street.

4.2 THREE-WAY STOP SIGNS

- Main Street southbound and Court Street eastbound and westbound.
- Pleasant Street southbound and Perkins Street eastbound and westbound.

4.3 FOUR-WAY STOP SIGNS

- Green Street/School Street and Court Street.
- Pleasant Street and Court Street.

4.4 YIELD RIGHT OF WAY SIGNS

- Court Street westbound at Spring Street.
- Dyer Lane at Water Street.
- Dyer Lane at Court Street.
- Perkins Street at Battle Avenue.

4.5 CROSSWALKS

- Across Court Street from the southeast corner of Green Street to the northwest corner of School Street.
- Across Pleasant Street at MMA campus sidewalks.
- Across Water Street on the east side of Main Street.
- Across Water Street at Dyer Lane (Castine Yacht Club - seasonal)
- Across Main Street on the north side of Water Street.
- Across Main Street on the north side of Court Street.
- Across Main Street aligning with Post Office ramp.

4.6 NO THRU TRUCKS

- Green Street.
- Water Street westbound from Dyer Lane to Green Street.

4.7 ONE-WAY STREETS

- School Street is one-way counterclockwise around the Town Common.
- Water Street is one-way eastbound from Main Street to Green Street.

4.8 ADVISORY SIGNS

- The placement or removal of Advisory Signs shall not be considered an amendment to the Traffic Ordinance and may be ordered by the Board of Selectmen without holding a public hearing.

4.9 PRIVATE ROADS

- It is the responsibility of the owner of a private road to post traffic control signage where said road intersects a town road. In the absence of signage, it is the implied responsibility of vehicles on the private road to stop before entering the public road.

4.10 SPEED CONTROL

- Physical obstructions used to control vehicle speed, commonly called “speed bumps,” “speed tables,” etc., may not be constructed on any town street without the approval of the Board of Selectmen. The first time approval for the installation of a speed bump shall be considered an amendment to the ordinance. The replacement of any speed bump that is removed for the winter snow plowing season shall not be considered an amendment to the Traffic Ordinance and may be ordered by the Board of Selectmen without holding a public hearing.
- Speed tables are authorized at the following locations:
 - Three (3) on Wadsworth Cove Road

ARTICLE 5: ENFORCEMENT

5.1 FINES

Violation of any provision of this Ordinance shall be punishable by a fine as follows:

- Handicap Parking Violation (§2.24) - \$ 200.00 pursuant to Title 30-A M.R.S.A. § 3009.
- All other violations - \$30.00.

- All fines are payable to the Town of Castine. Any fine not paid within thirty (30) days will be referred to a collection agency and be subject to a \$25.00 service charge in addition to the fine.

5.2 TOWING

- The town may tow any vehicle parked in violation of the Ordinance.
- It shall be the vehicle owner or operator's responsibility to arrange for the release of the vehicle from impoundment and to pay all fines, towing charges and storage charges.
- The towing company will not release a vehicle from impoundment until all fines (from current and prior violations) have been paid to the town and all towing and storage charges paid to the towing company.
- The town is not responsible or liable for any damage incurred by any illegally parked vehicle during towing or impoundment.

5.3 MUNICIPAL AUTHORITY

- The Board of Selectmen delegates authority to each selectman, each municipal employee and the Hancock County Sheriff to write traffic tickets for parking violations.
- The Board of Selectmen delegates authority to MMA Safety Officers to write traffic tickets for parking violations on the sections of Pleasant Street, Main Street, Stevens Street, Court Street and Battle Avenue abutting the campus.
- The recipient of a traffic ticket issued pursuant to this ordinance may seek to have the ticket voided as follows:
 - Submit a complete *Application to Void Traffic Ticket* to the Town Manager within thirty (30) days of the date of the ticket if the recipient believes the ticket was issued in error.
 - Submit a written appeal to the Board of Selectmen if the recipient disagrees with the Town Manager's decision.



WATERFRONT ORDINANCE OF THE TOWN OF CASTINE, MAINE



ENACTED BY THE TOWN IN MEETING ASSEMBLED THE 13TH DAY OF
JANUARY 1997 AND AS THEREAFTER AMENDED.

ATTEST: THIS IS A TRUE DOCUMENT. THE *WATERFRONT ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS
BEEN IN EFFECT WITHOUT CHANGE FROM 13 JANUARY 1997 TO THE DATE HEREOF, EXCEPT AS
AMENDED.

DATED: MAY 13, 2017

SIGNATURE: _____

SUSAN M. MACOMBER
CASTINE TOWN CLERK

AFFIX SEAL

ARTICLE 1: GENERAL PROVISIONS

1.1 TITLE

This ordinance shall be known as the “Waterfront Ordinance of the Town of Castine, Maine”. It shall be referred to herein as the “Ordinance”. [\[Am 4\]](#)

1.2 AUTHORITY

This Ordinance is adopted pursuant to the authority granted by Title 38 M.R.S.A., Chapter 1, as amended, Title 30A, M.R.S.A., §§ 3001, 3007, 3009 and 4452, as amended and the Home Rule provisions of the Constitution of the State of Maine with additions and deletions. [\[Am 4\]](#)

1.3 PURPOSE

The Castine Harbor is a valuable but limited resource that has been subject to growing demand from recreational, commercial and institutional users; therefore, this Ordinance is adopted for the following purposes: [\[Am 4\]](#)

1.3.1 To preserve and promote the maritime nature of the harbor; [\[Am 4\]](#)

1.3.2 To minimize user conflicts and maximize the efficient use of the harbor for residents, visitors, commercial users and Maine Maritime Academy; [\[Am 4\]](#)

1.3.3 To implement the relevant policies, guidelines and recommendations of the current Castine Comprehensive Plan; and [\[Am 4\]](#)

1.3.4 To plan, establish and maintain the arrangement and utilization of the Mooring area, public landings, boat ramps, harbor channels and other related properties in the waters of Castine. [\[Am 4\]](#)

1.4 APPLICABILITY

The provisions of this Ordinance shall apply to all tidal water areas located within the municipal boundaries of Castine, Maine, hereinafter referred to as Castine Waters.

1.5 SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unenforceable by a Court, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

1.6 CONFLICT

Whenever any section, subsection, sentence, cause, phrase or portion of this Ordinance is deemed to be in conflict with any existing state law and/or federal rule(s), then the stricter provision shall apply, unless preempted by federal law.

1.7 EFFECTIVE DATE

This Ordinance, and any amendments thereto, shall become effective immediately upon adoption. [\[Am 4\]](#)

ARTICLE 2: DEFINITIONS

For the purpose of interpreting this Ordinance, the following terms, phrases and words shall be defined as set forth below. [\[Am 3\]](#)

FEE: a charge for the use of Town owned waterfront facilities; all fees described herein are set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting. [\[Am 3\]](#) [\[Am 4\]](#)

FINE: a civil penalty for a violation of this Ordinance or the Mooring, Dock and Launch Ramp Rules; all fines are set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting. [\[Am 3\]](#) [\[Am 4\]](#)

HARBOR MASTER: a person appointed pursuant to Title 38 M.R.S.A., § 1 and this Ordinance; all references to the Harbor Master shall include any Deputy Harbor Master. [\[Am 4\]](#)

MOORING: an apparatus for securing a single Vessel in a fixed location to which no other Vessel may be attached, including a pennant, a permanent weight or permanent anchor on the harbor floor, a mooring buoy and everything between the latter two or otherwise permanently attached thereto; there are three classes of moorings, Private, Service and Transient, which are defined below. [\[Am 4\]](#) [\[Am 8\]](#)

MOORING, OUTHAUL: a Mooring that is used to attach a specific dinghy or tender by means of a continuous line secured to the shore. This mooring does not need a pendant, but is otherwise subject to **ARTICLE 5: MOORING**. [\[Am 8\]](#)

MOORING, PRIVATE: a Mooring other than a Service Mooring or Transient Mooring that is permitted for the purpose of mooring a specific Vessel. [\[Am 4\]](#)

MOORING, SECONDARY PRIVATE: a Mooring that is permitted outside of Zone 1 and Zone 3 and owned by a Private Mooring Site Permittee for temporary use as a storm mooring or by a guest of the owner. This Mooring shall not be rented. [\[Am 6\]](#)

MOORING, SERVICE: a Mooring owned and utilized by a commercial marine enterprise or a marine dependent enterprise for the purpose of temporary mooring of customers' Vessels or other uses related to the operation of the enterprise. [\[Am 4\]](#)

MOORING, TRANSIENT: a Mooring set aside for temporary (7 days or less) use by Vessels cruising along the coast. [\[Am 4\]](#)

MOORING SITE: a specific location assigned by the Castine Harbor Master for placement of a Mooring, defined by GPS coordinates where practicable. [\[Am 4\]](#)

MOORING SITE PERMIT: an annual permit that is issued by the Harbor Master to a Mooring Site Permittee authorizing the placement of a specific class of Mooring at a specific Mooring Site and which expires on May 31 of the year following its issue. [\[Am 4\]](#) [\[Am 5\]](#)

MOORING SITE PERMITTEE: a person granted a Mooring Site Permit. [\[Am 4\]](#) [\[Am 5\]](#)

MOORING SITE PERMIT WAITING LIST: a list of persons (resident and non-resident) desiring a Mooring Site Permit; the list will be maintained by the Harbor Master and will be posted in the Town Office; names on the list will be maintained in chronological order; issuance of a Mooring Site Permit to individuals on the list will be in accordance with Title 38, M.R.S.A., § 7A, as amended. [\[Am 4\]](#) [\[Am 5\]](#)

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MOORING SITE RELOCATION WAITING LIST: a list persons (resident and non-resident) desiring relocation of a Mooring Site assignment; the list will be maintained by the Harbor Master and will be posted in the Town Office; names on the list will be maintained in chronological order; a Mooring Site assignment will be made in accordance with Title 38 M.R.S.A., § 7A, as amended. [\[Am 4\]](#) [\[Am 5\]](#)

PERSON: an individual, a corporation, a firm, partnership, an association or any other entity. [\[Am 4\]](#)

RESIDENT: a person who owns real property listed on the current tax rolls of the Town of Castine or resides in Castine more than 180 days in a calendar year; all other persons shall be non-residents. [\[Am 4\]](#)

RIPARIAN OWNER: a person who owns Castine shorefront property of the minimum buildable lot size and is thereby entitled to a Mooring Permit for a Mooring Site fronting their property whenever practicable. [\[Am 3\]](#) [\[Am 4\]](#)

SHIP CHANNELS: ship channels as described herein and depicted on the NOAA nautical chart and other such channels designated by the Harbor Master which shall be kept open for the passage of watercraft.

VESSEL: any type of watercraft, including a ship, boat, barge, self-propelled, float, or craft, other than a seaplane, used or capable of being used as a means of transportation on water. [\[Am 5\]](#)

VESSEL OWNER: the person who can demonstrate the controlling interest in a Vessel and who is named on the boat registration or the person identified as the managing owner on the U.S.C.G. Certificate of Documentation. [\[Am 4\]](#)

ARTICLE 3: HARBOR COMMITTEE

The Board of Selectmen shall appoint five (5) persons to a Harbor Committee for three (3) year staggered terms and two (2) persons as alternate members for one (1) year terms, attempting to represent in their selections the following interests: downtown businesses, recreational boaters, commercial boaters, Maine Maritime Academy and the Castine Yacht Club. The Maine Maritime Academy Waterfront Director, the Castine Yacht Club Commodore and the Castine Town Manager shall serve as *ex officio* non-voting members of the Committee. The Committee will hear appeals pursuant to Article 14 of this Ordinance and will also act in an advisory capacity to the Board of Selectmen and the Harbor Master in matters such as fees, fines, maintenance, purchases, personnel, contracts, construction, budget and its administration, safety and any other matters of concern on the waterfront. Meetings will be held at least quarterly and will be posted and open to the public in accordance with Title 1 M.R.S.A., §§ 401 *et seq.*, as amended. [\[Am 1\]](#) [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 6\]](#) [\[Am 7\]](#)

ARTICLE 4: HARBOR MASTER

4.1 APPOINTMENT AND COMPENSATION

4.1.1 The Town Manager shall annually appoint a Harbor Master who shall be subject to all the duties and liabilities of that office as prescribed by state law, regulations adopted by the municipal officers and municipal ordinances. The Town Manager shall establish compensation and may remove the Harbor Master for cause after notice and hearing and appoint another instead. [\[Am 2\]](#) [\[Am](#)

4]

4.1.2 The Town Manager may appoint and fix the compensation and term of one or more temporary Deputy Harbor Masters. The Town Manager may remove any Deputy Harbor Master in the same manner as the Harbor Master. A Deputy Harbor Master is authorized to exercise the powers of the Harbor Master, subject to the provisions of this Ordinance, and shall be subject to the direction of the Harbor Master except as otherwise directed by the Town Manager. [\[Am 2\]](#) [\[Am 4\]](#)

4.2 POWERS AND DUTIES

4.2.1 Removal of Vessels: The Harbor Master, upon complaint to the master, owner or agent of any Vessel, shall cause any other Vessel or Vessels obstructing the free movement or safe anchorage of that Vessel to be removed to a position to be designated by the Harbor Master and to cause, without any complaint being made, any Vessels anchoring within the ship channels to be removed to such anchorage as the Harbor Master may designate. Any person who intentionally, knowingly or recklessly fails to obey any lawful order of the Harbor Master shall be guilty of a Class E crime, under Title 38 M.R.S.A., § 13, as amended. If that Vessel has no crew on board or if the master or other person in charge neglects or refuses to move such Vessel as directed by the Harbor Master, the Harbor Master may put a suitable crew on board and move that Vessel to a suitable berth at a wharf or anchorage at the expense and risk of the owner(s) of the Vessel and shall charge a Vessel Removal Fee plus expenses, to be paid to the Town of Castine by the master or owner of that Vessel. [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 5\]](#)

4.2.2 Mooring Removal or Replacement: In case of neglect or refusal of the Mooring Site Permittee to remove a Mooring or to replace it by one of a different character when so directed by the Harbor Master, the Harbor Master shall cause the entire Mooring to be removed or shall make such change in the character of the Mooring as required and shall charge a Mooring Removal/Replacement Fee, plus expenses, to be paid to the Town of Castine by the Mooring Site Permittee for either of those services rendered. Before removing a Mooring, the Harbor Master shall notify the Mooring Site Permittee by email or first class mail at the address on the current Mooring Site Application of the action desired, the fact that the mooring will be removed, and the amount of the Mooring Removal/Replacement Fee. If the matter is not settled to the Harbor Master's satisfaction within 14 days, the Harbor Master may take any action provided for in this section. [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 5\]](#)

4.2.3 Training: The Harbor Master and Deputy Harbor Master shall complete training as required by Title 38 M.R.S.A., § 1-A, as amended. [\[Am 4\]](#)

4.2.4 Weapons: The Harbor Master and Deputy Harbor Master are not authorized to carry a weapon. [\[Am 4\]](#)

ARTICLE 5: MOORING

5.1 ANCHORAGES

No person shall place or allow to anchor or lie any Vessel in any position in Castine waters prohibited by any ordinance, rule, regulation or law.

5.2 DESIGNATION OF MOORING SITES

The Harbor Master shall designate Mooring Sites in accordance with Title 38 M.R.S.A., § 1, as amended. Mooring Sites shall be permitted for the sole use of the Vessel indicated on the application. Any change in the Vessel using the Mooring Site must be in accordance with this Ordinance and state law and have the written approval of the Harbor Master. This section is not applicable to Service, Transient and Secondary Private Moorings. [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 6\]](#) [\[Am 7\]](#)

5.3 MOORING SITE PERMIT

5.3.1 Application: Application for a Mooring Site Permit shall be made annually and shall contain the information set forth on the application. An application will not be processed unless it is complete, the payment of required fees, including excise taxes or other taxes or charges owed to the Town of Castine, or its agent, are made prior to June 1 and a current Mooring Inspection Certification is on file with the Harbor Master. At the time of each annual review of Mooring Site Permits, existing Mooring Site Permittees shall be given priority over other applications for a Mooring Site. [\[Am 4\]](#) [\[Am 5\]](#) [\[Am 6\]](#)

5.3.2 To Whom Issued: A Private Mooring Site Permit shall only be issued to the Vessel Owner and a Service Mooring Site Permit shall only be issued to an officer or principal of the commercial marine enterprise or a marine dependent enterprise. [\[Am 4\]](#) [\[Am 5\]](#) [\[Am 6\]](#) [\[Am 7\]](#)

5.3.3 Conversion: A Mooring shall not be converted from the class of Mooring originally permitted, i.e., Private, Service or Transient, to a different class. [\[Am 4\]](#)

5.3.4 Disposition: A Mooring Site Permittee, having notified the Harbor Master that they will not be renewing their Mooring Site Permit, shall have 14 days in which to dispose of their mooring tackle. [\[Am 8\]](#)

5.4 MOORING IDENTIFICATION

All Moorings shall have the number and name of the Mooring Site Permittee indicated on the float or buoy above the water line for the purposes of identification. Such number and name shall be displayed in at least three (3) inch letters and be legible at all times. Mooring buoys shall be white with a single blue horizontal band clearly visible above the water line. [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 5\]](#)

5.5 PLACEMENT OF MOORINGS

No person shall place a Mooring of any type within the boundaries of Castine waters without a Mooring Site Permit issued by the Town of Castine's Harbor Master.

5.5.1 No mooring or buoy of any type shall be set in front of the Acadia Dock, the Town Dock and the Launch Ramp in an area extending 400 feet out from the west end of the Town Dock and the East side of the Launch Ramp to points 44 23.167N/68

47.705W and 44 23.235N/68 47.639W respectively. [\[Am 4\]](#) [\[Am 5\]](#) [\[Am 7\]](#)

5.6 STANDARDS FOR MOORING SIZE AND CONSTRUCTION

All Moorings shall be of a suitable size and construction for the Vessel using the Mooring and the Mooring Site and shall comply with the Mooring Standards in Appendix A of this Ordinance. Revisions to these Mooring Standards shall not be considered an amendment to this Ordinance and may be adopted by the Board of Selectmen at a public hearing following a recommendation from the Harbor Committee. [\[Am 4\]](#) [\[Am 5\]](#)

5.7 INSPECTION OF MOORINGS

All Moorings are required to be inspected when initially installed and every three (3) years thereafter by an inspector approved by the Harbor Master. The inspector shall certify such inspection in writing by completing the Mooring Inspection Certification Form. The Mooring Inspection Certification shall contain a description of any necessary repairs or replacement. Copies shall be delivered to the Harbor Master by the Mooring Site Permittee. Any extension of time to inspect a Mooring is at the Harbor Master's sole discretion and shall be made in writing. The Harbor Master may require inspection of a Mooring more frequently than once every three (3) years should the Harbor Master deem it necessary for the safety of the Vessel or other adjacent Vessels. The Mooring Site Permittee shall make necessary repairs or replacements to all parts thereof in such time as the Harbor Master requires. If such repair or replacement is not completed within such period, the Mooring Site Permit shall be void. Refer to Appendix B for Mooring Service Provider Standards. Revisions to these Mooring Service Provider Standards shall not be considered an amendment to this Ordinance and may be adopted by the Board of Selectmen at a public hearing following a recommendation from the Harbor Committee. [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 5\]](#) [\[Am 7\]](#)

5.8 DENIAL

The Harbor Master may deny the replacement or use of a Mooring or the use of Town owned docks, floats or launch ramps if in the judgment of the Harbor Master, the Vessel is: [\[Am 4\]](#)

5.8.1 Structurally unsafe;

5.8.2 Emitting obnoxious fumes, oils, or any other substance detrimental to the safety or comfort of others, including any pollution of its waters, shores and flats;

5.8.3 Of inappropriate size for the dock, float or Mooring; or

5.8.4 Causing damage to Town owned waterfront facilities. [\[Am 4\]](#)

5.9 NON-USE OF MOORINGS

If a Mooring Site Permittee fails to use the assigned Mooring Site or Mooring for the Vessel listed on the current Mooring Site Permit during the term (June 1 to May 31) of that permit, the Mooring Site Permit shall not be renewed. A one-term exception to this requirement may be granted for cause by written notification to the Harbor Master by the beginning of the term (June 1). If a Mooring Site Permittee fails to provide

such notification, the Mooring Site Permit shall not be renewed the following year. [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 5\]](#) [\[Am 6\]](#) [\[Am 7\]](#)

5.10 MOORING ASSIGNMENTS

5.10.1 There shall be no transfer of a Mooring Site Permit or an assigned Mooring Site. [\[Am 4\]](#) [\[Am 5\]](#)

5.10.2 A Mooring Site Permittee shall promptly notify the Harbor Master of a proposed change of Vessel on a Private Mooring. Such change of Vessel shall be permitted only with the written approval of the Harbor Master. [\[Am 4\]](#) [\[Am 5\]](#)

5.10.3 There shall be no renting of a Private Mooring. [\[Am 4\]](#) [\[Am 5\]](#) With written approval of the Harbor Master, a Mooring Site Permittee may allow the use of the Site by another vessel for a period not to exceed 30 days. [\[Am 7\]](#) [\[Am 8\]](#)

ARTICLE 6. WHARVES, DOCKS, PIERS, FLOATS AND RAMPS

6.1 CLOSURE

The Harbor Master and/or the Town of Castine have the authority to regulate the use of and close all Town waterfront facilities at their discretion. [\[Am 5\]](#)

6.2 USER'S OWN RISK

The Town waterfront facilities are accessible at the user's own risk and the area shall be posted accordingly.

6.3 OBSTRUCTION

No owner, master, or operator shall permit a Vessel to be docked or moored in such a manner that it obstructs the free passage of other Vessels going into or coming from any pier or wharf in Castine waters.

6.4 TYING TO PUBLIC FLOATS

No person shall leave any Vessel tied to the ends or fronts of any public float of the Town of Castine for any purpose, including but not limited to pump-out services, fueling, or taking on passengers or supplies, for longer than the posted time period except for emergencies or with the approval of the Harbor Master. [\[Am 6\]](#)

6.5 BLOCKAGE OF PUBLIC RAMPS/FACILITIES

No person shall place or cause to be placed any Vessel, boat cradle, trailer, vehicle or other object on the Town ramp, dock/wharf, parking lot, or other Town harbor facility in such a way that it blocks access by other users. [\[Am 4\]](#)

6.6 USE OF TOWN LAUNCH RAMP AND LAUNCH RAMP FEES [\[Am 5\]](#)

The Town Launch Ramp is a municipal owned facility, constructed and maintained to launch and haul vessels, and its use is subject to the following requirements:

6.6.1 Commercial uses of the Ramp not specifically authorized by this section are prohibited.

6.6.2 Any use of the Launch Ramp other than launching or hauling a vessel

requires prior written permission from the Harbor Master.

6.6.3 Use of the Launch Ramp to load or offload cargo, vehicles, construction equipment, machinery, etc. requires prior written permission from the Harbor Master.

6.6.4 All permits from the Harbor Master are issued for a specific time period, not to exceed one year.

6.6.5 If the Harbor Master deems any use under § 6.6.2 or § 6.6.3 may damage the Launch Ramp, the Harbor Master shall order appropriate measures to protect the ramp during use and shall require a damage deposit, letter of credit or bond be furnished to the Town prior to granting permission. [\[Am 6\]](#)

6.6.6 Launch Ramp use fees and uses of the Launch Ramp subject to a fee are set annually by the Board of Selectmen. Revisions to the fee schedule or the uses subject to a fee shall not be considered an amendment to this Ordinance and may be adopted by the Board of Selectmen at a public hearing following a recommendation from the Harbor Committee. Nonpayment of required fees is cause for denying further use of the Launch Ramp.

6.7 DINGHIES

Dinghies may be allowed at the Town dock/wharf provided they are on the inside tied by the bow only and are properly cared for by the owner. Dinghies shall not be tied to the ends or outside of Town-owned wharves or floats, and they shall not be stored on top of the floats. Dinghy owners, except for dinghies belonging to transient vessels, must register the Dinghy with the Town Office and pay all fees required. [Am 4\]](#) [\[Am 5\]](#)

6.8 BAIT

No person shall place or maintain on public facilities any fish or other bait, except for immediate delivery to a Vessel ready to receive same, without written permission from the Harbor Master and/or the Town of Castine.

6.9 EQUIPMENT

No person shall place or maintain on public facilities any barrels, boxes, gear, traps, pots, or any other equipment for a period longer than is reasonably necessary without written permission from the Harbor Master and/or the Town of Castine.

ARTICLE 7. FEES AND FINES

The Board of Selectmen shall establish and provide for the collection of Fees for Mooring Site Permits and for various uses of any waterfront facilities owned or operated by the Town of Castine, including but not limited to the use of wharves, docks, piers, and floats for landing, parking, launching, lying alongside, tying up, storage, private functions or sales of food or goods and Fine for infractions of dock and speed limit rules and violations of this Ordinance. Such Fees may be a flat amount or vary according to the size of a Vessel or vehicle. Such Fees may also vary as between residents and non-residents, provided that no fee chargeable to a non-resident shall exceed five (5) times the amount charged to residents. Such Fines may be a flat amount or vary according the infraction or violation. A schedule of the Fees and Fines established under this section shall be available at the Town Office and from the

Harbor Master. Fees and Fines shall be set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting. If a Fee and Fine is not paid in the prescribed time, after billing, the Mooring Site Permit will be void. [\[Am 3\]](#) [\[Am 4\]](#) [\[Am 5\]](#) [\[Am 7\]](#)

ARTICLE 8. OPERATION OF VESSELS

8.1 RECKLESS OR NEGLIGENT OPERATION

No person shall operate any Vessel in a reckless or negligent manner. [\[Am 4\]](#)

8.2 HAZARD TO NAVIGATION; SHOALING OF CASTINE WATERS

No person shall deposit, throw, sweep or cause to be deposited or swept, from any Vessel, wharf, dock or any other place, into Castine waters any ashes, dirt, stones, gravel, mud, logs, planks or any other substances that may create a hazard to navigation or that may shoal the depth of Castine waters. [\[Am 4\]](#)

8.3 PROHIBITED ACTIVITIES

No water skiing, tubing or wakeboarding will be allowed in Castine waters within two hundred and fifty (250) feet of moored or anchored Vessels. [\[Am 3\]](#) [\[Am 4\]](#)

8.4 SPEEDING

All types of Vessels operating within Castine waters shall maintain a speed that is reasonable and proper, having due regard for traffic, proximity to docks, floats and other Vessels. No Vessel shall be operated in Castine waters in a manner that causes a danger or nuisance to the public. All Vessels shall be operated so as to cause minimal wake and in no case at a speed greater than five (5) knots within two hundred and fifty (250) feet of moored or anchored Vessels. The Harbor Master may establish no wake zones as necessary. Whoever operates any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State at a speed greater than is reasonable and proper, having due regard for traffic, proximity to wharves, docks, moorings or shores, and for any other conditions then existing, shall be guilty of a Class E crime under Title 38 M.R.S.A., § 281, as amended. [\[Am 4\]](#) [\[Am 5\]](#)

ARTICLE 9. ABANDONMENT

No person may bring into or maintain in the Castine harbor any derelict Vessel, Vessel for salvage, or abandon any Vessel or other obstruction in the Castine harbor without a permit from the Harbor Master. Whoever does so without permit is guilty of a Class E crime, under Title 38 M.R.S.A., § 9, as amended. Vessels which are to be salvaged by firms licensed by the State to do salvage work shall be excluded from this section. The Harbor Committee shall be the sole determiner as to what constitutes a Vessel that is derelict and what constitutes a Vessel or other obstruction that is abandoned. The Harbor Master shall then order the last owner of any such abandoned Vessel or other obstruction, if such owner is ascertainable, to remove same within thirty (30) days. Upon refusal or failure to do so, the Harbor Master shall cause its removal or destruction at the cost of the said last ascertainable owner. Any person who intentionally, knowingly or recklessly fails to obey any lawful order of the Harbor Master shall be guilty of a Class E crime, under Title 38 M.R.S.A., § 13, as amended.

[\[Am 4\]](#) [\[Am 5\]](#)

ARTICLE 10. POLLUTION

Except in case of emergency imperiling life or property or unavoidable accident, collision, or stranding, no person shall discharge, or suffer, or permit the discharge of sewage, garbage, trash or other refuse of any kind, by any method, means or manner into or upon Town wharves or docks or Castine waters.

ARTICLE 11. INFECTED VESSELS

Whenever a Vessel arrives in the Castine waters, having on board any person infected with a contagious disease or suspected of being infected with such disease, the master, commander, or pilot thereof, and the Health Officer of the Town of Castine shall comply with the applicable provisions of Maine state law, as amended.

ARTICLE 12. RULES AND REGULATIONS

The Harbor Master and the Harbor Committee shall recommend to the Board of Selectmen for adoption such rules and regulations as shall be necessary to implement the intent of this Ordinance. These rules and regulations shall include, but are not limited to size of tenders allowed on the dinghy dock, time limits and use rules for the Town dock/wharf, and Fines for infractions of dock rules and speed limits. These rules and regulations shall be reviewed annually, shall be posted on the Town wharf, and shall be available at the Town Office and from the Harbor Master. [\[Am 3\]](#) [\[Am 4\]](#)

ARTICLE 13. ENFORCEMENT

13.1 ENFORCEMENT BY THE HARBOR MASTER

It is the duty of the Harbor Master to enforce the provisions of this Ordinance. No person shall fail to observe any lawful order of the Harbor Master with reference to the navigation and disposition of Vessels or Moorings within Castine waters. The Harbor Master may seek fines as recommended by the Harbor Committee and approved by the Board of Selectmen as may be appropriate to enforce any provision of this Ordinance. [\[Am 5\]](#)

13.2 ENFORCEMENT BY LAW ENFORCEMENT OFFICERS

In addition to the Harbor Master, any law enforcement officer vested with the authority to carry a weapon and make an arrest shall have the authority to enforce the provisions of this Ordinance.

13.3 MISDEMEANOR FINES; SEPARATE VIOLATIONS

Any person who intentionally, knowingly or recklessly fails to obey any lawful order of the Harbor Master shall be guilty of a Class E crime, under Title 38 M.R.S.A., § 13, as amended. Any person who violates any provision of this Ordinance may be prosecuted and relief, fines and penalties granted and assessed pursuant to Title 30-A M.R.S.A., § 4452, as amended. Each day that a violation continues, without action to effect abatement after receipt of notification by the Harbor Master, shall be considered a separate violation for purposes of this section. [\[Am 4\]](#) [\[Am 5\]](#)

13.4 LEGAL ACTION

The Board of Selectmen, upon notice from the Harbor Master, is hereby authorized and directed to institute any and all action and proceedings, either legal and/or

equitable, including seeking injunctions of violations and the collection of Fees or Fines together with the cost of suit and reasonable attorney’s fees, as may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town. [\[Am 4\]](#)

ARTICLE 14. APPEALS

The Harbor Committee shall hear and decide appeals alleging error by the Harbor Master in the administration of this Ordinance. The aggrieved person must make a written appeal within thirty (30) days of the date of the decision being appealed and the Harbor Committee shall hold a public hearing within thirty (30) days form the date of receipt of the appeal. When hearing an appeal at least five (5) Committee members must be present and any decision will require a majority vote of those present. The Harbor Committee may establish additional rules and procedures for such hearings. A party aggrieved by the decision of the Harbor Committee may appeal it to Superior Court within thirty (30) days from the date of the original decision pursuant to Maine Rules of Civil Procedure, Rule 80B. [\[Am 3\]](#) [\[Am 4\]](#)

ARTICLE 15. AMENDMENTS

This Ordinance has been amended as indicated on the following dates:

Amendment 1	[Am 1]	March 27, 2000
Amendment 2	[Am 2]	June 7, 2005
Amendment 3	[Am 3]	March 24, 2008
Amendment 4	[Am 4]	April 4, 2009
Amendment 5	[Am 5]	March 27, 2010
Amendment 6	[Am 6]	November 5, 2013
Amendment 7	[Am 7]	November 3, 2015
Amendment 8	[Am 8]	May 13, 2017



APPENDIX A:

(Revised 03/13/13; Adopted 03/18/13)

STANDARDS FOR MOORING SIZE AND CONSTRUCTION (§ 5.6 IN ORDINANCE)

Boat Length (ft)	Granite Dry Weight (lbs)	Granite Wet Weight (lbs)	Granite Size (cu ft)	Chain Diameter (in)	Pendant Diameter (in)	Pendant Length (ft)
<20	750	490	4.3	0.38	0.50	7.5
20-24	1080	700	6.2	0.38	0.63	9.0
25-29	1470	950	8.4	0.50	0.75	10.5
30-34	2100	1360	12.0	0.50	0.88	12.0
35-39	2700	1750	15.4	0.50	1.00	13.5
40>	3600	2340	20.6	0.63	1.00	15.0

Notes:

1. Mooring sizes are based on ABYC mooring guide for 52 knot sustained wind and moderate seas. With the exception of pendant length, which is the maximum allowed in Zone 1 of the mooring field (from Pleasant St to Spring St), all mooring components are minimum sizes. The Harbor Master may, at his/her discretion, require larger sizes.
2. Pendant length is defined as the distance from where the pendant breaks the water to the stem of the boat when the pendant is stretched out.
3. Mooring scope (length or sweep of mooring chain or line), measured from the ocean floor to the buoy, shall be water depth at mean high tide (MHW) plus 15 feet.
4. Castine Harbor, where subjected to the strong current of the Bagaduce River, has a hard bottom where granite blocks of adequate weight are required. Other locations may have soft bottoms where mushroom anchors may be approved by the Harbor Master.
5. Non-standard mooring designs, such as substituting fiber line in place of some of the chain, may be approved by the Harbor Master on an individual basis.
6. Buoys shall be white with a blue band, of sufficient size to float the buoy above the bottom of the blue stripe, and be marked with both the owner's name and mooring site number in a minimum of 3" block letters.
7. Wastage of any part of the mooring chain of more than 25 per cent of the cross section (13 per cent reduction in diameter below the required size) is unacceptable and requires replacement.
8. No swivels shall be used between top and bottom chains. A swivel may be used to attach the mooring buoy to the chain.
9. No clevis pins shall be used on any mooring tackle and all shackle pins shall be moused with seizing wire. [Am 8]



APPENDIX B:

(Revised 03/13/13; Adopted 03/18/13)

MOORING SERVICE PROVIDER STANDARDS (§ 5.7 IN ORDINANCE):

1. Each mooring is to be inspected out of the water at least every 3 years (36 months). The inspection is to be done by a mooring inspector approved by the Harbor Master and a Mooring Inspection Report filed with the Harbor Master.
2. Moorings shall be set using WAAS GPS at the permitted location as designated by the Harbor Master.
3. Moorings shall be in the specified location and, if not, must be relocated to the specified location or to a new location approved in writing by the Harbor Master in a timely manner.
4. Inspection of moorings shall include all components of a mooring including, but not limited to:
 - a. Measurement of stone and its condition (presence of cracks, etc.).
 - b. Minimum diameter and condition of all chain and/or fiber lines.
 - c. Condition and length of pendant.
 - d. Condition of buoy, including proper markings.
 - e. Depth at the mooring site corrected to MHW.



CASTINE WATER SERVICE PROTECTION ORDINANCE



ENACTED BY THE TOWN IN MEETING ASSEMBLED

THE 24TH DAY OF MARCH 2003

(AND AS THEREAFTER AMENDED)

ATTEST: THIS IS A TRUE DOCUMENT. THE *CASTINE WATER SERVICE PROTECTION ORDINANCE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM 24 MARCH 2003 TO THE DATE HEREOF, EXCEPT AS AMENDED THROUGH 3 NOVEMBER 2015, AS SHOWN.

DATED: 3 NOVEMBER 2015

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

CASTINE WATER SERVICE PROTECTION ORDINANCE

1. Title; Effective Date. This Ordinance shall be known as the “Castine Water Service Protection Ordinance”. It shall become effective on the date of its adoption by the voters of Castine, Hancock County, Maine.
2. Authority. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001 et. seq. and Castine’s home rule authority.
3. Purposes. This Ordinance is adopted to address concerns regarding the protection of the public water supply and the Castine Water Department. The Castine Water Service Protection Area, herein after referred to as CWSPA, in Castine is one of the most densely populated areas within Hancock County, and it periodically suffers from water shortages. This Ordinance is intended to accomplish the following purposes:
 - 3.1. To implement the policies, guidelines and recommendations of the current Castine Comprehensive Plan.
 - 3.2. To protect that public water supply by managing the extraction of water from the aquifer that serves the Castine Water Department and by managing potential sources of contamination to this aquifer;
 - 3.3. To ensure the long-term availability of the Castine public water supply to the residents and businesses located in the CWSPA by controlling the development and use of private wells which draw water from the same aquifer;
 - 3.4. To protect public safety by securing the continuation of the Castine fire protection system;
 - 3.5. To have the means, when necessary, to impose water conservation measures on all water sources within the CWSPA;
 - 3.6. To protect the financial integrity of the Castine Water Department, and to help prevent financial hardship to its customers and to property owners not served by the public water supply; and
 - 3.7. To ensure that the Castine Water Department continues to be able to repay its debt and the expenses of debt service from its user fees, thereby reducing the risk of its debt being paid by residents outside of the CWSPA who are not served by the public water supply.
4. Castine Service Water Protection Area; Applicability. The CWSPA is hereby defined as that portion of the Town of Castine that is identified on Map 1, which is attached hereto and incorporated into this Ordinance.

This Ordinance applies to all property in the CWSPA, whether residential, commercial, institutional or undeveloped.
5. Definitions. For purposes of this Ordinance the following terms shall have the following definitions. If no term used in this Ordinance is so defined, its customary dictionary

definition shall be applied:

- 5.1. “Debt” shall mean all money borrowed by the Town of Castine or the Castine Water District, in the past, or to be borrowed in the future, to construct, maintain, repair or replace any plant, wells, ponds, pipelines, facilities, accessories thereto or equipment used to provide a public water supply system in the CWSPA;
 - 5.2. “Debt Service” shall mean the interest, fees and other charges incurred in connection with debt and shall be considered part of the water system debt of the Town of Castine;
 - 5.3. “Owner” shall mean an individual, the individual trustee as well as a corporation or its duly authorized managing officials, a partnership, limited liability company, trust, personal representative of the estate, the estate or other entity, or agent that holds the record title to a property on land located in the Castine Water Supply Protection Area;
 - 5.4. “Plumbed Structure” shall mean a structure which contains piping and plumbing fixtures and which is or shall be connected to a public or private water supply;
 - 5.5. “Private Well” shall mean a shaft drilled or dug into the ground for any purpose;
 - 5.6. “Public Water Supply System” shall mean the existing plant, wells, ponds, pipelines, facilities, and accessories thereto, owned by the Town of Castine and managed by the Castine Water Department, as well as any replacements or extensions thereof; and
 - 5.7. “Public Water Supply” shall mean water supplied to customers by the Castine Water Department through public waterlines or private waterlines where there is a right of access.
 - 5.8. “Well Registration Permit” is a form designated by the Manager or Superintendent of the Castine Water department as referenced in section 7.3 of this Ordinance and used for the purpose of monitoring well development and placement. See Appendix A for a specimen of the Well Registration Permit.
6. Required Actions. The following acts are required by this Ordinance. Any violation of these requirements shall constitute a “civil violation” under Title 30-A M.R.S.A. § 4452.
- 6.1. The owner(s) of every plumbed new structure, being constructed all or in part within four hundred (400) feet from a public water supply within the CWSPA shall, at his, her or their expense, connect that entire structure to the public water supply in a manner and location approved by the Castine Water Department.
 - 6.2. The owner(s) of every property where a plumbed outbuilding, addition or alteration is constructed all or in part within four hundred (400) feet from a public water supply within the CWSPA, shall connect, in a manner and location approved by the Castine Water Department, all plumbed structures on the property within four hundred (400) feet of the public water supply when the plumbing fixtures are installed in the structure.
 - 6.3. The owner(s) of every property that contains a plumbed structure which is within

four hundred (400) feet from a public water supply shall connect, in a manner and location approved by the Castine Water Department, all such plumbed structures on the property to the public water supply either:

- 6.3.1. within one hundred eighty (180) days of the sale of the property or,
- 6.3.2. within one hundred eighty (180) days of the transfer the entire property to anyone other than the owner's spouse.

7. Prohibited Actions. The following acts are prohibited by this Ordinance. Any violation of it shall constitute a "civil violation" under Title 30-A M.R.S.A. § 4452:

- 7.1. It shall be unlawful to disconnect any plumbed structure from its existing connection with the Castine public water supply except for any temporary disconnection required to make repairs or alterations to the public or private system. This prohibition shall not apply to the Castine Water Department;
- 7.2. No owner(s) of property within the CWSPA that is served by the Castine Water Department shall terminate that service, provided however that an owner is entitled to drain the plumbing system for repairs only of an occupied structure provided that he or she continues to pay the minimum quarterly or seasonal water service charges;
- 7.3. It shall be unlawful to drill a private well on property within the CWSPA without first obtaining a well registration permit from the Castine Water Department. Permitting is for the purpose of monitoring well development and placement. No well registration permit will be granted for any private well not intended to supply potable water to a plumbed structure, such as irrigation wells or geothermal wells. No well registration permit will be granted for structures lying all or in part within 400 feet of the public water supply unless a variance has been obtained under section 8 of this Ordinance. Furthermore, the Town adopts the prohibition in state law that forbids any residence or building that affords water to people from being simultaneously hooked up to the public water supply and a privately owned well.
- 7.4. If the Castine Board of Selectmen should enact a mandatory water conservation measure, as provided below, no person - either a customer of the Castine Water Department or the owner(s) of property within the CWSPA that has a private well - shall use more water than allowed under that conservation measure.

8. Variance. The Castine Board of Appeals may grant a variance from the requirements and restrictions of this Ordinance only when strict application of the Ordinance would cause Undue Hardship. For purposes of this Ordinance alone, "Undue Hardship" means that a variance is required due to the unique circumstances of the property because:

- 8.1. Even though the new structure, addition or renovation structure is within the 400 feet of the public water supply as it is defined herein, the topography of the property or obstructions between the structure and the public water supply would require the length of the connector to exceed 400 feet. For purposes of this sub-paragraph the needed removal of less than 100 yards of ledge to a depth of 4 feet deep shall not be considered as an "Undue Hardship", or
- 8.2. More than 100 yards of ledge would have to be removed in order to bury the

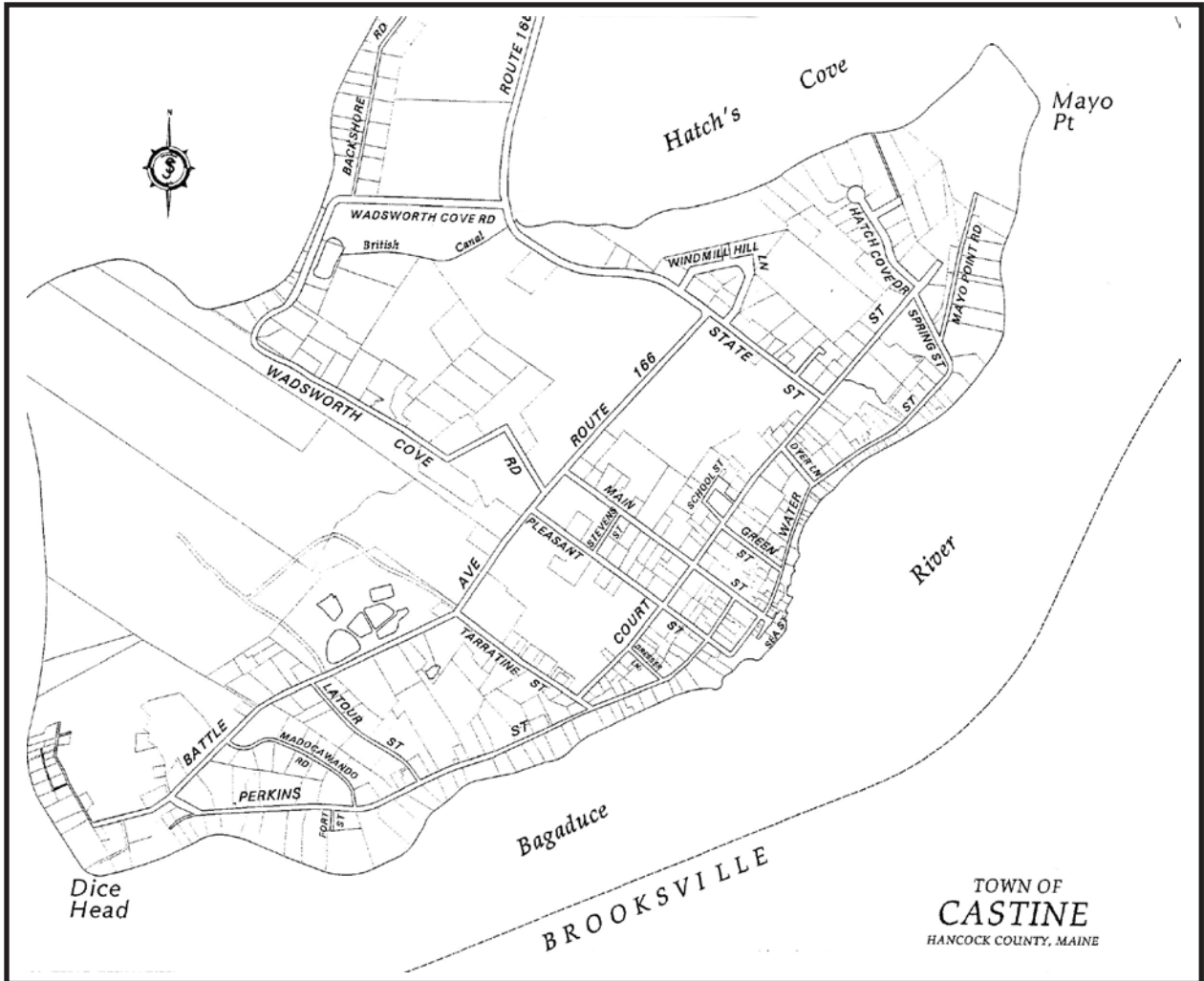
connector line below a 4-foot frost line, or

- 8.3. The property does not adjoin the street or land where the public water supply is located and the owner does not possess a private water line easement and the owner can not obtain such an easement from the owners of the intervening land.

9. Mandatory Water Conservation Measures. At any such time as the Castine Water Department shall report to the Castine Board of Selectmen that the public water supply is in danger of being depleted because of drought or other conditions, the Board may, after public notice of its meeting, enact mandatory water conservation measures that may include (1) limits on the amount of water that may be used by each structure connected to the Castine public water supply or to a private well within the CWSPA, which limit may be tied to the number of persons residing in that structure (2) regulations on the times when water may be used to water lawns and gardens, to fill swimming pools, to wash vehicles, etc., and (3) any other regulations that it deems necessary to address the potential danger.
10. Enforcement; Inspection; Penalties & Costs; Consent Agreements. This Ordinance shall be enforced by the Castine Board of Selectmen acting through the Code Enforcement Officer or town attorney. The Code Enforcement Officer is hereby authorized to enter upon any property within the CWSPA at a mutually agreeable time to inspect the premises for compliance with the terms of this Ordinance and to investigate any violations.
- 10.1. Any enforcement action shall be brought in the name of the Inhabitants of the Town of Castine or by the Town of Castine and any civil penalties or fines shall be paid to the Town. Such action shall be brought pursuant to court rule 80K after notice of violation has been given to the owner(s) of the property, and the owner has not resolved the violation within the time specified by the Code Enforcement Officer. For each violation, the violator shall pay the civil penalty stated in Title 30-A M.R.S.A. § 4452(3), as it may be amended, and the violator shall pay the Town's attorney fees, expert witness fees and costs. The minimum penalty shall be \$100; the maximum penalty shall be \$2,500. Each day of violation constitutes a separate violation.
- 10.2. The Castine Board of Selectmen is authorized to enter into administrative consent agreements with the owner(s) of the property or other violator for the purpose of resolving violations of this Ordinance and collecting fines and/or fees without court action. An agreement may provide for a fine that is less than the civil penalty called for in the statute.

MAP 1

CASTINE WATER SERVICE PROTECTION AREA



APPENDIX A

Specimen



Castine Well Registration Permit

Note: This is a registration / permit process.

This permit can not be issued until all of the information listed below is supplied to the Castine Water Department.

1. Property Owner: _____ Phone: _____
2. Street Address: _____ Tax Map _____ Lot _____
3. Well Type: ☐ Bedrock (drilled) ☐ Dug ☐ Sand Point ☐ Spring (☒ appropriate box)
4. Distance from the road: _____
5. General location on the property:

- 6 Well Depth: _____ feet
7. Well Cap: ☐ Buried ☐ Exposed (☒ appropriate box)
8. Depth to bedrock: _____ or casing length _____ feet
9. Well Yield: _____ gallons per minute
10. Well driller: _____ of (Town) _____ year drilled: _____
11. Signed by property owner: _____

Approved by Castine Water Department

Date: _____ Signature: _____

ZONING ORDINANCE

OF THE

TOWN OF CASTINE, MAINE



ENACTED BY THE TOWN IN MEETING ASSEMBLED THE
1ST DAY OF JUNE 2013 AND AS THEREAFTER AMENDED.

ATTEST: THIS IS A TRUE DOCUMENT. THE *ZONING ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS BEEN
IN EFFECT WITHOUT CHANGE FROM JUNE 1, 2013 TO THE DATE HEREOF, EXCEPT AS AMENDED.

DATED: SEPTEMBER 23, 2013

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

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ZONING ORDINANCE OF THE TOWN OF CASTINE

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• Amendment 1	September 23, 2013
Article amended: 5.	

ARTICLE 1: GENERAL PROVISIONS

1.1. TITLE

This Ordinance shall be known as the “Zoning Ordinance of the Town of Castine, Maine”. It shall be referred to herein as the “Ordinance”.

1.2. REPEAL OF OTHER ORDINANCES

The Zoning Ordinance of the Town of Castine, Maine in existence at the time of the adoption of this Ordinance is hereby repealed. That repeal does not affect or prevent any pending or future prosecution for violations or abatement of violations of that repealed ordinance.

1.3. AUTHORITY

This Ordinance is adopted pursuant to Maine Constitution, Article VIII, Part Second, Section 1, Title 30-A M.R.S.A., § 3001 *et seq.*, Title 30-A M.R.S.A., § 4352 *et seq.*, and Title 38 M.R.S.A., § 435 *et seq.*

1.4. PURPOSES

- A.** To implement the policies, guidelines and recommendations of the current Castine Comprehensive Plan.
- B.** To promote and protect the character of Castine by dividing the Town into zoning districts according to the use of land and buildings and the intensity of such uses.
- C.** To enhance and protect the visual, natural, commercial, cultural, architectural, scenic and historic resources of the Town from unreasonable adverse impacts and to integrate new development harmoniously into the Town’s natural and developed environment.
- D.** To promote the development of an economically sound and stable community.
- E.** To protect property rights and values by balancing the rights of landowners to use their land, with the rights of abutting and neighboring landowners to enjoy their properties without unreasonable disturbance from abutting or neighboring uses.
- F.** To establish uniform procedures whereby the Town may review land use proposals; to establish fair and reasonable standards for reviewing those proposals; and to provide uniform procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

1.5. APPLICABILITY

This Ordinance shall apply to all land and water areas within the Town of Castine. All buildings or structures demolished, constructed, reconstructed, altered, enlarged or moved, and all uses of buildings, land and structures, and any division of land or alteration of lot boundaries, shall be in conformance with the provisions of this Ordinance. No existing or future building or structure, or water or land area shall be used except in conformity with this Ordinance. Any application pending at the time of the enactment of this Ordinance or any amendment hereto, and which has not yet received substantive review by the Planning Board, if a Planning Board permit is required, or by the Code Enforcement Officer, if a Code Enforcement Permit is required, shall be subject to this Ordinance or the amendments as though the application were submitted on or after the date of the enactment of the Ordinance or amendment.

1.6. CONFLICT WITH OTHER ORDINANCES OR WITHIN THIS ORDINANCE

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance or statute which also applies to the proposed development, or with other requirements of this Ordinance, the requirement imposing the more restrictive or higher standard shall govern.

1.7. SEVERABILITY

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

1.8. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP

The process for amending the Ordinance and the Official Zoning Map, including enactment of a wholly new ordinance or map, shall be as follows:

A. Initiation of the amendment

A proposal to amend the Ordinance or the Official Zoning Map may be initiated by:

1. The Planning Board, by a majority vote of its members;
2. The Board of Selectmen, by a majority vote of its members;
3. The public, through a written petition signed by at least fifty (50) residents who are registered to vote in the Town of Castine.

B. Consideration of the amendment

The following procedures shall be followed in considering a proposed amendment.

1. Proposals initiated by the public or by the Board of Selectmen shall be presented to the Planning Board for review and consideration.
2. The Planning Board shall, within thirty-five (35) days of proposing an amendment or receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment. The Planning Board shall be deemed to have proposed or received a proposed amendment when the text is presented in written form at a duly convened business meeting of the Planning Board. A text submitted for review and consideration at a Planning Board work session shall not be deemed to be a proposed amendment. The public hearing on any proposed amendment shall be held within sixty (60) days of proposal or receipt by the Planning Board, and may be adjourned to a later certain date unless a majority of the members of the Planning Board or a majority of the members of the Board of Selectmen object. The public hearing on the proposed amendment shall be concluded at least thirty (30) days prior to the regular or special Town Meeting at which the proposed amendment is to be voted upon.
3. Notice of the public hearing shall be given as required by State law.
4. The wording of a proposed amendment initiated by public petition may not be modified at or as the result of any public hearing held by the Planning Board unless the proposed modified wording is submitted to a new public hearing.
5. The wording of a proposed amendment initiated by the Board of Selectmen may be modified only upon the concurrence of a majority of the Board of Selectmen.
6. The wording of an amendment proposed by the Planning Board may be modified upon the concurrence of a majority of the Planning Board.
7. In the case of a proposed amendment received by the Planning Board from the Board of Selectmen or the public, the Planning Board shall vote to approve or disapprove the proposed amendment. This vote shall be by majority vote of its members and must occur at the public hearing or at a public meeting held not later than fourteen (14) days following the public hearing. Such vote of the Planning Board shall be reported in writing within fourteen (14) days following the vote, and the report shall set forth the Planning Board's reasons for approval or disapproval together with any recommendations. The vote by the Planning Board is advisory, only, and shall not affect the proposed amendment in any way.

C. Town Meeting action on the amendment

The proposed amendment shall be submitted to the Town Meeting for approval or disapproval as follows:

1. The proposed amendment shall be placed on the warrant for the next regular Town Meeting, unless a special Town Meeting is called for that purpose in accordance with State law.
2. Notice of Town Meeting required to amend or enact a zoning ordinance or map shall be given as required by State law.
3. A proposed amendment shall require a simple majority of the voters voting at the Town Meeting to enact the amendment.

D. Notifying the State

Upon adopting any amendment affecting shoreland areas, as described in Title 38 M.R.S.A., § 435, the Town Clerk shall notify the Commissioner of the Department of Environmental Protection (DEP) of the amendment, as required by Title 38 M.R.S.A., § 438-A(3). All applications considered after the enactment of, and subject to, such an amendment, shall be evaluated by the standards set forth in the amendment. In the event the application is approved, and the DEP later modifies or disapproves the amendment, any such approval is void and must be re-evaluated by the approving authority in accordance with the standards eventually approved by the DEP. In the event the DEP fails to act on the amendment within forty-five (45) days of submission to the DEP, the amendment shall be deemed to be approved by the DEP.

E. List of Amendments

The Town Clerk shall keep a list of the effective dates and the substance of all amendments to this Ordinance.

1.9. ANNUAL ADMINISTRATIVE REPORT

The CEO, Planning Board and Zoning Board of Appeals shall each report annually, in writing, to the Board of Selectmen, in the month of January, reporting their respective experience and recommendations with regard to the administration and application of the Ordinance during the previous year. The failure of any person or board to make such a report shall not affect the validity of the Ordinance in any way.

1.10. EFFECTIVE DATE

The effective date of this Ordinance or any amendment hereto is the date of its enactment by Town Meeting, unless otherwise specified by the Town Meeting vote.



ARTICLE 2: CONTRACT ZONING

2.1. CONTRACT ZONING AUTHORIZED

Contract zoning is hereby authorized. The purpose of such rezoning is to provide a mechanism whereby specific conditions may be added to the approval of a zoning district change so as to provide a benefit to the Town not otherwise obtainable, and/or to mitigate potential adverse effects upon adjacent properties and the community; it is also a method for permitting an otherwise prohibited or non-conforming use by contractual agreement upon conditions between the Town and the applicant, provided the result is deemed beneficial to the Town as well as to the applicant. The burden shall be upon the applicant in every case arising under this Article to demonstrate the benefit accruing to the Town from the proposed contract zoning. A change in zoning under this Section shall not exempt the use or development of the property from any standards or requirements otherwise imposed by this Ordinance. Contract zoning is not available to rezone any portion of the Town to Telecommunications Tower Overlay District.

2.2. APPLICATION, PUBLIC HEARING, REVIEW, AND APPROVAL PROCEDURES

- A.** Application for contract zoning shall be on a Site Plan Review Application form together with a letter to the CEO requesting a contract zoning change for a specific property, accompanied by all fees required by Article 11.
- B.** The Planning Board shall give notice of and conduct a public hearing as required by Article 9.
- C.** The Planning Board shall review the application using the Site Plan Review standards set forth in Article 9 and Title 30-A, M.R.S.A., § 4352(8).
- D.** No later than fourteen (14) days following the public hearing, the Planning Board shall decide by majority vote of its members whether to approve or disapprove the proposed contract zoning.
- E.** The Planning Board shall submit a written report on the proposed contract zoning to a meeting of the Board of Selectmen no later than thirty (30) days following the vote of the Planning Board noted above. This report shall state whether the Planning Board voted to approve or disapprove the contract zoning, and shall include the Findings of Fact and list the conditions and restrictions which the Planning Board recommends be set out in the Warrant Article and applied to the property if the zoning change is enacted at Town Meeting. This report shall also constitute the Planning Board's report to the Town Meeting on the proposed contract zoning.

2.3. TOWN MEETING ACTION

- A.** If the Planning Board approves the proposed contract zoning, it shall be placed on the warrant for the next regular Town Meeting. If the Planning Board disapproves the proposed contract zoning, it shall not be placed upon

a Town Meeting Warrant unless a majority of the Board of Selectmen, at their discretion, vote to do so.

- B.** Notice of the Town Meeting required to amend a zoning ordinance or map shall be given as required by State law. The Warrant Article shall set out all conditions upon which the property is proposed to be rezoned, and shall identify the property by reference to book and page of the current deed or deeds to the property and by map and lot as shown on the Town Tax Maps.
- C.** If the proposed contract zoning has the approval of the Planning Board and includes the conditions and restrictions recommended by the Planning Board shall require a simple majority of the voters voting at the Town Meeting to enact the amendment.
- D.** If the proposed contract zoning does not have the approval of the Planning Board, or if one or more of the conditions or restrictions recommended by the Planning Board has been deleted or amended, the rezoning shall require a two-thirds ($\frac{2}{3}$) majority of the voters voting at the Town Meeting to pass.
- E.** Upon enactment the Town Clerk shall certify a copy of the contract zoning Warrant Article for recording at the Hancock County Registry of Deeds at the expense of the applicant. The zoning change shall not become effective until the certified copy of the rezoning Warrant Article has been duly recorded by the Register of Deeds. The rezoned property shall thereafter be shown on the Official Zoning Map.
- F.** Upon adopting any conditional zoning affecting shoreland areas, as described in Title 38 M.R.S.A., § 435, the Town Clerk shall notify the Commissioner of the Department of Environmental Protection (DEP) of the amendment, as required by Title 38 M.R.S.A., § 438-A(3). In the event the DEP fails to act on the amendment within forty-five (45) days of submission to the DEP, the amendment shall be deemed to be approved by the DEP.

2.4. FEES

The applicant shall submit Application Fees and Technical Review Fees as required by Article 11. The rezoning shall not be placed before Town Meeting until the fees are paid in full.

2.5. EXPIRATION OF REZONING

Where the purpose of the rezoning is in part to permit construction, contract zoning changes approved by the Town shall expire, and the property revert to its prior zoning district status, unless work on the project is substantially commenced within thirteen (13) months of the date of enactment and is substantially completed within twenty-five (25) months of that date. These deadlines may be extended by a vote of the Town meeting.

2.6. NO RIGHTS CREATED BEFORE FINAL TOWN MEETING VOTE

The submission of a request for contract zoning under this Article, the payment of application fees or the expenditure of funds by the applicant in presenting such a request shall not create any vested rights in the application. The conduct of meetings and hearings, the review of the application, comments by Town officials or staff, and any preliminary vote, findings or determinations shall not be construed as creating any entitlement to approval of a request for contract zoning. The decision whether or not to rezone remains committed to the voters of the Town of Castine exercising their sole and exclusive judgment as the legislative body of the Town and will not be made until the Town Meeting votes on the request.



ARTICLE 3: NON-CONFORMITY

3.1. NON-CONFORMITY DEFINED

A lot, structure, sign, or use that lawfully existed immediately prior to the enactment of the Ordinance, or any subsequent amendment hereto, and which, as a result of the enactment or subsequent amendment, fails to comply with any of the requirements of this Ordinance is a lawful non-conformity. Such requirements shall include, but are not limited to, the use restrictions and lot standards for the zoning district in which it is located, or any land use standards set forth in this Ordinance. An unlawful non-conformity is any other lot, structure, sign, or use that fails to comply with any of the requirements of this Ordinance or its amendments.

A. Non-conforming lot

A non-conforming lot is a single lot which fails to meet any of the area or dimensional requirements of this Ordinance.

B. Non-conforming use

A non-conforming use is a use which is not a permitted use in the zoning district in which it is located.

C. Non-conforming structure

A non-conforming structure is a structure that does not meet the minimum setback, maximum height, maximum lot coverage or similar requirements for the zoning district in which it is located.

D. Non-conforming sign

A non-conforming sign is a sign that does not meet the standards for signs found at Article 6 of this Ordinance.

3.2. GENERAL PROVISIONS

The following provisions apply to all non-conformities generally:

A. Normal repair, upkeep and maintenance

The normal upkeep and maintenance of lawful non-conforming structures and structures housing lawful non-conforming uses, including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a lawful non-conforming use or structure as Federal, State, or local building and safety codes may require, are permitted.

B. Transfer of ownership

Any lawful non-conformity may be transferred and the new owner may, subject strictly to the requirements of this Article, continue such non-conformity, provided, that nothing contained herein shall be construed to permit any person or entity to occupy or use any lot or structure or to continue any use in violation of any other Federal, State, or municipal statute, ordinance, or regulation.

C. Unlawful non-conformity may not continue

Any unlawful non-conformity shall cease or be corrected immediately. Any continuation of an unlawful non-conformity is a separate violation of this Ordinance for each day it continues.

D. Burden of proof to establish lawful non-conformity

The burden of establishing that any non-conformity is a lawful non-conformity shall, in all cases, be upon the owner of such non-conformity and not upon the Town of Castine. That burden of proof is proof by clear and convincing evidence.

E. Conformity encouraged

All non-conformities shall be encouraged to convert to conformity whenever possible and, when required by this Ordinance, shall convert to conformity. Once converted to conformity, no lot, structure, sign, or use shall revert to non-conformity.

3.3. NON-CONFORMING USES

The following additional provisions shall apply to lawful non-conforming uses.

A. Expansion

Subject to Planning Board approval, a non-conforming use within existing structures or approved expansions of those structures, or an outdoor non-conforming use of land, may be expanded in area, function or hours or seasons of use provided such expansion of the non-conforming use will cause no substantial increase in its adverse impact. The burden of demonstrating no substantial increase in adverse impact shall be upon the applicant. In considering such application the Planning Board shall apply each relevant Site Plan Review criterion set forth in Section 9.14.

B. Discontinuance

A non-conforming use which ceases for any reason for a period of twenty-four (24) months, regardless of the intent of the owner or operator, shall not be resumed, and any subsequent use of the property shall thereafter conform to the regulations specified by this Ordinance for the district in which the property is located.

C. Change to another non-conforming use

A non-conforming use may be changed to another non-conforming use so long as the new use has no greater adverse impact upon the neighborhood and the community than the original use, and subject to Site Plan approval by the Planning Board. The burden of demonstrating no greater adverse impact shall be upon the applicant.

3.4. NON-CONFORMING STRUCTURES

The following provisions shall apply to lawful non-conforming structures, including, without limitation, signs.

A. Changes to non-conforming structures

A non-conforming structure may be relocated, reconstructed, replaced, added to or expanded after obtaining a permit from the same permitting authority identified in Article 5, as that for a new structure, if such construction or expansion does not increase the non-conformity of the structure. Such construction or expansion is further limited as follows:

1. Expansion

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs 3.4.A.1.a. and 3.4.A.1.b. below.

- a.** After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, or is located in a Resource Protection Overlay District, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 3.4.A.3 and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
- b.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 3.4.A.2 Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 3.4.A.1.a above,

and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

2. Relocation

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

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board 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.
- b.** 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.
- c.** Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation

which may consist of grasses, shrubs, trees, or a combination thereof.

3. Reconstruction or Replacement

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board 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 3.4.A.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 3.4.A.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 shall consider, in addition to the criteria in Section 3.4.A.2 above, the physical condition and type of foundation present, if any.

3.5. NON-CONFORMING MOBILE HOMES

Any mobile home lawfully used as a single-family dwelling may be improved by the addition of a foundation or by other new construction, alteration, or repair, subject to the requirements of any applicable building code or other law, and subject to the other provisions of this Ordinance. Notwithstanding any other provision of this Ordinance, the lawful use of a mobile home as a single-family dwelling, in any zoning district, which use lawfully existed on the date of the

enactment of this Ordinance may be continued, except that the mobile home shall not be:

- A.** Rebuilt, altered, or repaired after being damaged in excess of fifty percent (50%) of its replacement cost at the time of destruction as determined by the CEO; or
- B.** Replaced with a different mobile home, unless the new mobile home is certified, pursuant to 42 U.S.C. Subsection 5415, as amended, as conforming to all applicable Federal manufactured home construction and safety standards, or is excluded from the coverage of 42 U.S.C. Subsection 5401 *et seq.*

3.6. NON-CONFORMING LOTS

A. Construction on lawful non-conforming lots

A single, lawfully existing, vacant parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Hancock County Registry of Deeds at the effective date of this Ordinance or any amendment, and which, as a result of the enactment or respective amendment of this Ordinance, does not meet the lot area or dimensional requirements of the zoning district in which it is located, and which does not adjoin another parcel in common ownership, may be built upon, without the need for a variance, subject to the following:

- 1.** Such building or construction shall, in all other respects, comply with the provisions of this Ordinance.
- 2.** Construction of single-family dwellings and accessory structures shall be permitted after obtaining a permit from the same permitting authority identified in Article 5, as that for a single-family dwelling on a conforming lot in that zoning district.

B. 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.

C. Multiple Uses or Structures on a Single Lot

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 meet the setback requirements of this Ordinance.

D. Contiguous lots, vacant or partially vacant

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.



ARTICLE 4: ZONING DISTRICTS

4.1. ZONING DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Castine is divided into the following Zoning Districts:

- Rural District
- Village District I
- Village District II
- Village District III
- Commercial District
- Education District
- Source Water Protection Overlay District
- Maritime Activity Overlay District
- Resource Protection Overlay Districts
- Shoreland Overlay District
- Telecommunications Tower Overlay District

4.2. STANDARDS ESTABLISHING DISTRICTS

A. Resource Protection Overlay Districts

The purpose of Resource Protection Overlay Districts is to achieve the most appropriate uses of areas comprising significant natural, recreational, economic, historical, archaeological or visual resources of the Town; to restrict the use of environmentally sensitive areas which are severely limited for development by lack of public roads, inadequate water supply or deficiencies in other resources and public services and facilities; to protect land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

And to protect significant marshland, wetlands, streams and shoreland areas by extending application of the standards of the Mandatory Shoreland Zoning Act (Title 38 M.R.S.A., § 435 *et seq.*) to the entire area within any Resource Protection Overlay District adjoining or enclosing such marshland, wetlands or shoreland.

B. Shoreland Overlay District

The purpose of the Shoreland Overlay District is to protect the shoreland resources of the Town; to further the maintenance of safe and healthful conditions and the general welfare; to prevent and control erosion and water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; to control building sites, placement and structures and land uses; to conserve shore cover, to conserve and enhance visual as well as actual points of access to inland and coastal waters and natural beauty; to encourage open space uses and to implement the State of Maine's mandatory shoreland zoning requirements.

C. Rural District

The purpose of the Rural District is to preserve the rural character of the District, to provide for the public health and safety, environmental quality, and economic well-being of the community; to retain certain areas for non-intensive uses; to retain and enhance open space areas; and to promote agriculture and forestry.

D. Village Districts I, II and III

The purpose of the Village Districts is to provide for the public health and safety, environmental quality, and economic well-being of the community; to protect the visual, historic and architectural integrity of existing village development and to ensure that future development is compatible both in character and use; to provide areas for residential development in locations compatible with existing development and in a manner appropriate to the economical provision of community service and utilities. Village District I has the additional purpose of enabling the use of existing properties in patterns consistent with those already in use.

E. Commercial District

The purpose of the Commercial District is to provide for the public health and safety, environmental quality and economic well-being of the community; to encourage the location of commercial uses in those locations within the community which are best suited for such development; to provide controls on those uses which by virtue of their size or external effect, including but not limited to waste discharge, noise, glare, fumes, smoke, dust, odors, heat, and traffic, could otherwise create nuisances or unsafe or unhealthy conditions; to avoid the blight, congestion, and inconvenience caused by inappropriate and poorly located development of commercial facilities; to insure the most economical means of providing municipal services to commercial and industrial uses; to assure continued availability of waterfront property for purposes consistent with historic and appropriate marine-related uses.

F. Education District

The purpose of the Education District is to create a defined area for the local college's main campus, allowing it to fulfill its post secondary educational mission while providing for the environmental quality and economic well-being of the community and preserving the unique architectural and scenic characteristics of the Town.

G. Source Water Protection Overlay District

The purpose of the Source Water Protection Overlay District is to ensure the present and future availability of a potable water supply of adequate quantity and quality; and to control the various land use activities within the recharge area of the groundwater aquifer and the watershed area of

public water supply ponds, which may jeopardize the quantity and/or quality of drinking water.

H. Maritime Activity Overlay District

The purpose of the Maritime Activity Overlay District is to ensure the present and future availability of land to support water dependent uses and to prevent the conversion or displacement of traditional maritime activities within the Town.

I. Telecommunications Tower Overlay District

The purpose of the Telecommunications Tower Overlay is to comply with the requirements of the Federal Telecommunications Act of 1996 by providing a functional location for telecommunications towers or antennas while preserving the scenic beauty of the Town.

4.3. OFFICIAL ZONING MAP

Zoning districts established by this Ordinance are defined in the following section, and bounded as shown on the official “Zoning Map of Castine, Maine” which, together with its notations and amendments, from time to time, is hereby made a part of this Ordinance. The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk and on file in the office of the Town Clerk. In the event of a conflict between the map and the zoning district boundary descriptions in Section 4.4, the Section 4.4 description shall control.

4.4. ZONING DISTRICT BOUNDARY DESCRIPTIONS

A. Resource Protection Overlay District #1

Beginning 250 feet from the upland edge of the wetland on the eastern boundary of Lot 29, Map 17; thence running parallel to the shore south westerly to the eastern lot line of Lot 33, Map 17; thence northerly on said lot line to the northeastern corner of said lot; thence southwesterly to a point 250 feet from the upland edge of the wetland; thence running parallel to the shore in a northerly direction around Blockhouse Point, and northeasterly to the intersection with the southern lot line of Lot 10, Map 23; thence easterly on said lot line; thence northerly on the eastern lot line of said lot to a point 300 feet south of the British Canal; thence easterly running parallel to and 300 feet from the British Canal to a point 25 feet westward of the centerline of Castine Road; thence running northerly 25 feet from and parallel to the centerline of Castine Road to a point 25 feet south of the intersection of the centerlines of Castine Road and Wadsworth Cove Road; thence running westerly parallel to and 25 feet southerly from the centerline of Wadsworth Cove Road a distance of 551 feet; thence turning 90 degrees to the left and running 125 feet southerly; thence turning 90 degrees and running westerly 250 feet; thence southwesterly to the northeast corner of Lot 10, Map 23; thence along the northern lot line of

said lot to a point 25 feet eastward of the centerline of Wadsworth Cove Road; thence running northerly parallel to and 25 feet easterly from the centerline of Wadsworth Cove Road to the northern lot line of Lot 5A, Map 23; thence westerly to the upland edge of the wetland; thence running along the shore back to the southeasterly lot line of Lot 29, Map 17; thence northerly along eastern boundary of said lot a distance of 250 feet to the beginning. Reserving and exempting from Resource Protection District #1 a 50-foot-wide area enclosing Wadsworth Cove Road, measured to a distance of 25 feet on either side of its centerline, wherever the Road intrudes upon the District.

B. Resource Protection Overlay District #2

Includes all land area shown as Lot 63, on Tax Map 18 of the Town of Castine, known as the site of Fort Madison.

C. Resource Protection Overlay District #3

Includes all land area shown as Lot 11, on Tax Map 20 of the Town of Castine, known as the site of Fort George.

D. Resource Protection Overlay District #4

Includes all land area shown as Lot 7, on Tax Map 22 of the Town of Castine, known as the site of Fort Griffith.

E. Resource Protection Overlay District #5

Includes all land area shown as Lot 51, on Tax Map 18 of the Town of Castine, known as the site of Fort Pentagöet.

F. Resource Protection Overlay District #6

Includes all land area on Lot 15, Tax Map 20 of the Town of Castine located within 250 feet of the concrete marker signifying the site of Fort Gosselin.

G. Resource Protection Overlay District #7

That part of Lots 20 and 20A, on Tax Map 23 of the Town of Castine, which encompasses the site of Fort Sherbrooke, defined as 168 yards North of Fort George, a semi-circular battery, 150 feet in extent enclosing a redoubt about 150 feet inside, which measures 46 feet; and all land area encompassing the ledge containing carvings and initials adjacent to the Fort Sherbrooke site.

H. Resource Protection Overlay District #8

Beginning at the upland edge of the wetland at the northernmost point of Mayo Point on Lot 2, Tax Map 27 of the Town of Castine; thence westward and southerly a distance of one hundred (100) feet thence running parallel to the shore a distance of one hundred (100) feet from the high water line

southwesterly around Hatch Cove; thence northeasterly one hundred (100) feet inland from and parallel to the northern shore of Hatch Cove to where it intersects with the easterly lot line of Lot 23, Tax Map 2; thence southerly one hundred (100) feet to the upland edge of the wetland following the eastern boundary of said lot; thence following the upland edge of the wetland around Hatch Cove to the beginning.

I. Resource Protection Overlay District #9

Includes all land areas within one hundred (100) feet of the high water line of Bog Brook beginning at its mouth on Wadsworth Cove and extending into the Square along the entire length of the watercourse and all land areas within two hundred and fifty (250) feet of the upland edge of the freshwater wetland at the source of Bog Brook.

J. Resource Protection Overlay District #10

Includes all land areas within one hundred (100) feet of the high water line of the Ice Pond.

K. Resource Protection Overlay District #11

Includes all land areas within one hundred (100) feet of the high water line of Morse Cove Stream beginning at its mouth on Morse Cove and extending into The Square along the entire length of the watercourse.

L. Resource Protection Overlay District #12

Includes all land areas within two hundred and fifty (250) feet of the upland edge of the freshwater wetland known as Dunc's Meadow that is delineated as the low area on the USGS topographic map and within one hundred (100) feet of the high water line of Meadow Brook.

M. Shoreland Overlay District

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

N. Rural District

A dividing line is hereby established beginning at the intersection of the centerline of Wadsworth Cove Road and the Castine Road and extending easterly to the high water line on the shore of Hatch Cove and westerly along the centerline of Wadsworth Cove Road. At that point where the Wadsworth Cove Road curves to the southwest, the dividing line continues westerly to the high water line on the shore of Wadsworth Cove. The Rural District

includes all land and water areas within the boundaries of the Town to the north of the dividing line and all off-shore islands wherever located within the boundaries of the Town.

O. Village District I

Beginning at the southeastern corner of Lot 51, Tax Map 18 of the Town of Castine, and following said lot line northwesterly to the centerline of Perkins Street; thence northeasterly along the centerline of Perkins Street to the intersection of the centerlines of Perkins Street and Tarratine Street; thence northwesterly along the centerline of Tarratine Street to the intersection of the centerlines of Tarratine Street and Battle Avenue; thence northeasterly along the centerline of Battle Avenue to a point on the centerline of Battle Avenue 150 feet beyond the centerline of Main Street; thence southeasterly running parallel to and 150 feet from the centerline of Main Street to a point 250 feet from the centerline of Court Street; thence northeasterly to the intersection with the boundary of the Aquifer Protection Overlay District; thence following the boundary of said Aquifer Protection Overlay District in a generally southeasterly direction to the centerline of Court Street; thence southwesterly along the centerline of Court Street to the intersection with the centerline of Dyer Lane; thence southeasterly to the intersection with the centerline of Water Street; thence northeasterly to the northeast corner boundary of Lot 15, Tax Map 25, thence following the said northeast lot line to the shore of the Bagaduce River; thence following the shore to the point of beginning. This District shall not include the Institutional District or the Commercial District located within its boundaries.

P. Village District II

Includes all shore lots northeast of the northeasterly lot line of Lot 15, Tax Map 25 of the Town of Castine, and all land and water areas to the south of Battle Avenue as well as to the east of State Street and Dyer Lane not included in the Educational District, Commercial District or Village District I.

Q. Village District III

Includes all land and water areas to the south of the dividing line as described in the description of the Rural District, north of the centerline of Battle Avenue from the centerline of State Street to the front lot line of Lot 33, Tax Map 17 of the Town of Castine and north of the north, side lot line of Lot 33, Tax Map 17.

R. Commercial District

Beginning at the southeastern corner of Lot 110, Tax Map 21 of the Town of Castine, and following said lot line northwesterly; thence northeasterly along the northwestern lot line of said lot to the centerline of Water Street; thence northeasterly along the centerline of Water Street to the intersection of the centerlines of Water Street and Pleasant Street; thence northeasterly along

the centerline of Pleasant Street a distance of 100 feet; thence northeasterly running parallel to and 100 feet from the centerline of Water Street to a point 150 feet southwesterly of the centerline of Main Street; thence northwesterly running parallel to and 150 feet southwesterly from the centerline of Main Street to Court Street; thence northeasterly along Court Street to the northeastern corner of Lot 75, Tax Map 21; thence southeasterly along said lot line and extending in a line parallel to the centerline of Green Street until it intersects with the western lot line of Lot 67, Tax Map 21; thence following said lot line to the centerline of Green Street; thence southeasterly along the centerline of Green Street to the intersection of the centerlines of Green Street and Water Street; thence northeasterly along the centerline of Water Street to the northwestern corner of Lot 56, Tax Map 21; thence southeasterly along the northern line of said lot to the high water line on the shore; thence following the shore southwesterly to the point of the beginning.

S. Education District

Includes all land area shown as Lot 23 and Lot 30, on Tax Map 20 of the Town of Castine, known as the Maine Maritime Academy main campus.

T. Source Water Protection Overlay District

Beginning on the north line of Battle Avenue at the southwest corner of Lot 2, Tax Map 19 of the Town of Castine; thence along the lot line northwesterly 558 feet to a corner of Lot 2, Tax Map 19; thence continuing along the same course to a point 2,100 feet north of Battle Avenue; thence northeasterly to the southwest corner of Lot 16, Tax Map 23; thence northeasterly to the northwest corner of Lot 17, Tax Map 23; thence northerly to the southwest corner of Lot 20, Tax Map 2; thence northeasterly to the northeast corner of Lot 20, Tax Map 2; thence northerly to the southwest corner of Lot 21, Tax Map 2; thence northeasterly to the northeast corner of Lot 21A, Tax Map 2; thence southerly along the west line of Castine Road to a point 300 feet north of Battle Avenue; thence easterly across Castine Road and along the north line of Windmill Hill Drive to the northwest corner of Lot 26, Tax Map 26; thence along the lot lines to the southeast corner of Lot 26, Tax Map 26; thence easterly to the northwest corner of Lot 5, Tax Map 26; thence along the west lot lines of Lots 5, 4, 3, 2 and 1, Tax Map 26 to Court Street; thence southerly across Court Street and along the west line of Spring Street to a point 450 feet south of Court Street; thence southwesterly to the southwest corner of Lot 5, Tax Map 25; thence westerly to the southwest corner of Lot 26A, Tax Map 24; thence westerly to a point on the north line of Battle Avenue 900 feet from Castine Road; thence along the north line of battle Avenue to the point of beginning.

U. Telecommunications Tower Overlay District

Includes all land area shown as Lot 3, on Tax Map 8 of the Town of Castine.

V. Maritime Activity Overlay District

Includes all lots within the Commercial District abutting the Bagaduce River, specifically the lots shown as Lots 56, 57A, 57B, 60, 63, 105 and 110 on Tax Map 21 of the Town of Castine.

4.5. UNCERTAINTY OF DISTRICT BOUNDARY LOCATIONS

Where uncertainty exists with respect to the boundaries of any of the various Districts shown on the Official Zoning Map, the following rules shall apply:

- A.** Boundaries indicated as approximately following the centerlines of streets, highways, rights of way or alleys shall be construed to follow such centerlines.
- B.** Boundaries indicated as approximately following established lot lines shall be construed as following such lot lines.
- C.** Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.
- D.** Boundaries indicated as approximately following shorelines shall be construed as following the shoreline. In the event of an alteration in the location of the shoreline, the boundary shall be deemed to change with the alteration.
- E.** Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- F.** Boundaries indicated as approximately being extensions of or parallel to any property line, centerlines or feature noted above shall be so construed.
- G.** Where dimensions are unclear, and the rules of resolving uncertainty listed above do not resolve the uncertainty, the dimensions as shown on the most current Tax Map shall control.
- H.** When physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances where there is uncertainty with respect to the location of a district boundary, the Zoning Board of Appeals shall interpret that district boundary.

4.6. DIVISION OF LOTS BY DISTRICT BOUNDARIES

Where a district boundary, other than an overlay district boundary, divides a lot or parcel of land in the same ownership of record at the time the district boundary is established, the less restrictive district may be extended into the more restricted portion by no more than fifty (50) feet.

4.7. DISTRICT OVERLAY REQUIREMENTS

A. Shoreland Overlay District

The Shoreland Overlay District applies an overlay zone to the land within the boundaries of the District. In addition to the restrictions of the underlying district there are specific additional performance standards found in Article 7 and additional regulations applicable to non-conformities found in Article 3.

B. Maritime Activity Overlay District

The Maritime Activities Overlay District applies an overlay zone to the land within the boundaries of the District. In addition to the restrictions of the underlying district, only specific uses identified in the Land Use Table, Section 5.4., are permitted.

C. Resource Protection Overlay District

The Resource Protection Overlay District applies an overlay zone to the land within the boundaries of the District. In addition to the restrictions of the underlying district there are specific additional performance standards found in Article 7.

D. Source Water Protection Overlay District

The Source Water Protection Overlay District applies overlay requirements to the land within the boundaries of the District. In addition to uses prohibited in the underlying districts, certain additional uses are prohibited. There are also additional requirements for other uses requiring Site Plan Approval.

1. Delineation of Zones within the Source Water Protection Overlay District

There shall be two zones within the District:

- Zone 1 shall consist of all land lying within a circle of 300-foot radius around each water supply well.
- Zone 2 shall consist of all remaining land lying within the boundaries of the District.

2. Permitted Uses within Source Water Protection Zone 1

The following are permitted uses in Zone 1:

- Uses directly related to the operations of the Castine Water Department or approved by it.
- Any other uses in existence on March 24, 2008.

3. Prohibited Uses within Source Water Protection Zone 1

Any use not set forth in Section 4.7.D.2. above is prohibited.

4. Permitted Uses within Source Water Protection Zone 2

The following are permitted uses not requiring Site Plan Approval:

- Subsurface sewage disposal system, the design and maintenance schedule of which is reviewed and approved by the Local Plumbing Inspector (LPI).
- Gardening,
- Residential composting,
- Residential pesticide or fertilizer application in compliance with label restrictions,
- Non-commercial animal husbandry,
- Forest management activities, and forest product harvesting, so long as harvest removes less than 40% of the canopy from any lot within a ten (10) year period,
- Recreational uses,
- Municipal uses such as road and facility maintenance,
- Creating impervious surfaces totaling not more than twenty percent (20%) of any lot,
- Storage of not more than ten (10) gallons in the aggregate of petroleum products in portable containers with secondary containment,
- Storage of greater than ten (10) gallons of petroleum products in fixed containers subject to Section 4.7.4.10 below,
- Maintenance of any existing structure.

5. Prohibited uses within Source Water Protection Zone 2

In addition to those uses prohibited in the underlying districts, the following uses are prohibited in Zone 2:

- Automobile graveyards or the outdoor storage of more than three motor vehicles not in regular use.
- New underground storage tanks or containers for petroleum products or chemicals after March 24, 2008.
- Creating impervious surfaces totaling more than twenty percent (20%) of any lot.
- Commercial activities involving the disposal of liquid or leachable wastes, except as are routinely permitted for disposal into the Town sewage system.
- Commercial waste impoundment or disposal.
- Uncovered waste storage.
- Commercial waste storage for a period exceeding 30 days.
- Commercial manure or sludge storage or spreading.
- Uncovered sand and salt piles.

6. Status of Castine Water Department

For any application for Site Plan Approval in the Source Water Protection Overlay District, the Castine Water Department shall have the status of an abutter.

7. Permitted Use Standards

All permitted uses within Zone 1 and Zone 2 shall be constructed, operated and maintained in a manner that will not cause a material increased risk of contamination or decreased quantity of recharge to the aquifer and the public water supply ponds as determined by the Planning Board in its sole discretion. The Planning Board may be guided in making its determination by advice from consultants chosen by it and by the advice contained in the manual of the Maine Department of Health and Human Services Drinking Water Program entitled *Best Management Practices for Groundwater Protection – A Guide for Local Officials and Public Water Suppliers*. (This publication is available at the Town Office and on the Town web site www.castine.me.us).

8. Sanitary waste water disposal

No use, including home occupations, shall dispose of other than normal domestic waste water on-site. No more than 900 gallons per day of sanitary waste shall be discharged to any one subsurface sewage disposal system. Septic tanks shall be pumped every three (3) years for routine maintenance. Pumping shall be observed by the LPI. Disposal of waste water shall be in compliance with the *Maine Subsurface Waste Water Disposal Rules* (CMR 10-144, Chapter 241, as amended).

9. Petroleum product storage, above ground

- For inside above ground storage of petroleum for commercial or private use, tanks (including replacement tanks) installed after March 24, 2008 in a fixed location must be designed to contain leaks, with either double-walled primary containers, or with a single walled tank set in a secure secondary container having a capacity of at least 110% of the capacity of the primary tank. There shall be no floor drains into which leaking oil could drain in a building storing petroleum products for commercial use.
- For outside above ground storage of petroleum in fixed tanks (including replacement tanks) installed after March 24, 2008, tanks shall be enclosed to prevent accidental toppling and shall have a cover or roof to prevent filling of the secondary containment with rainwater.
- Tanks (including replacement tanks) installed after March 24, 2008 must be installed in accordance with Maine Oil and Solid Fuel Board *Installation of Oil Burning Equipment* (CMR 02-381, Chapter 9, as amended).

10. Petroleum product storage, underground

For underground storage of petroleum in existence on March 24, 2008 for commercial or private use, the standards of Maine DEP *Rules for Underground Oil Storage Facilities* (CMR 06-096, Chapter 691, as amended) shall apply. Specifically, regarding design and operation, all tanks and piping shall be double walled for containment of petroleum product, and volumes and interstitial spaces shall be continuously electronically monitored. If portions of the system are to be replaced, then the design of such replacement shall be in accordance with the Chapter 691 regulations requiring the maximum security against spills and leaks of petroleum product.

11. Excavation or mining, fill, sand, gravel and other minerals.

The water table shall not be artificially lowered by ditches, trenches, pumping or other methods. Excavation shall not be allowed below five feet above the average seasonal high water without Site Plan Approval from the Planning Board following receipt of a variance from the Maine DEP for mining below the water table pursuant to Maine DEP *Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products* (CMR 06-096, Chapter 378, as amended).

E. Telecommunications Tower Overlay District

The Telecommunications Tower Overlay District is the only district in which telecommunications towers or antennas are permitted. By limiting towers to this District the Ordinance seeks to comply with the requirements of the Federal Telecommunications Act of 1996 by providing a functional location for telecommunications towers or antennas. In order to preserve the scenic beauty of the Town, certain landscaping, buffering, fencing and aesthetic requirements apply as additional requirements for Site Plan Approval of telecommunications towers or antennas.

1. Additional requirements

The following requirements apply to Site Plan Approval of telecommunications towers, in addition to the requirements and performance standards of Article 6:

- a.** Towers shall be galvanized steel finish or be painted a neutral color so as to minimize their visual presence.
- b.** All telecommunications towers, and any accessory structures, shall maintain the required setbacks as undisturbed vegetative buffers, except for the access road. The Planning Board may require additional plantings in the buffer area to maximize the effectiveness

of the buffer area. The size, spacing and type of plantings shall be subject to Planning Board approval.

- c.** All structures at the tower site shall use materials, colors, textures, screenings and landscaping that will cause the tower and all related structures to blend into the natural environment to the maximum possible extent.
- d.** Towers shall not be lighted unless required by State or Federal law. If lighting is required the Planning Board may select the lighting scheme it deems most appropriate from the alternatives acceptable under law.
- e.** Road access to the tower site shall be of minimum width necessary to allow safe and reasonable access to the site.
- f.** A security fence of not less than eight (8) feet in height above finish grade shall surround the tower. Access to the tower shall be through a locked gate.
- g.** A telecommunications tower shall not exceed 199 feet in height, unless the Planning Board determines that a taller tower is necessary in order to avoid the effect of preventing all personal wireless services within the Town of Castine and that no alternative sites, towers or structures are available to provide such services. See Article 15 for the definition of “personal wireless services.”



ARTICLE 5: LAND USE TABLE AND DIMENSIONAL REQUIREMENTS

5.1. SYMBOLS USED IN LAND USE TABLE

The following symbols contained in the Land Use Table have the following meanings:

A. District symbols

R..... Rural District.
V-I..... Village District I.
V-II..... Village District II.
V-III..... Village District III.
C..... Commercial District.
E..... Educational District.
MA..... Maritime Activity Overlay District.
RP..... Resource Protection Overlay District.
SL..... Shoreland Overlay District

B. Permit symbols

Y..... No permit required.
CEO..... Requires permit from the CEO.
PB..... Requires Site Plan Approval from the Planning Board.
NO..... Use prohibited within the district.
N/A..... Not applicable.

5.2. USES SUBSTANTIALLY SIMILAR TO LISTED USES

A. Similar to uses allowed without a permit

Uses substantially similar to those listed as not requiring a permit, but which are not listed in the Land Use Table, may be permitted by a ruling, in writing, of the CEO.

B. Similar to uses allowed with CEO permit

Uses substantially similar to those listed as requiring a CEO permit, but which are not listed in the Land Use Table, may be permitted by CEO permit.

C. Similar to uses allowed with Site Plan Approval

Uses substantially similar to those listed as requiring Site Plan Approval, but which are not listed in the Land Use Table, may be permitted by (1) a ruling of the CEO, in writing, that the use is substantially similar to uses requiring Approval by the Planning Board, and (2) Site Plan Approval from the Planning Board.

D. Similar to prohibited uses

Uses substantially similar to uses listed as prohibited in the Land Use Table shall be prohibited upon a ruling of the CEO, in writing, that the use is substantially similar to such prohibited uses.

E. Written records

The CEO shall maintain copies of all such written rulings.

5.3. COMPLIANCE WITH LAND USE STANDARDS

All uses must occur and be maintained in compliance with the applicable requirements of this Ordinance.

5.4. LAND USE TABLE

The granting of permits or approvals does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38 M.R.S.A., Maine Department of Environmental Protection and United States Army Corps of Engineers' approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like.

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II² V-III²	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
1.	Agriculture and animal husbandry.	Y	NO	NO	NO	NO	NO	Y ¹²	PB ¹
2.	Aquaculture	N/A	N/A	N/A	N/A	N/A	PB	PB	PB
3.	Auto service stations and repair garages, with or without fuel dispensing.	NO	NO	NO	PB	NO	NO	PB ¹¹	NO
4.	Bed & breakfasts.	NO [Am 1]	NO	NO	PB	NO	NO	PB ¹¹	NO
5.	Boatyards, marinas, public launch facility or commercial marine railways.	PB	NO	NO	PB	PB	PB	PB ¹¹	NO
6.	Campgrounds and mobile home parks.	PB	NO	NO	NO	NO	NO	PB ¹¹	NO
7.	Cemeteries.	PB	NO	PB	NO	NO	NO	PB ¹¹	NO
8.	Clearing or removal of vegetation for activities other than timber harvesting.	Y	Y	Y	Y	Y	CEO	CEO	PB
9.	Cluster developments.	PB	NO	NO	NO	NO	NO	PB ¹¹	NO

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II² V-III²	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
10.	Commercial structures or uses not otherwise listed.	NO	NO	NO	PB	PB	PB ¹⁰	PB ¹¹	NO
11.	Commercial vessel or commercial marine equipment storage facility.	NO	NO	NO	PB	PB	PB	PB ¹¹	NO
12.	Construction or expansion of any structure which is located on a non-conforming lot or any expansion of any non-conforming structure.	PB	PB	PB	PB	PB	PB	PB ¹¹	PB
13.	Construction or expansion of structures and changes of use in the Source Water Protection Overlay District.	N/A	N/A	PB	N/A	N/A	N/A	PB ¹¹	N/A
14.	Demolition of any structure.	CEO	CEO	CEO ²	CEO	CEO	CEO	CEO	CEO
15.	Dredging or filling operations.	PB	PB	PB	PB	PB	PB	PB ¹¹	PB
16.	Dwellings/structures, one -family.	CEO	CEO	CEO	PB	PB	NO	CEO	NO
17.	Dwellings/structures, two -family.	CEO	CEO	CEO	PB	PB	NO	CEO	NO
18.	Dwellings/structures, multi -family.	PB	NO	NO	PB	PB	NO	PB ¹¹	NO
19.	Dwellings, mobile homes.	CEO	NO	NO	NO	NO	NO	PB ¹¹	NO
20.	Earthmoving of 60 cubic yards or less. ⁵	Y	Y	Y ²	Y	Y	Y	CEO	PB
21.	Earthmoving of more than 60 cubic yards, but less than 120 cubic yards. ^{5, 9}	CEO	CEO	CEO ²	CEO	CEO	CEO	CEO	PB
22.	Earthmoving of 120 cubic yards or more. ^{5, 9}	PB	PB	PB	PB	PB	PB	PB ¹¹	PB
23.	Essential Services	Y	Y	Y	Y	Y	CEO	CEO	PB
24.	Expansion or change of a non-conforming use.	PB	PB	PB	PB	PB	PB	PB ¹¹	PB

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II² V-III²	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
25.	Expansion or change to a non-conforming lot.	PB	PB	PB	PB	PB	PB	PB ¹¹	PB
26.	Farmers' market	NO	CEO	NO	NO	NO	NO	NO	NO
27.	Fences exceeding six (6) feet in height.	PB	NO	NO	NO	NO	NO	NO	NO
28.	Fences which do not exceed six (6) feet in height and deer fences.	Y	Y	Y	PB	Y	PB	Y ¹²	Y
29.	Home occupations.	PB	PB	PB	PB	PB	PB	PB ¹¹	NO
30.	Hospitals, nursing homes and assisted living facilities.	PB	PB	PB	PB	PB	NO	PB ¹¹	NO
31.	Individual, private campsites.	Y	Y	Y	Y	Y	NO	CEO	PB
32.	Industrial structures or uses not otherwise listed.	NO	NO	NO	NO	NO	PB ¹⁰	PB ¹¹	NO
33.	Inns and hotels.	NO	NO	NO	PB	NO	NO	PB ¹¹	NO
34.	Junkyards, automobile graveyards and automobile salvage yards.	PB	NO	NO	NO	NO	NO	NO	NO
35.	Libraries and museums.	PB	PB	PB	PB	PB	NO	PB ¹¹	NO
36.	Markets and retail sales.	NO	NO	NO	PB	PB	PB ¹⁰	PB ¹¹	NO
37.	Mineral exploration and extraction including sand and gravel extraction	PB	NO	NO	NO	NO	NO	PB ¹¹	NO
38.	Mixed residential and commercial.	NO	NO	NO	PB	NO	PB ¹⁰	PB ¹¹	NO
39.	Normal maintenance and repair of a structure.	Y	Y	Y	Y	Y	Y	Y	Y
40.	Parking areas or driveways.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
41.	Piers or docks.	PB	PB	PB	PB	PB	PB	PB ¹¹	PB
42.	Ponds	Y ⁵	PB	PB	PB	PB	NO	PB ¹¹	PB
43.	Post-secondary schools.	PB	NO	NO	PB	PB	PB ¹⁰	PB ¹¹	NO

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II² V-III²	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
44.	Pre-elementary, nursery, day care, elementary and secondary schools.	PB	PB	PB	PB	PB	NO	PB ¹¹	NO
45.	Private recreational facilities.	CEO	CEO	CEO	PB	NO	PB ¹⁰	PB ¹¹	PB
46.	Private, noncommercial clubs and gathering/meeting places of social, fraternal, civic and charitable organizations.	PB	PB	PB	PB	PB	PB ¹⁰	PB ¹¹	NO
47.	Public recreational facilities.	PB	PB	PB	PB	PB	PB ¹⁰	PB ¹¹	PB
48.	Public utilities and sewage treatment facilities. ^{3, 7}	PB	PB	PB	PB	PB	PB	PB ¹¹	PB
49.	Religious structures such as churches, synagogues, chapels, parish houses or rectories.	PB	PB	PB	PB	PB	NO	PB ¹¹	NO
50.	Restaurants and take-away prepared food. ⁴	NO	NO	NO	PB	PB	PB ¹⁰	PB ¹¹	NO
51.	Sale of produce raised on premises, which may include seasonal sale of produce raised off premises.	Y	Y	Y	Y	Y	Y	Y	Y
52.	Shoreline access.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
53.	Shoreline stabilization.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
54.	Signs.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
55.	Solid waste processing or disposal.	PB	NO	NO	NO	NO	NO	NO	NO
56.	Telecommunications towers or antennas subject to the performance standards of Section 4.7.E.	PB ⁶	NO	NO	NO	NO	NO	NO	NO
57.	Timber Harvesting	Y	Y	Y	Y	Y	Y	PB ¹¹	PB ⁸

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II² V-III²	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
58.	Town government facilities. ⁷	PB	PB	PB	PB	PB	PB	PB ¹¹	PB

FOOTNOTES	
1.	Agriculture and animal husbandry are allowed in a Resource Protection Overlay District by Site Plan Approval where the underlying district is the Rural District.
2.	Site Plan Approval is required for certain activities in the Source Water Protection Overlay District.
3.	These include overboard discharge units lawfully in existence at the time of the enactment of this ordinance.
4.	Does not include food preparation for off-premises retail sale or catering.
5.	Parking areas, road and driveway construction, mineral exploration disturbing more than one hundred (100) square feet of soil, mineral extraction, and earthmoving in any amount in the Shoreland Overlay District requires a permit from the appropriate permitting authority as set forth in Article 7 of this Ordinance.
6.	Telecommunications towers are permitted in the Telecommunications Tower Overlay District, only.
7.	Does not include streetlights, poles, cables, pipes, wires, traffic signs and similar items placed or erected in the public way, for which no permit is required under this Ordinance
8.	Only for the purpose of mitigating fire hazards and other danger to public safety or the environment, and conditioned upon submission of a plan for that stated purpose, including access roads if needed, prepared by a State of Maine Licensed Forester.
9.	Earthmoving that is incidental to the construction of any structure or other activity that has been issued a permit from the appropriate permitting authority does not require Site Plan Approval or a separate permit unless such earth moving alters the surface or subsurface drainage patterns of the property or causes the grade of the land to change by more than one-half (1/2) foot.
10.	Uses that are not reliant upon water frontage or servicing marine related needs are not permitted.
11.	If the use is permitted in an underlying district, Site Plan Approval is required in the Shoreland Overlay District.
12.	If the use is permitted in an underlying district, it is also permitted in the Shoreland Overlay District.
13.	The term “structure” means either a “principal structure” or “accessory structure” as defined in Article 15.

5.5. DIMENSIONAL REQUIREMENTS

A. Lot Dimension Table

Lots and structures shall meet or exceed the following dimensional requirements:

DIMENSION ↓ ZONING DISTRICT →	R	V-I	V-II	V-III	MA & C	E
Minimum lot area (sq. ft.) ¹²	85,000	8,250	20,000 ⁹	85,000 [Am 1]	7,500	N/A
Minimum lot width (ft.) ^{10, 12}	200 ¹	90	100	200 ¹	85	N/A
Setbacks (ft.) ¹²						
Front yard	30 ⁴	10	15	20	10 ²	15 ³
Rear yard	30 ⁴	10	15	20	10 ²	15 ³
Side yard	30 ⁴	10	15	20	10 ²	15 ³
Minimum shore frontage (ft.) ¹⁰	200	100	150	200	100	N/A
Maximum percent lot coverage (%) ¹²	20	50	30	20	65	60
Structure height (ft.) ⁸	35 ^{5, 6}	35 ⁷	35 ⁷	35 ⁷	35 ⁷	50 ⁷

Footnotes	
1.	A single backlot for development with a single-family dwelling may be created with its frontage along a fifty (50) foot wide right-of-way. That right-of-way will not be deducted from the lot width or lot area of the front lot.
2.	Ten (10) feet or no less than the abutting property with the least setback.
3.	For lots that abut a lot located in another district, the setback shall be the greater of fifteen (15) feet or the abutting setback.
4.	The front yard setback for telecommunications towers located in the Telecommunication Tower Overlay District shall be one thousand (1,000) feet and the rear yard and side yard setbacks for telecommunications towers located in the Telecommunication Tower Overlay District shall be thirty (30) feet plus the height of the tower.
5.	Telecommunications towers located in the Telecommunication Tower Overlay District are not subject to the structure height limitation of this section, but are governed by Section 4.7.E.1.g.
6.	The Permitting Authority may increase the maximum height by up to ten (10) feet above the roof for cupolas, chimneys and appurtenances without floor area where the extension will not cause a hazard, and the feature does not occupy more than ten percent (10%) of the roof area. Religious structures may have features such as steeples which exceed ten (10) feet above the roof.

Footnotes	
7.	The Permitting Authority may increase the maximum height by up to ten (10) feet above the roof for cupolas, chimneys and appurtenances without floor area where the extension will not cause a hazard, and each element does not occupy more than two and one-half percent (2 ½ %) of the roof area and all elements do not occupy more than ten percent (10%) of the roof area. Religious structures may have features such as steeples which exceed ten (10) feet above the roof.
8.	For buildings in the Shoreland Overlay District, the vertical distance between the mean elevation of the original grade at the downhill side of the building and the highest point of the roof.
9.	Lots in Village District II located within the Shoreland Overlay District require a minimum lot size of 30,000 square feet.
10.	The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
11.	The term “structure” means either a “principal structure” or “accessory structure” as defined in Article 15.
12.	Pursuant to Title 30-A M.R.S.A., § 4353 (4-C), the Planning Board, in reviewing a cluster subdivision under the applicable provisions of the Castine Subdivision Ordinance, is allowed to approve development proposals that do not meet the dimensional standards otherwise required by this Ordinance, and such approval is not considered the granting of a variance. <u>This authority</u> does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws. This authority does not authorize the reduction of any dimensional standard in the Commercial District. In the Rural, Village I, Village II and Village III Districts, this authority does not authorize the reduction of any dimensional standard to less than the following: 1) minimum lot area – 50% of required area; 2) minimum lot width – 75% of required width; 3) maximum percent lot coverage – 50% of approved lot area; and 4) front, rear or side setback – 10 feet. [Am 1]

B. Lots partially within a Resource Protection District

No portion of any lot created after August 24, 1981 and lying within a Resource Protection District may be used to meet the dimensional requirements of any other district in which the remainder of the lot is situated.

- C.** Within the Shoreland Overlay District, if more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.



ARTICLE 6: PERFORMANCE STANDARDS

6.1. GENERAL

A. Purpose

The purpose of the regulations contained in this Article is to allow maximum utilization of land while assuring against adverse impacts on the environment and/or neighboring properties, adherence to the current Castine Comprehensive Plan, and upholding of the public interest. This assurance is provided by separating the area of the Town of Castine into zoning districts and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Ordinance.

B. Standards apply to all permits and approvals

The following Land Use Standards shall govern all permits and approvals issued by the CEO and the Planning Board. Shoreland Standards are included in Article 7. These standards apply to land uses and activities within the Shoreland Overlay District. The shoreland standards are those mandated by the State of Maine as part of the Mandatory Shoreland Zoning Act (Title 38, M.R.S.A., §§ 435-449, as amended). In reviewing applications submitted pursuant to this Ordinance, the CEO or the Planning Board shall consider the following performance standards prior to issuing final approval. In all instances, the burden of proof of compliance shall be upon the applicant.

6.2. ARCHAEOLOGICAL OR HISTORIC SITES

Any proposed land use activity that may disturb an archaeological or historic site as defined in the Castine Historic Preservation Ordinance, or which is listed or which has been nominated for listing on the National Register of Historic Places in accordance with the procedures established by Federal Law shall require Site Plan approval. In such case the application for Site Plan approval shall attach comments in writing from the Maine Historic Preservation Commission concerning the proposed activity, and the Planning Board shall hold a Public Hearing prior to taking any action with respect to the application. The recommendations of the Maine Historic Preservation Commission shall be considered by the Planning Board in granting any approvals. The applicant shall be responsible for obtaining the written comments of the Maine Historic Preservation Commission. If the site is located within a designated district under the Castine Historic Preservation Ordinance and the application is approved by the Planning Board, a condition of such approval shall be that the applicant must obtain a Certificate of Appropriateness from the Castine Historic Preservation Commission before any permit is issued.

6.3. CAMPGROUNDS

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

- A.** Each recreational vehicle, tent, or shelter site shall contain a minimum of five thousand (5,000) square feet, not including roads and driveways.
- B.** Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.
- C.** Recreational areas without water-carried sewage facilities shall provide portable toilets and a service capability for such toilets approved by the Town's Local Plumbing Inspector (LPI).
- D.** The area intended for placement of the recreational vehicle, tent or shelter and utility and service buildings, shall be set back a minimum of one-hundred (100) feet from the exterior lot lines of the camping area, one-hundred (100) feet from the normal high-water line of any great pond and seventy five (75) feet from the normal high-water line of all other water bodies, tributary streams or upland edge of a wetland.
- E.** All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than twenty-five (25) feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

6.4. CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan shall indicate that all structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one (1) foot above the one hundred (100) year flood elevation, and meet all other requirements of the Floodplain Management Ordinance for the Town of Castine, Maine. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

6.5. DRIVEWAYS AND WALKWAYS

Driveways and walkways constructed at existing ground level are exempt from the minimum setback requirements of the Lot Dimension Table, Section 5.5.A. No driveway or walkway may encroach upon any adjoining lot in the absence of a deeded and recorded right-of-way.

6.6. DUST, FUMES, VAPORS, GASES, ODORS, AND EXPLOSIVE MATERIALS

- A.** Emissions of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited.
- B.** No land use or establishment shall be permitted to produce unreasonable, offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevations.

- C.** No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the rules and regulations adopted by the State of Maine.

6.7. EROSION AND SEDIMENTATION CONTROL

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance:

- A.** The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and cleanup stages.
- B.** Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:
 - 1.** Stripping of vegetation, soil removal and regrading or other development shall be done in such a way as to minimize erosion.
 - 2.** Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
 - 3.** The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site.
 - 4.** Whenever feasible, natural vegetation shall be retained, protected and supplemented.
 - 5.** The disturbed area and the duration of exposure shall be kept to a practical minimum.
 - 6.** Disturbed soils shall be stabilized as quickly as practicable.
 - 7.** Temporary vegetation or mulching shall be used to protect disturbed areas during development.
 - 8.** Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the Hancock County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.
 - 9.** Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.

- 10.** The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless specifically permitted by the permitting authority. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any property line in absence of the prior written agreement of the owner of such adjoining property.
- 11.** During grading operations, methods of dust control shall be employed wherever practicable.
- 12.** Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- 13.** Any activity on a stream, watercourse or swale or upon floodway or right-of-way shall comply with the Natural Resource Protection Act, Title 38 M.R.S.A., §§ 480-A and 480-S, as amended. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present State of the stream, watercourse, swale, floodway, or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
- 14.** Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

6.8. FENCES

- A.** Except as provided in Section 6.8.C. below, no fence or boundary wall shall exceed six (6) feet in height above the average level of the ground on which it stands.
- B.** Screening for licensed junkyards, automobile recycling businesses or automobile graveyards shall be at least six (6) feet in height but shall not exceed eight (8) feet in height except to accomplish the required complete screening from ordinary view; deer fences erected to protect gardens or orchards may exceed six (6) feet in height but shall not exceed ten (10) feet in height; a decorative arbor at a pedestrian gate may exceed six (6) feet in height but shall not exceed eight (8) feet in height; security fencing for telecommunications towers shall be at least eight (8) feet in height but shall not exceed ten (10) feet in height.
- C.** Fences and boundary walls are exempt from the minimum setback requirements of the Lot Dimension Table, Section 5.5.A, but a fence shall not be located where it will obstruct the line of sight at a public street intersection.

6.9. FIRE HAZARD MITIGATION IN THE COMMERCIAL DISTRICT

Special requirements shall be observed within the Commercial District in order to lessen potential fire hazards. A fee payable to the Town shall be assessed to the individual seeking written approval by the Fire Chief. The amount of the fee shall be set by the Board of Selectmen and adjusted periodically after a Public Meeting held to present the facts relevant to such setting or adjustment. There shall be no change of use of a structure and no structure shall be built, moved, replaced, altered or enlarged without consultation with and approval in writing by the Fire Chief or designated representative, and subsequent approval by the respective permitting authority subject to the additional conditions listed below:

- A.** Fire trucks and ambulances shall have unobstructed access to the structure.
- B.** Access to the structure shall not be used for parking or storage so as to hinder passage of emergency vehicles.
- C.** Adequate water supply for fire suppression is or will be available prior to granting a certificate of occupancy.
- D.** Roofs or roof overhangs shall not intrude upon neighboring properties and roof eaves shall not exceed thirty (30) feet in height from servicing accesses.
- E.** Such other safety measures, including but not limited to sprinkler systems, rated partitions, fire extinguishers or the posting of signs as needed for specific hazards, as may be required.

6.10. GROUNDWATER PROTECTION

A proposed site development and/or use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater have demonstrated that the groundwater at the property line shall comply, following development, with the standards for safe drinking water as established by the State of Maine.

6.11. HOME OCCUPATIONS

The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the districts in which they are allowed. Home occupations are limited to those uses which may be conducted within a residential dwelling or accessory structure without substantially changing the appearance or condition of the property as a residence or of accessory structures;

- A.** Home occupations shall be carried out wholly within a dwelling unit or accessory structure to a dwelling unit.

- B.** No more than three (3) persons who are not family members residing in the dwelling unit may be employees of a home occupation.
- C.** Home occupations shall be clearly incidental and subordinate to the use of a dwelling unit for residential purposes.
- D.** In connection with a home occupation there shall be no exterior signs other than permitted by the requirements of Section 6.28, no exterior storage of materials, and no other exterior indication of the home occupation or variance from the residential character of the premises.
- E.** A home occupation shall not create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater degree or more frequent extent than that normally experienced in an average residential building in the district in which it is located.
- F.** Home occupations providing (for a fee) professional, educational and/or personal services to groups of persons on the premises shall be limited to serving no more than eight (8) persons at any one time, and to the generation of no more than two (2) additional non-family vehicles on-site at any one time.
- G.** Home occupations are subject to the Off-Street Parking requirements of Section 6.22.
- H.** Use permits for home occupations are non-transferable except to members of the same family who continue to reside in the dwelling.
- I.** Yard sales, garage sales and other intermittent sales activities shall not be deemed a home occupation unless the activity continues for more than two consecutive weekends or one week, or for more than four weekends per year.
- J.** Use of a dwelling or accessory structure to receive requests for information relating to services rendered off-premises, or the storage of materials or equipment and used to provide services or products off-premises by a member of the residing family shall not be deemed to be a home occupation.
- K.** Sale of agricultural or garden produce grown on site conducted from tables or temporary structures shall not be deemed to be a home occupation.

6.12. JUNKYARDS

No person or landowner shall allow any junkyard to be established, operated, maintained or suffered to exist in violation of Title 30-A M.R.S.A., Chapter 183, Subchapter 1, as amended and without first obtaining site plan approval by the Planning Board, a nontransferable land use permit issued by the Board of Selectmen in accordance with State licensing and local requirements, and complying with the following provisions:

- A.** Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right of way; and shall be set back one hundred (100) feet from all side and rear lot lines.
- B.** Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility, or grounds.
- C.** Junkyards shall be entirely screened from view by earth berms, plantings or fences which shall be well constructed and properly maintained at a minimum height of six (6) feet and be sufficient to accomplish the complete screening from ordinary view. Screening shall meet the requirements for materials and appearance set by the Maine Department of Transportation for junkyards.
- D.** In addition, the following provisions apply to all junkyards in the Town of Castine:
 - 1.** Upon arrival at the junkyard, all fuel, engine oil, radiator, battery, transmission, fluids, etc., shall be drained from all vehicles, and appropriate safety precautions, such as the removal of all door and trunk locks, shall be taken to avoid injury and accidents.
 - 2.** No vehicles may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles into salvage materials shall be accomplished within four (4) months.
 - 3.** All junk and salvage materials shall be stored within the screened/ fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area.
 - 4.** No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner. A concrete pad or other impervious surface shall be provided for draining such fluids.

6.13. LAND NOT SUITABLE FOR DEVELOPMENT

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Ordinance:

- A.** Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots;
- B.** Land which is located within the one hundred (100) year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the developer shows proof through the submission of materials prepared by a Registered Land Surveyor which shows that the

property in question lies at least one (1) foot above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered;

- C.** Land which is part of a right of way or easement, including utility easements. This subsection does not apply to a right-of-way or utility easement for access to a single backlot for development with a single-family dwelling;
- D.** Land that has to be created by filling or draining a pond or wetland; and
- E.** Land that has been determined to be a freshwater wetland, as defined in Title 38 M.R.S.A., § 480-B, as amended.
- F.** This Section does not apply to an existing lot of record proposed to be used for a single-family residence.

6.14. LIGHTING

No land use or establishment shall be permitted to produce unreasonable glare or brightness (0.3 foot-candles) beyond its lot lines. Where practicable, lighting shall be directed downward and the light source shall be shielded. All exterior lighting shall be designed to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hours of use, hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Non-residential lighting that is either installed or replaced after March 24, 2008 shall comply with the standards of Title 5 M.R.S.A., § 1769, as amended.

6.15. MINERAL EXPLORATION

The following requirements for mineral exploration activities shall apply in all districts; additional requirements for the Shoreland Overlay District are contained in Section 7.6 below.

- A.** All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.
- B.** Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by Resource Protection Districts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with this Ordinance, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surfaces which would not be eroded or otherwise damaged.
- C.** Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.

- D.** In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.

6.16. MINERAL EXTRACTION

The following requirements shall apply to mineral extraction activities in all districts; additional requirements for the Shoreland Overlay District are contained in Section 7.6 below.

- A.** No portion of any ground area disturbed by the extraction activity shall be closer than fifty (50) feet from any public roadway or one hundred (100) feet from any property line in the absence of the prior written agreement of the owner of such adjoining property.
- B.** A natural vegetative screen of not less than fifty (50) feet in width shall be retained between any facility intended primarily for public use, excluding privately owned roads, and the mineral exploration or extraction activity.
- C.** Within twelve (12) months following the completion of extraction operations at any extraction site, or when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - 1.** All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials originating on-site may be buried or covered on-site.
 - 2.** The final graded slope shall be two to one (2:1) slope or flatter.
 - 3.** Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the areas. 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, including any reasonable form of performance guarantee such as a performance bond, to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources, including but not limited to wildlife habitat, fisheries, unusual natural areas, archaeological resources and historic sites.
- D.** The following requirements shall apply to topsoil, sand and gravel extraction in all districts:

1. Topsoil shall be considered part of all developments, except mineral extraction, and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
2. Extraction shall not be allowed below three (3) feet above the average seasonal high water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions.
3. Access roads into and around the pit shall not be oiled, salted, or paved.
4. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure.
5. Storage of hazardous materials and petroleum products in the pit is prohibited.
6. Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided.

6.17. MANUFACTURED HOUSING

- A. Mobile homes sited outside of mobile home parks, shall also meet the following requirements:
 1. Lot-size dimensions for single-family dwellings apply to lots for mobile homes.
 2. All ordinances, permit requirements, regulations and statutes applicable to single-family dwellings apply to mobile homes.
 3. Each mobile home shall have a pitched shingle or metal roof.
 4. Each mobile home shall have siding that is residential in appearance such as is common to on-site built houses.
 5. Each mobile home shall have a permanent foundation.
 6. Any fuel or heating oil tank shall comply with State standards.
- B. Nothing in Section 6.17.A shall prevent the relocation of any mobile home that was lawfully sited within the Town of Castine as of August 24, 1981.
- C. Modular homes meeting the construction standards for State-certified manufactured homes are allowed in all districts where other single-family homes are allowed.

- D.** Notwithstanding any other provision of this Ordinance, a mobile home or construction trailer may be permitted on the site of a construction project for not more than two (2) consecutive six (6) month periods provided that a special permit is issued by the CEO for each six (6) month period. Such permit may only be issued if the CEO is satisfied that:
- 1.** The mobile home or construction trailer is a necessary convenience for the construction project and is clearly subordinate to such project.
 - 2.** No health hazards or problems of sanitation will be caused by improper disposal of sewage from the mobile home or construction trailer.
 - 3.** The CEO may issue a special permit for use of a mobile home or construction trailer for a temporary construction office for up to six (6) months in districts where offices are permitted or on construction sites anywhere in the Town of Castine.
- E.** Except as specifically permitted by this section, no mobile home shall be used for any purpose, nor placed on any lot, except in the Rural District or in an authorized mobile home park.
- F.** Notwithstanding the other provisions of this Section, unoccupied mobile homes may be placed on a lot for sale by a dealer where permitted by this Ordinance.
- G.** No mobile home may be located within the Town of Castine unless it meets the design standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 *et seq.*) for mobile homes manufactured after June 14, 1976.
- H.** Pursuant to Title 30-A M.R.S.A. § 4358(4), no new manufactured housing may be located or constructed within the Town of Castine unless the owner presents evidence that either the Maine sales tax has been paid on the manufactured housing or the manufactured housing is being installed or constructed by a licensed dealer registered to collect Maine sales tax.

6.18. MOBILE HOME PARKS/MANUFACTURED HOUSING COMMUNITIES

Mobile home parks shall meet the following requirements in addition to any imposed by State law:

- A.** The park shall be landscaped by shrubs and trees so as to be screened by a fifty (50) foot buffer strip from direct view from the nearest public road.
- B.** Each mobile home lot, service structure (such as laundry facilities, park office, etc.) shall meet the off-street parking requirements of this Ordinance.
- C.** Each mobile home lot served by a central on-site subsurface waste disposal system approved by the Maine Department of Human Services shall be at least twelve thousand (12,000) square feet in area.

- D.** Each mobile home lot served by an individual approved on-site subsurface waste disposal system shall be at least twenty thousand (20,000) square feet in area.
- E.** The overall area of the park shall be at least the area of each mobile home lot as determined above plus areas required for road rights-of-way; buffer strips; and all setbacks.
- F.** All roads in the park shall conform to State standards for mobile home parks.
- G.** Mobile homes located in mobile home parks are not required to have permanent foundations.
- H.** No mobile home may be located in any mobile home park unless it meets the design standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 *et seq.*) for mobile homes manufactured after June 14, 1976.

6.19. TWO-FAMILY AND MULTI-FAMILY DWELLINGS

- A.** New construction of a two-family dwelling or conversion of an existing single family dwelling to a two-family dwelling requires a minimum lot size of one hundred and fifty percent (150%) of the minimum lot size for a single-family dwelling in the district in which it is built. All other lot dimensional requirements of this Ordinance must be met.
- B.** New construction of or conversion to a multi-family dwelling not in the Shoreland Overlay District requires the minimum lot size for a single-family dwelling for each dwelling unit on the parcel. All other lot dimensional requirements of this Ordinance must be met.
- C.** New construction of or conversion to a two-family dwelling or a multi-family dwelling in the Shoreland Overlay District requires: 1) the minimum shore frontage required for a single family dwelling for each dwelling unit on the parcel and 2) a minimum lot size of required for a single family dwelling for each dwelling unit on the parcel.
- D.** New construction of single-family dwelling with an accessory apartment or in-law/caregiver apartment or construction of an accessory apartment or in-law/caregiver apartment at an existing single-family dwelling requires a minimum lot size for a single-family dwelling in the district in which it is built.
- E.** A new multi-family dwelling unit and a lot with more than one secondary structure containing dwelling units, are subject to the provisions of the Castine Subdivision Ordinance.

6.20. MULTIPLE STRUCTURES AND USES ON A SINGLE LOT

- A.** If more than one principal structure is constructed on a single parcel of land, all dimensional requirements shall be met for each structure.
- B.** Within the Shoreland Overlay District, if more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

6.21. NOISE

No land use or establishment shall be permitted to produce unreasonable noise perceptible beyond their lot lines, subject to the exceptions herein. Unreasonable noise shall be noise exceeding the following levels measured on an ANSI Type I or II meter using the A-weighted network. 7:00 a.m. to 10:00 p.m. – 60 dBA; 10:00 p.m. to 7:00 a.m. – 50 dBA.

A. Exceptions

- 1.** Maximum sound levels may be exceeded by 10 dBA for a single period, no longer than 15 minutes, each day.
- 2.** Natural phenomena.
- 3.** Any bell or chime from any clock, school or church.
- 4.** Any siren, bell, horn or whistle lawfully used by an emergency vehicle, or any other emergency alarm used in an emergency situation or test, including the 12:00 Noon test of the firehouse siren.
- 5.** Warning devices required by OSHA, USCG, or any other State or Federal regulatory agency.
- 6.** Aircraft operations which are subject to FAA regulation.
- 7.** Sporting, cultural, religious or public events permitted by the Board of Selectmen.
- 8.** Noise generated by any construction or demolition equipment operated from 7:00 a.m. to 7:00 p.m.
- 9.** Emergency repair work on public utilities.
- 10.** Timber harvesting from 7:00 a.m. to sunset.
- 11.** Noise created by lawful blasting from 7:00 a.m. to 7:00 p.m.

12. Noise created by refuse and solid waste collection from 6:00 a.m. to 7:00 p.m.
13. Noise generated by any stand-by electric generator operated during a power outage or during an exercise period not exceeding thirty (30) minutes once a week.

B. Limitation of exceptions

The exceptions 6.21.A.5, 6, 7, and 12, above shall not apply in determining the effect on neighboring properties for any use being considered for Site Plan Approval. The Planning Board may consider any noise related to these exceptions in determining whether a given use will have an unreasonable adverse effect upon a neighboring use or upon the neighborhood.

6.22. OFF-STREET PARKING

Traffic safety and the need for emergency vehicle access, especially in the congested "on-neck" streets, requires establishment of minimum standards for the provision of parking spaces for businesses, homes and institutions within the Town. All uses and structures shall have adequate off-street parking to accommodate all anticipated needs. To accomplish this purpose, all of the anticipated off-street vehicular parking needs for a proposed use or structure shall be considered before granting any approvals. Property located in the Commercial District and the Witherle Memorial Library are exempt from the following standards unless specifically included.

A. Off-street parking standards

1. A parking space provided to meet the minimum requirements of Section 6.22.B must be at least 180 square feet in area and must be dimensioned and configured so that a vehicle can enter and exit the parking space safely and conveniently and drivers and passengers can enter and exit the parked vehicle safely and conveniently.
2. No parking space shall be considered to serve more than one structure except as provided in Section 6.22.D below.
3. Driveways or accesses to parking spaces shall be constructed so as to minimize potential safety hazards and to provide openings at exits to public streets that will maximize driver vision.
4. Parking areas for more than four (4) vehicles or boats shall be landscaped so as to be screened from direct view from the nearest public street in order to minimize any adverse effect upon historical assets of the Town or the value of neighboring properties, to the extent that such landscaping shall not impair driver vision.

B. Minimum requirements

- 1.** Auto Service Stations and Repair Garages: one (1) space for each regular employee, plus one (1) space for each fifty (50) square feet of floor area used for service work.
- 2.** Residential: Two (2) parking spaces for each private residential dwelling unit and one (1) parking space for each private residential dwelling unit, created after March 31, 2007, in the Commercial District.
- 3.** Business and commercial establishments not otherwise listed, libraries, museums, offices or professional buildings: one (1) space for each two-hundred (200) square feet of the floor area plus one (1) space for each two (2) employees.
- 4.** Bed and breakfasts, hotels and inns: One (1) space for each guest suite or sleeping room and one (1) space for each two (2) employees.
- 5.** Campgrounds: one (1) space for each recreational vehicle, tent or shelter space.
- 6.** Drive-in restaurants and food stands: ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations.
- 7.** Funeral parlors: twenty (20) spaces.
- 8.** Fraternal organization and club structures: one (1) space for each five (5) members.
- 9.** Home occupations shall have sufficient spaces to accommodate the estimated off-street parking needs of customers as determined by the Planning Board based upon the anticipated volume of traffic at the site.
- 10.** Hospitals and nursing homes shall have one (1) space for each two (2) beds and one (1) space for each two (2) employees.
- 11.** Places of amusement or public assembly: one (1) space for each fifty (50) square feet of floor area devoted to patron use.
- 12.** Restaurants and cocktail lounges: one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees.
- 13.** Schools shall have one (1) space for each two (2) employees and additional spaces for students as follows:
 - a.** Elementary, pre-elementary and daycare/nursery schools: one (1) space for each ten (10) students.
 - b.** Secondary: one (1) space for each five (5) students.

- c.** Post secondary: two (2) spaces for each three (3) enrolled students.
- 14.** Wholesale businesses: one (1) space for each three hundred (300) square feet of floor area.
- 15.** For uses not listed in this section, the permitting authority shall prescribe the number which, in no case, shall be less than the adequate number to provide for employees, customers and visitors to the site.

C. New structures or expansions

Any new structure or proposed expansion of an existing structure not possessing the minimum required parking spaces may be approved by the permitting authority only if all other provisions of this Ordinance are met, the Fire Chief has been consulted and has approved the new structure or proposed expansion in writing, no loss of existing off-street parking spaces will result, and the new structure or proposed expansion is designed so as to maximize the potential for off-street parking.

D. Location on other property

If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the permitting authority can permit that such spaces may be provided on other off-street property provided that such property lies within four hundred (400) feet of the main entrance to such principal use and is in the same zone. Such automobile parking space shall be associated with the principal use by deed, easement or lease, and shall not thereafter be reduced or encroached upon in any manner, provided however, that it may serve different principal uses at different times of day. Any off-site parking area located more than four hundred (400) feet from the main entrance of the principal use is permitted, provided there is adequate bus transportation from the parking area to and from the principal use.

6.23. OIL AND CHEMICAL STORAGE

- A.** All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38 M.R.S.A., § 541 *et seq.*, as amended, which, among other things, establishes a ten-year compliance schedule for the discontinuance and removal of non conforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities.
- B.** Oil and chemical storage shall be in conformance with rules and regulations adopted by the State of Maine applicable to the stored substance.

- C. The applicant shall have the burden of proof that all provisions of the above laws, rules and regulations have been met before the issuance of any permits may take place.

6.24. ON-SITE CIRCULATION

A. Vehicular circulation

The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles through the site.

1. Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for all vehicles, including tractor-trailers.
2. Except for uses in the Commercial District which meet the Fire Hazard Mitigation standards of this Article 6, clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.
3. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles and prevent their backing out onto a street.
4. All streets and access ways shall be designed to harmonize with the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

B. Pedestrian circulation

The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located within the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, and existing sidewalks in the neighborhood.

6.25. POLLUTION LEVELS

Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination. The land owner, contractor, occupant, or any other person with authority over the land, structure, or activity responsible for the contamination, shall be jointly responsible for the cost of all remedial actions and damages resulting therefrom.

6.26. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal and disturbance of soil, and by retaining existing vegetation during construction. After construction is completed, landscaping shall be completed that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right of way and abutting properties in order to minimize the encroachment of the proposed uses on neighboring land uses. Environmentally sensitive areas such as wetlands, steep slopes, flood plains, and unique natural features shall be maintained and preserved to the maximum extent possible. Natural drainage areas shall be preserved to the maximum extent possible.

6.27. RECREATIONAL VEHICLES

Recreational vehicles shall not be used as a permanent dwelling. Any recreational vehicle used as a temporary dwelling must be stationed only in an authorized campground, mobile home park or trailer park or as an accessory use on the premises of a consenting private property owner for use only by members of the property owner's family or social guests. In order to be considered as a vehicle and not as a structure, the unit must be registered for operation on the roads.

6.28. SIGNS

A. General

It is the intent and purpose of this section to preserve the beauty of the Town and the safety and well-being of its inhabitants while at the same time allowing reasonable advertising and informational signs by regulating the type, number, location and size of such signs.

B. Exempted signs

The following signs are exempt from the provisions of this Ordinance:

- 1.** Customary holiday decorations.
- 2.** Non-commercial signs not exceeding two (2) square feet in area (*e.g.* name signs, no trespassing signs, etc.).
- 3.** Signs erected and maintained for public safety or welfare, or pursuant to and in discharge of any educational or other governmental function or required by law, ordinance or government regulation.
- 4.** Historical information signs approved by the Board of Selectmen.
- 5.** Real estate signs, provided such sign shall not exceed five (5) square feet in area and shall be removed within one (1) week after the sale closing or rental.

6. Signs and banners announcing a specific event, such as a yard sale, public event or charitable activity may be erected not more than a week prior to the event and must be removed within forty-eight (48) hours of the conclusion of the event, except as the Board of Selectmen may extend the announcement period on a case by case basis.
7. Temporary political or opinion signs shall be no more than five (5) square feet in area and shall be removed within five (5) days after the referendum, election or meeting.
8. Open/closed signs and signs announcing seasonal sales of produce, which shall be no more than five (5) square feet in area.
9. Signs identifying contractor(s) on a construction site, provided such sign(s) shall not exceed five (5) square feet in area and shall be removed when the construction is complete.

C. Two-sided signs

Each side of a two-sided sign may be as large as permitted for a one-sided sign for the activity.

D. Off-premise signs

Off-premise signs are allowed only as permitted by State law.

E. On-premise signs

1. No sign or notice board shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision and where by reason of its position, shape, color, illumination or wording the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
2. Flashing, moving or animated signs are prohibited.
3. No freestanding sign shall be displayed at a height greater than six (6) feet from the ground level. No sign attached to a building shall be displayed on or above the roof eaves of the building.
4. Subject to Section 6.28.C above, no sign shall exceed the following display surface area:
 - a. **Home occupation (Residential):** One (1) sign of no more than six (6) square feet.
 - b. **Commercial District:** Eighteen (18) square feet.
 - c. **Commercial buildings in any other district:** The maximum display area of any sign shall not exceed eighteen (18) square feet.

The maximum total display area of all signs, including attached and detached, on each commercial building (including principal structures in lawful non-conforming commercial use) shall not exceed twenty-seven (27) square feet for each business. Each business shall display no more than two (2) signs on or adjacent to each building.

- d. Community, municipal and quasi-municipal facilities:** No more than two (2) identification signs shall be allowed, not to exceed a total of twelve (12) square feet in area, for each building devoted to any of the following uses: church, academic building, academic campus, health care facility, library, public recreation area or other permitted community, municipal or quasi-municipal use. Such signs shall be solely for the purpose of identifying the institution, its services, and activities.
- e. All other uses in all other districts:** Ten (10) square feet.

5. Illuminated signs shall comply with the following restrictions:

- a.** Illuminated signs shall use indirect lighting not to exceed 10,000 lumens.
- b.** Signs with internal illumination are prohibited.
- c.** Any illuminated sign located within a structure outside of the Commercial District or above the ground floor in the Commercial District shall not be visible outside of the structure.

6. Notice boards may be approved by the permitting authority if the notice board does not create a potential traffic or other safety hazard

6.29. SITE CONDITIONS

- A.** During construction, the site shall be maintained and left each day in a safe and sanitary manner and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon an order by the CEO or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity; and
- B.** Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris. Excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the CEO prior to issuing a Certificate of Occupancy.

6.30. SWIMMING POOLS AND SPAS

- A.** Outdoor pools shall be enclosed by a barrier wall at least forty-eight (48) inches in height. The barrier wall may be a stand-alone wall or fence or may be in combination with a structural pool, spa or hot tub wall or a wall of an adjacent building to form the barrier around the pool, spa or hot tub. [

- B.** Pool effluent, containing chemicals not found in or exceeding the level found in the Town potable water, shall be discharged into the Town sanitary sewer system or other approved disposal system.
- C.** Public pools and spas shall comply with the Maine Department of Health and Human Services *Rules Relating to Public Swimming Pools and Spas* (CMR 10-144, Chapter 202, as amended.)

6.31. TIMBER HARVESTING

- A.** Timber harvesting in the Shoreland Overlay District shall comply with the provisions of this Section and those of Article 7.
- B.** Timber may be cleared as required for permitted construction activity. An additional one acre may be cleared for residential uses, including lawns, etc.
- C.** Timber harvesting shall comply with the following requirements:
 - 1.** No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
 - 2.** Timber harvesting equipment shall not use stream channels as travel routes except when:
 - a.** Surface waters are frozen; and
 - b.** The activity will not result in any ground disturbance.
 - 3.** 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.
 - 4.** 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.
 - 5.** 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, the operation shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten percent (10%) shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten percent (10%), or fraction thereof, increase in slope, the unscarified strip shall be increased by

twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

6.32. UTILITIES / SEWAGE DISPOSAL / WASTE DISPOSAL / WATER SUPPLY

A. Utilities

1. Any above-ground utility installation shall be located so as to have a harmonious relation to neighboring properties and the site.
2. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
3. The size, type, and location of street lights and utilities shall be shown on the plan and approved by the Planning Board.

B. Sewage disposal

No permit shall be issued for a project with subsurface sewage disposal unless:

1. There is an area of sufficient size of suitable soils, under the Maine State Plumbing Code, to accommodate the proposed system.
2. An acceptable plan to construct the absorption area is prepared in accordance with the Maine State Plumbing Code.
3. A Subsurface Wastewater Disposal System Permit has been issued by the Local Plumbing Inspector (LPI).

C. Waste disposal

The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.

1. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
2. All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

D. Water supply

1. The project shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine.

2. For general projects as defined in Article 9, the applicant may be required to construct ponds and dry hydrants to provide for adequate water storage for firefighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Planning Board may waive the requirement for fire ponds only upon the submission of evidence that the soil types in the development will not permit their construction, or that a nearby water supply is accepted by the Fire Department as available and adequate for firefighting purposes.



ARTICLE 7: SHORELAND STANDARDS

7.1. AGRICULTURE

- A.** 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 (Title 7 M.R.S.A., § 4201-4209, as amended).
- B.** Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance of water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this Ordinance 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.
- C.** Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area 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.
- D.** There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
- E.** After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a conservation plan.

7.2. CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING

- A.** Within the Shoreland Overlay District zoned as a Resource Protection Overlay District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except for the removal of safety hazards and with a permit from the Code Enforcement Officer. Elsewhere, in any Resource Protection Overlay District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that District.

B. Except in areas as described in Section 7.2.A above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- 1.** There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy or other woody vegetation as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- 2.** 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" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of twelve (12) or more in any twenty-five (25) foot by twenty-five (25) foot square (625 square feet) area as determined by the following rating system based upon tree diameter at four and one half (4 ½) feet above ground level. Adjacent to other water bodies, tributary streams, and wetlands, "well-distributed stand of trees" shall be defined as maintaining a rating score of eight (8) or more in any twenty-five (25) foot by twenty-five (25) foot square (625 square feet).

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

- a.** Two (2) to four (4) inches = one (1) point.
 - b.** Greater than four (4) inches to twelve (12) inches = two (2) points.
 - c.** Greater than twelve (12) inches = four (4) points.
 - d.** Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4 ½) feet above ground level, may be removed in any ten (10) year period.
 - e.** Pruning of tree branches is permitted on the bottom one-third (1/3) of the tree.
- 3.** 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.

4. 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.
 5. The provisions of Section 7.2.B shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.
- C. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

7.3. EROSION AND SEDIMENTATION CONTROL

- A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit under this Ordinance shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the respective permitting authority for approval, as required, and shall include, where applicable, provisions for:
 1. Mulching and revegetation of disturbed soil.

2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 3. Permanent stabilization structures such as retaining walls or riprap.
- B. 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.
 - C. 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.
 - D. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until vegetation is adequately established.
 2. Anchoring the mulch with netting, peg, and twine or other suitable method may be required to maintain the mulch cover.
 3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

7.4. ESSENTIAL SERVICES

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

- C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

7.5. INDIVIDUAL, PRIVATE CAMPSITES

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

- A. One campsite per lot existing on the effective date of this Ordinance, or per thirty thousand (30,000) square feet of lot area within the Shoreland Overlay District, whichever is less, may be permitted.
- 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 from the normal high-water line of any great pond classified GPA, and seventy five (75) feet from the normal high-water line of all other water bodies, tributary streams and wetlands.
- C. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to a recreational vehicle.
- D. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
- E. 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 LPI prior to issuance of a permit under this Ordinance. Where disposal is off-site, a written authorization from the receiving facility or land owner is required as part of the application.
- F. 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 all State regulations, unless the site is served by a public sewer. Subsurface systems are permitted only in districts where a residential structure would be permitted.

7.6. MINERAL EXPLORATION AND EXTRACTION

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

effective measures, so as to restore disturbed areas and to protect the public health and safety. Mineral extraction may be permitted under the following conditions:

- A.** A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe, in detail, procedures to be undertaken to fulfill the requirements of Section 7.6.C below.
- B.** Unless authorized pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. § 480-C, as amended, no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
- C.** Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - 1.** All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - 2.** The final graded slope shall be two to one (2:1) slope or flatter.
 - 3.** Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
 - 4.** In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operation on surrounding uses and resources, including but not limited to any reasonable form of performance guarantee such as a performance bond.

7.7. PARKING AREAS

- A.** Parking areas shall meet the shoreline and tributary stream setback requirements for structures in the district in which such areas are located, except that in the Commercial and Maritime Activity Overlay Districts the parking setback shall be at least twenty-five (25) feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities, in districts other than the Commercial and Maritime Activity Overlay Districts may be reduced to

no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no reasonable alternative exists.

- B.** Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on site.
- C.** In determining the appropriate size of proposed parking facilities, the following shall apply:
 - 1.** A typical space shall be ten (10) feet wide by eighteen (18) feet long, except that parking spaces for a vehicle and trailer shall be forty (40) feet long.
 - 2.** Internal travel aisles shall be approximately twenty (20) feet wide.

7.8. PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND

- A.** Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B.** The location shall not interfere with existing developed or natural beach areas.
- C.** The facility shall be located so as to minimize adverse effects on fisheries and navigation.
- D.** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, uses and the character of the area. Except in the Commercial and Maritime Activity Overlay Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed forty (40) square feet in floor area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.
- E.** No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- F.** No existing structure built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwellings in any district.
- G.** Structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a

wetland shall be subject to Site Plan Review. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

- H.** Except in the Commercial and Maritime Activity Overlay Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed eight (8) feet in height above the pier, wharf, dock or other structure.
- I.** If the project requires any State or Federal approval, that approval must be obtained prior to applying to the Town for a permit and included as part of the application package.

7.9. PRINCIPAL AND ACCESSORY STRUCTURES

- A.** All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any great pond, and seventy five (75) feet from the normal high-water line of any other water body, tributary stream or the upland edge of any wetland. The water body or wetland setback provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, or to other functionally water-dependent uses.

For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting authority are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Zoning Board of Appeals.

- B.** The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this Section.

- C.** The total area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed twenty percent (20%) of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed except in the Commercial and Maritime Activity Overlay Districts, where lot coverage shall not exceed sixty-five (65%) percent.
- D.** Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils; provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Board of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., § 480-C, as amended); and that the applicant demonstrates that no reasonable access alternative exists on the property.
- E.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

7.10. ROADS AND DRIVEWAYS

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

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

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

This Section does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located

nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this Section except for that portion of the road or driveway necessary for direct access to the structure.

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

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

2. Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent (10%) or less.
 3. On sections having slopes greater than ten percent (10%), ditch relief culverts shall be placed at approximately a thirty (30°) degree angle down slope from a line perpendicular to the centerline of the road or driveway.
 4. 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.
- H.** Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

7.11. SEPTIC WASTE DISPOSAL

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

7.12. SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of

ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

7.13. STORM WATER RUNOFF

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

7.14. TIMBER HARVESTING

Timber harvesting in the Shoreland Overlay District shall comply with the provisions of Article 6 and of this Section.

- A.** Selective cutting of no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter measured at four and one-half (4 ½) feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - 1.** Within one hundred (100) feet horizontal distance of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - 2.** At distances greater than one hundred (100) feet horizontal distance, of a great pond or a river flowing to a great pond, and greater than seventy-five (75) feet horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clear cut 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.
 - 3.** Timber harvesting in excess of forty percent (40%) of the volume may be permitted by the Planning Board upon a clear showing, including a forest management plan signed by a State of Maine Licensed Forester, that such exception is necessary for sound forest management and will be carried out in accordance with the purposes of Title 38 M.R.S.A. § 435, *et seq.* Where such exception is permitted by the Planning Board

the Department of Environmental Protection shall be notified, in the same manner as required in Section 14.2.B.5 of this Ordinance, of each exception allowed.

7.15. WATER QUALITY

No activity shall deposit on or into the ground or discharge to the waters of the State, any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body tributary stream or wetland.



ARTICLE 8: CODE ENFORCEMENT OFFICER PERMITS

8.1. CODE ENFORCEMENT OFFICER PERMIT REQUIRED

A permit from the Code Enforcement Officer (CEO) shall be required before beginning or undertaking any of the following activities:

A. Building permit

- 1.** New construction of buildings and structures unless the construction is designated in the Land Use Table as not requiring a permit.
- 2.** Alteration of existing buildings, structures, or land, or parts thereof, including:
 - a.** Interior renovations for change in use.
 - b.** Finishing an unfinished room or space.
 - c.** Enclosing of open frame porches and decks.
 - d.** Construction of porches and decks.
 - e.** Any activity, not otherwise requiring Site Plan Review by this Ordinance, requiring a permit under the Natural Resources Protection Act (NRPA), Title 38 M.R.S.A., § 480-A *et seq.*, including all Permit by Rule (PBR) activities described in CMR 06-096, Chapter 305, as amended.
- 3.** Creation or expansion of roads, driveways or walkways.
- 4.** The replacement of existing road culverts in the Shoreland Overlay District, unless the replacement culvert is:
 - a.** Not more than twenty-five percent (25%) longer than the culvert being replaced.
 - b.** Not longer than seventy-five (75) feet; provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.
- 5.** The erection, hanging, placement or alteration of a sign or sign structure.
- 6.** Stairways or similar structures to provide shoreline access in areas of steep slopes or unstable soils, in compliance with Section 7.8.D., above.

B. Moving or demolition permit

Relocation of any structure onto or about a lot, or the demolition of any structure. If the relocation or demolition is designated in the Land Use Table as requiring Site Plan Approval from the Planning Board this approval must be granted before the Code Enforcement Officer can issue a permit.

C. Change of use permit

The change in the use of the premises from one land use activity to another, or the creation of an additional use on the premises, unless the new use is designated in the Land Use Table as requiring Site Plan Approval from the Planning Board or as not requiring a permit. If the new use is designated in the land use table as requiring Site Plan Approval from the Planning Board, this approval must be granted before the Code Enforcement Officer can issue a permit.

D. Activities listed in the Land Use Table

Any activity listed in Article 5 of this Ordinance as requiring a permit from the CEO. No permit may be issued under this section for an activity which is part of a site or project that requires Site Plan Approval from the Planning Board, except as provided in Section 8.1.E, below.

E. Approved Site Plan activities

Any activity approved by the Planning Board under the Site Plan Review provisions of Article 9 of this Ordinance.

F. Emergency Permit

Nothing in this Ordinance shall prevent the strengthening or restoration to safe condition of any part of any building or structure declared to be unsafe by the CEO. The CEO may issue an emergency permit to mitigate or correct the unsafe condition, which shall thereafter be attached to any necessary application to the Planning Board.

G. Referral to Planning Board

The Code Enforcement Officer (CEO) may refer any application for an activity, normally requiring only a permit from the CEO under Section 8.1 above, to the Planning Board for Site Plan Approval under Article 9 of this Ordinance. Any application so referred shall be classified as a Miscellaneous Project under Section 9.4.

8.2. PROCEDURE

A. Application

All applications for a CEO permit shall be submitted in writing to the CEO on forms provided for the purpose, together with such fees as required in Article 11 of this Ordinance.

B. True and Correct Information

All information contained in and attached to a permit application shall be true and correct. Any false information will invalidate a permit and stop all work or use authorized by the permit.

C. Application Requirements

All applications for a CEO permit shall be accompanied by a plan, accurately drawn to scale or showing actual dimensions or distances, and showing:

1. The actual shape and dimensions of the lot for which a permit is sought.
2. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies, tributary streams and wetlands within two hundred fifty (250) feet of the property boundaries.
3. The location of new buildings, structures or portions thereof to be constructed.
4. The existing and intended use of each building or structure.
5. Where applicable, the location of soils test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffer strips and private wells.
6. If the property is not served by a public sewer, a valid plumbing permit including the site evaluation approved by the Local Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
7. Such other information as may be reasonably required by the CEO to provide for the administration and enforcement of this Ordinance.

D. To whom issued

No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

E. Compliance with land use standards

All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Articles 6 and 7 of this Ordinance.

1. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the Shoreland Overlay District 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 Code Enforcement Officer.

F. Notification of Abutters

Within three (3) business days of receiving an application, the CEO shall notify abutting property owners by first class mail, of all permit applications for activities and uses not requiring Site Plan Review by the Planning Board except interior remodeling. This notice shall describe the proposed activity and its location, by street address and tax map and lot number. Notice is to be sent to the person to whom property tax bills are sent at the address shown on the Town's tax card for the property.

G. Deadline for decision

The CEO may, within 10 days of receiving an application, and shall, within thirty (30) days of receipt of an application:

- Issue the permit with such terms and conditions as the CEO considers advisable to ensure that the proposed construction and uses meet the provisions of the Ordinance.
- Refer the applicant to the Planning Board for Site Plan Review.
- Deny the application.

All decisions of the CEO shall be in writing. Failure of the CEO to act within thirty (30) days shall not constitute approval of the application.

H. Copies

One (1) copy of the application, with the permit or other written decision of the CEO, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision, shall be retained by the CEO as a permanent public record.

I. Posting

1. The CEO shall post each week a list of all building permits issued within thirty (30) days of the posting. Such list shall include the permit number, date of issue, name of the property owner of record, and location of the project. The list shall be posted in a conspicuous place in Emerson Hall.
2. A copy of the building permit shall be posted by the property owner or his representative in a conspicuous place at the project site prior to the commencement of construction. The posted copy shall be protected from weather damage and shall remain on display for the duration of all approved construction activity.

J. Commencement and completion of work

1. Construction and alteration activities on projects for which a permit has been granted under this Section shall substantially commence within twelve (12) months from the date of issuance of the permit and shall be substantially completed within twenty-four (24) months from the date of issuance of the permit.
2. Activities may be extended for up to twelve (12) months by the CEO, for good cause, if an application for an extension is submitted in writing to the CEO on forms provided for the purpose, together with such fees as required in Article 11 of this Ordinance prior to expiration of the permit.
3. Activities which are not substantially commenced or substantially completed within the time limits provided above, or any extension thereto, shall be subject to new application and the permit issued under this Section shall be considered void.

K. Appeals

Appeals from decisions of the CEO may be taken to the Zoning Board of Appeals pursuant to Article 14 of this Ordinance.

8.3. ACCESS TO SITE AND RECORDS

The CEO shall have reasonable access to the site at all times while processing the permit application and for the duration of the project to review the progress of the work and shall have the authority to take photographs on site and to review all records and documents related to the project. By making application for a Building Permit, the applicant and all property owners grant to the CEO permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times, to review the proposed project prior to issuing a permit. By accepting a Building Permit, the applicant and all property owners grant to the CEO permission to review all records and documents related to the project and permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times to review the progress of the work and to inspect the completed project, to ensure compliance with the permit and applicable laws.



ARTICLE 9: SITE PLAN REVIEW BY PLANNING BOARD

9.1. PURPOSE

The purpose of Site Plan Review is to promote the public health, safety, and general welfare by requiring Planning Board review of plans for certain uses or structures which could have a significant impact on the neighborhood or the environment but which, when properly designed with respect to their surroundings, can become uses or structures that are compatible with the neighborhood and environment.

9.2. ACTIVITIES REQUIRING SITE PLAN REVIEW

Except as provided in Section 9.3, below, Site Plan Review and Approval by the Planning Board shall be required for:

- A.** Any proposed use, construction, development or activity designated in Article 5 (Land Use Table) as requiring Site Plan Approval from the Planning Board.
- B.** The expansion of any existing building or structure devoted to a use requiring Site Plan Approval from the Planning Board.
- C.** The expansion of the parking, loading, outdoor display or storage area of any commercial, industrial or institutional use requiring Site Plan Approval from the Planning Board.
- D.** Hazardous activities involving the consumption, generation, or handling of:
 - 1.** Hazardous wastes as defined in Title 38 M.R.S.A., § 1303.
 - 2.** Hazardous materials as defined in Title 38 M.R.S.A., § 1317.
 - 3.** Oil, as defined in Title 38 M.R.S.A., § 542.
 - 4.** Low-level radioactive wastes, as defined in Title 38 M.R.S.A., § 1451.
- E.** Any other use, construction, development or activity for which this Ordinance requires review and approval by the Planning Board.

9.3. ACTIVITIES NOT REQUIRING SITE PLAN REVIEW

Unless specifically required by Article 5 or by some other provision of this Ordinance, Site Plan Review shall not be required for any proposed use, construction, development or activity designated in Article 5 (Land Use Table) as requiring only a permit from the CEO or as requiring no permit at all.

- A.** Any hazardous activity identified by the Maine Department of Environmental Protection, as exempt from the definition of hazardous activity in Title 38 M.R.S.A., § 482, Subsection 2-C, including domestic and other uses of

substances in quantities too small to present a significant risk of ground water contamination.

9.4. CLASSIFICATION

Any proposed use, construction, development or activity subject to Site Plan Review shall be classified by the CEO into one of the following classes:

A. General Project

Any proposed use, construction, development or activity not classified by the CEO as a Miscellaneous Project under Section 9.4.B shall be considered a General Project under this Section.

B. Miscellaneous Project

A project that involves any of the following:

1. Any project where Site Plan Review is made necessary solely because the project is located in a Resource Protection Overlay District.
2. Any project where Site Plan Review is made necessary solely because the project is located in the Source Water Protection Overlay District.
3. Home occupations.
4. Any application referred by the CEO under Section 8.1 above.

9.5. PROHIBITION

No activity or use described in Section 9.2 shall commence until the property owner has received Site Plan Approval from the Planning Board and has received any necessary permits from the CEO under Article 8.

9.6. SITE PLAN REVIEW APPLICATION

Applications for Site Plan Review shall be submitted on application forms provided by the Town. The executed application form, required fees, and required plans and related information shall be submitted to the CEO who shall forward it to the Planning Board if in his opinion the application is complete. The submission shall contain at least the following exhibits and information:

A. Application form

A fully executed and signed copy of the application form.

B. Fees

Site Plan Review Fees in the amounts specified in Article 11.

C. Original drawing

One (1) original of all maps and drawings on durable, permanent material. The Planning Board may require Mylar media where it deems it necessary.

D. Copies

Eight (8) copies of written materials plus eight (8) sets of maps or drawings containing the information listed below. The written materials shall be contained in a bound report or a three-ring notebook. The maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval.

E. General information

The following general information is required:

1. Name of owner of record and address.
2. Applicant's name and address if different.
3. The name of the proposed project.
4. Names and addresses of all abutting property owners and the names and addresses of all owners of other property whose closest boundary line is within one hundred fifty (150) feet of a boundary line of the project lot(s) which is the subject of the application.
5. Sketch map showing general location of the site within the Town.
6. Location map showing the boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
7. The tax map and lot numbers of the parcel or parcels.
8. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title, or interest in the property on the part of the applicant.
9. The name, registration number, and seal of each land surveyor, architect, engineer, and/or similar professional assisting in the preparation of the plan.

F. Information regarding existing conditions

The following information regarding existing conditions is required:

1. Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in more than one (1) zoning district or abuts a different district.
2. The bearings and distances of all property lines of the property to be developed and the source of this information, prepared by a State of Maine Registered Land Surveyor as a Standard Boundary Survey. A Standard Boundary Survey is not required for a Miscellaneous Project.
3. Location and size of any existing sewer and water mains, culverts, and drains on the property to be developed and of any that will serve the development from abutting streets or land.
4. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.
5. The location, dimensions and ground floor elevations of all existing buildings on the site.
6. The location and dimensions of existing driveways, streets, parking and loading areas, and walkways on the site.
7. Location of intersecting roads or driveways within two hundred (200) feet of the site.
8. Topography of the project site at an appropriate contour interval (*e.g.* 1, 2, or 5 feet) depending on the nature of the use and character of the site. Site topography information is not required for a Miscellaneous Project.
9. Major natural features on the site and including within two hundred fifty (250) feet of the boundaries of the site, wetlands, streams, great ponds, floodplains, tributary streams, groundwater aquifers, significant wildlife habitats including deer wintering areas identified in the current Castine Comprehensive Plan, scenic areas identified in the current Castine Comprehensive Plan, archaeological resources or other important natural features. Major natural features information is not required for a Miscellaneous Project.
10. Soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified.

11. The location of open drainage courses, wetlands, significant stands of trees, and other important natural features, with a description of such features to be retained.
12. The direction of existing surface water drainage flow across the site.
13. The location and dimensions of existing signs.
14. The location and type of all existing exterior lighting;
15. For projects located within the Source Water Protection Overlay District, any information required by Section 4.7.D.
16. For lawful non-conforming structures subject to Section 3.4.A.1, the floor area and enclosed volume of the original structure, the amount of any previous expansions of the floor area and enclosed volume of the original structure and the amount of any expansions of the floor area and enclosed volume of the original structure being currently requested.

G. Information regarding the proposed project

The following information regarding the proposed project is required:

1. The location of all building setbacks, yards, and buffers required by this Ordinance.
2. The location, dimensions, including heights, and ground floor elevations of all proposed buildings on the site.
3. The location and dimensions of proposed driveways, parking and loading areas, and walkways.
4. The location, capacity and dimensions of all proposed water supply and wastewater disposal systems.
5. The direction of proposed surface water drainage flow across the site and the location and size of all proposed catch basins, drainage ditches, and storm sewers.
6. Location, front view, and dimensions of proposed signs.
7. Location and type of proposed exterior lighting.
8. Proposed landscaping and buffering for non-residential projects.

- 9.** If the project includes new construction or any soil disturbance, an erosion control plan showing methods of controlling erosion and sedimentation during and after construction.
- 10.** If the project is a cluster development or is owned in condominium, evidence that all requirements relative to establishment of a homeowners' association or condominium agreement have been met. If the project is a cluster development, evidence shall be presented that all other requirements of the Castine Subdivision Ordinance pertaining to cluster development have been met. The submission shall include copies of the by-laws or regulations of any homeowners' association or condominium charged with maintaining common spaces and lands. Such homeowners' association or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the Town may accept them as public ways.
- 11.** If a public water supply is to be utilized for a fire sprinkler system or private fire hydrant, a written statement from a professional engineer as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows.
- 12.** If the project includes a new sewage disposal facility with a capacity of two thousand (2,000) gallons or more per day, or a new on-site public water supply system, a groundwater impact analysis prepared by a groundwater hydrologist.
- 13.** If the project includes a multi-unit housing development providing ten (10) or more housing units located on a single parcel of land or a non-residential building or buildings on a single parcel of land which occupies a ground area in excess of twenty-five thousand (25,000) square feet, a traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
- 14.** If applicable, written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public ownership or use.
- 15.** Design and construction drawings prepared by a State of Maine Registered Professional Engineer for any street or appurtenance, sanitary sewer system, water system or storm drainage system the applicant proposes to construct for public ownership and a signed

statement that the applicant will maintain such facilities until such time as they may be accepted by the Town.

16. A schedule of construction, including anticipated beginning and completion dates.
17. A list of the submission and review criteria for which the applicant seeks a waiver pursuant to Sections 9.15 or 9.16, and a written explanation of the reasons for seeking the waiver.

9.7. REVIEW PROCEDURES

The procedures for Site Plan Review are as follows:

A. Step 1: Submission of completed application to the CEO

The applicant shall submit the requisite number of copies of the application and supporting information required by Section 9.6.

B. Step 2: CEO classification and review

1. Dated receipt

The CEO shall date-stamp the application.

2. Classification

The CEO shall review the application and classify it pursuant to Section 9.4.

3. Fees submitted

After classification, the applicant shall provide the CEO with the applicable fees established in Article 11.

4. Review for completeness

The CEO shall initially review the application and determine whether or not it is complete.

5. Notice of incomplete application.

If the application is found to be incomplete, the CEO shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, Steps 1 and 2 shall be repeated.

6. Application forwarded

If the application is found to be complete, the CEO shall forward copies of a complete application and supporting documents to the members of the Planning Board and place the project on the agenda of the next regular Planning Board meeting occurring not less than fourteen (14) days after the CEO determines the application is complete.

7. Notice to abutters and nearby property owners

Abutting property owners and all owners of other property whose closest boundary line is within one hundred fifty (150) feet of a boundary line of the project lot(s) which is the subject of the application shall be notified by first class mail by the Town, of all pending applications for Site Plan Review. This notice shall indicate the time, date, and place of Planning Board consideration of the application. Notice is to be sent to the person to whom property tax bills are sent at the address shown on the Town's tax card for the property.

C. Step 3: Planning Board review

At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:

1. Determination of completeness

Determine whether or not the application is complete. For applications filed after March 27, 2010, if an abutter notifies the Planning Board at or prior to the first site plan review meeting of the Planning Board to consider the application that there is a boundary line dispute between the abutter and the applicant, which affects the applicant's ability to meet the setback requirements of the Ordinance, the Planning Board shall table the application for a period of one hundred twenty (120) days from the date of the meeting. Upon the expiration of such one hundred twenty (120) day period or such shorter period if the Planning Board has received evidence that the boundary line location has been resolved, at the next regular meeting of the Planning Board: (a) if only the applicant has submitted a Standard Boundary Survey prepared by a State of Maine Registered Land Surveyor, the Planning Board shall make its findings based upon such Survey; or (b) if both the applicant and the abutter have each submitted a Standard Boundary Survey prepared by a State of Maine Registered Land Surveyor, the Planning Board shall not review the application until the Planning Board has received evidence that the boundary line location has been resolved.

2. Notice of incompleteness

If the application is determined to be incomplete, the Board shall inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, Step 1 shall be repeated.

3. Request for waivers of application requirements

Hear any requests from the applicant for waivers pursuant to Sections 9.15 and 9.16.

4. CEO report

Hear any report of the CEO and if the Town has retained the services of a professional adviser, the report of the adviser regarding the proposed development.

5. Applicant's response

Hear any comments of the applicant regarding the CEO's report and the Town's professional adviser's report, if any.

6. Public hearing determination

If the application is determined to be complete, the Planning Board shall deem the application pending and shall set a public hearing. The Planning Board may set a public hearing on an application on the same day such application is reviewed for completeness, but no later than forty-five (45) days after the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record at a public meeting. Any public hearing held for the purpose of hearing testimony regarding proposals requiring Site Plan Approval under this Ordinance, and notice thereof, shall be governed by Section 9.8.

D. Step 4: Planning Board deliberation and decision

1. Deliberation

Within thirty-five (35) days after the public hearing on an application, or within thirty-five (35) days of a determination of completeness by the Planning Board if no hearing is held, the Planning Board shall deliberate to determine whether the proposed Site Plan complies with all provisions of this Ordinance and meets the Criteria of Approval set

forth in Section 9.14. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record at a public meeting.

2. Decision

If the Planning Board finds that the proposed Site Plan complies with all such standards it shall issue a written decision granting Site Plan Approval; approval shall, however, be subject to such terms and conditions set forth in its decision as the Planning Board considers advisable to ensure conformity with the Site Plan Review Standards and Criteria or any other provisions of this Ordinance. If the Planning Board finds that the proposed Site Plan does not comply with all applicable review standards, it shall issue a decision denying Site Plan Approval. In either case the Planning Board shall issue its written decision, which shall include specific findings of fact supporting its decision, within ten (10) days (exclusive of Saturdays, Sundays and legal holidays) after the completion of its deliberations.

E. Step 5: CEO building permit or use permit

If the Planning Board approves the Site Plan Application, the CEO shall issue a permit upon receipt of a written decision issued pursuant to Section 9.7.D.2, above.

- 1.** For lawful non-conforming structures subject to Section 3.4.A.1, the permit shall indicate the floor area and enclosed volume of the original structure, the amount of any previous expansions of the floor area and enclosed volume of the original structure and the amount of any expansions of the floor area and enclosed volume of the original structure currently granted by the Planning Board.
- 2.** For lawful non-conforming structures subject to Section 3.4.A.1, the permit is not valid until recorded by the Town in the Hancock County Registry of Deeds. The applicant shall pay the Town the recording fee and the Town shall record the permit within thirty (30) days after receipt of the fee.

9.8 PUBLIC HEARING PROCEDURES

Site Plan Review public hearings and notice thereof shall comply with the following procedures:

A. Published notice

Notice of any Site Plan Review public hearing shall be published in a newspaper of general circulation in the Town of Castine at least ten (10) days prior to the hearing date.

B. Content of notice

Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the hearing, and explain how the recipient of the notice may attend and present evidence. Forms for this purpose shall be available from the CEO.

C. Rules

Hearings shall be conducted according to rules adopted by the Planning Board.

D. Representation

At any hearing a party may be represented by an agent or attorney provided, however, if any party is not present, any person acting as that party's agent or attorney shall provide evidence of such authority.

E. Continuation

Any hearing may be continued or recessed to another time for good cause, or upon written or recorded agreement of the Planning Board and the applicant.

9.9 PROFESSIONAL REVIEW

A. Additional studies.

The Planning Board may require the applicant to undertake and present such additional studies as it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.

B. Independent technical review

The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application and the choice of such professionals shall be at the sole discretion of the Planning Board. The independent consultant(s) shall report to the Planning Board as to the

project's compliance or non-compliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include but not be limited to:

An Attorney.

- A Community Planner.
- A Registered Professional Engineer.
- A Registered Architect.
- A Registered Landscape Architect.
- A Registered Geologist.
- A Licensed Soil Scientist.
- A Registered Land Surveyor.
- Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified by the Planning Board.

The cost of such technical review shall be borne by the applicant. The consultant(s) selected shall estimate the cost of such review and the applicant shall pay the Town the full estimated cost in accordance with Section 11.5.

9.10. FAILURE TO ACT

Failure of the Planning Board to act within any of the time requirements set forth herein shall constitute a denial of the application.

9.11. EXPIRATION OF APPROVALS

- A.** All Site Plan Approvals shall expire unless work on the project is substantially commenced within twelve (12) months from the date of issuance of the Site Plan Approval and substantially completed within twenty four (24) months from the date of issuance of the Site Plan Approval.
- B.** Activities may be extended for up to twelve (12) months by the Planning Board, for good cause, if an application for an extension is submitted in writing to the CEO on forms provided for the purpose, together with such fees as required in Article 11 of this Ordinance prior to expiration of the Site Plan Approval.
- C.** Activities which are not substantially commenced or substantially completed within the time limits provided above, or any extension thereto, shall be subject to new application and the Site Plan Approval issued under this Section shall be considered void.

9.12. OTHER PERMITS

The granting of Site Plan Approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, Historic Preservation Certificate, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38 M.R.S.A., Maine Department of Environmental Protection and United States Army Corps of Engineers' approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to Site Plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards, but shall not be deemed conclusive evidence as to compliance.

9.13. ACCESS TO SITE AND RECORDS

The Planning Board shall make a site visitation in any case it deems appropriate. The CEO, members of the Planning Board and any consultant to the Planning Board shall have reasonable access to the site at all times while reviewing the permit application and for the duration of the project to review the progress of the work and shall have the authority to take photographs on site and to review all records and documents related to the project. By making application for a Site Plan Review, the applicant and all property owners grant to the CEO, members of the Planning Board and any consultant to the Planning Board permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times, to review the proposed project prior to issuing a permit. By accepting a Building Permit, the applicant and all property owners grant to the CEO, members of the Planning Board and any consultant to the Planning Board permission to review all records and documents related to the project and permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times, to review the progress of the work and to inspect the completed project, to ensure compliance with the permit and applicable laws.

9.14. SITE PLAN REVIEW CRITERIA

The Planning Board in reviewing projects requiring Site Plan Approval under this Ordinance shall make positive written findings that the applicant has submitted adequate evidence showing that with respect to the completed project:

- A.** The proposed project complies with the dimensional requirements of Article 5, Article 6 and Article 7 which include minimum lot area, minimum lot width, minimum shore frontage, front yard setback, side yard setback, rear

yard setback, shoreline setback, maximum structure height, maximum percent of lot coverage and maximum cleared opening.

- B.** The proposed project complies with the district overlay requirements of Section 4.7., if applicable.
- C.** The proposed project complies with the flood hazard area requirements of Section 6.4., if applicable.
- D.** Any traffic increase attributable to the proposed project will not result in unreasonable congestion or unsafe conditions in the vicinity of the proposed development and adequate provisions have been made for traffic movement of all types (including pedestrian) into, out of, and within the proposed project and adequate provisions have been made for off street parking and loading.
- E.** That the proposed project will be built on soil types which are suitable to the nature of the project and that adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, over-burdening of natural or artificial drainage systems, and/or any other adverse effects of inadequate drainage.
- F.** Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site.
- G.** Adequate provision has been made to avoid any nuisance to the use of adjoining public or private property.
- H.** Adequate provision has been made with regard to the preservation of significant natural features and vistas available to the general public as set forth in the current Castine Comprehensive Plan. The Planning Board shall not give consideration to private views in making this determination.
- I.** Adequate provision has been made to avoid unreasonable adverse effects on the scenic or natural beauty of the area including scenic areas designated in the current Castine Comprehensive Plan, historic sites, archaeological resources, rare and irreplaceable natural areas, wildlife habitats including identified deer wintering areas, existing uses, air quality, water quality, or other natural resources within the town or in neighboring towns.
- J.** Whenever a project is situated, in whole or in part, within the Shoreland Zone, adequate provision has been made to conserve shoreland vegetation, visual points of access to waters as viewed from public facilities, and actual points of public access to waters.

- K.** Adequate provision has been made to prevent any unreasonable adverse effect upon adjacent or nearby properties or property values; in making this determination, the Planning Board shall give consideration to conformity of the project with the purposes of this Ordinance as set forth in Section 1.4.
- L.** Adequate provision has been made to avoid any unreasonable burden on municipal services, including but not limited to water, sewer, fire and police services.
- M.** Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements.
- N.** Adequate provision has been made to assure that the proposed development conforms in all respects with the provisions of this Ordinance.

9.15. WAIVER OF CERTAIN APPLICATION REQUIREMENTS

The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in Section 9.6 provided such waiver will not materially compromise the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. The Planning Board shall make a written record of any waivers granted stating the reasons for granting the waiver. Good cause or grounds to support a waiver may include the Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

9.16. WAIVER OF CERTAIN REVIEW CRITERIA

The Planning Board, may upon the written request of an applicant specifically stating the reasons therefor, waive any of the Review Criteria set forth in Section 9.14. when it finds that such waiver is reasonable and that the public health, safety, or welfare would not be adversely effected by such a waiver. The Planning Board shall make a written record of any waivers granted stating the reasons for granting the waiver. Grounds to support a waiver may include the Board's finding that particular criteria are inapplicable, unnecessary, or inappropriate for a complete review.

9.17. APPEALS

An aggrieved party who participated in the Site Plan Review process may appeal the final decision of the Planning Board under Section 9.7.D.2. to the Zoning Board of Appeals. Such appeal must be filed no later than thirty (30) days after the Planning Board issues its written decision under Section 9.7.D.2.

Preliminary and procedural determinations made by the Code Enforcement Officer or the Planning Board during Site Plan Review, including without limitation, classification of projects, determination of completeness and granting or denial of waivers, are not in themselves appealable to the Board of Appeals, but may be reviewed by the Board of Appeals when it considers a timely appeal from the final decision from the Planning Board on the Site Plan Review application.



ARTICLE 10: CERTIFICATE OF COMPLETION, OCCUPANCY OR USE

- 10.1.** No Certificate of Completion or Occupancy or Use shall be issued unless the building, structure or use conforms to the provisions of this Ordinance and any Site Plan or conditions of approval.
- 10.2.** A Certificate of Completion issued by the Code Enforcement Officer (CEO) and certifying applicable provisions of this Ordinance have been satisfied may be requested by the applicant after any building, structure, or part thereof has been erected, altered, or moved pursuant to a permit.
- 10.3.** A Certificate of Occupancy and/or Use issued by the CEO and certifying applicable provisions of this Ordinance have been satisfied must be obtained in the following circumstances:
- A.** After a building has been constructed, expanded or modified for use as an inn, hotel or bed and breakfast, before such construction, enlargement or modification may be used or occupied.
 - B.** After a building has been modified to accommodate additional rental dwelling units, before such units may be rented, used or occupied.
 - C.** After a building has been expanded to accommodate additional commercial, institutional, or industrial uses, before such spaces may be used or occupied.
 - D.** After a building or structure has been modified to accommodate a home occupation, before said home or structure may be used or occupied for a home occupation.
- 10.4.** No certificate of occupancy shall be issued until any necessary approvals or certifications from the Local Plumbing Inspector (LPI) are obtained.
- 10.5.** It is the responsibility of the permit applicant to obtain a Certificate of Completion, Occupancy and/or Use.
- 10.6.** A Certificate of Completion, Occupancy and/or Use certifies compliance with the provisions of this Ordinance only, and does not certify compliance with any other codes or standards.



ARTICLE 11: FEES

11.1. GENERAL PROVISIONS

A. Application incomplete until payment of required fees

Applications for any of the permits, approvals, or certificates specified below which are not accompanied by a check in the amount of the required fee shall be considered incomplete and no action will be taken on said application until a check for the required amount has been received by local officials.

B. Check payable to Town

All fees shall be paid in the form of a check made payable to the Town of Castine and the purpose of the fee shall be clearly indicated on the check. Any check returned by a bank for non-payment will immediately void the application and any resultant permit.

11.2. BUILDING PERMIT FEES

A. Basic fees

1. A non-transferable, non-refundable base fee of twenty-five dollars (\$25.00) plus a non-transferable, non-refundable additional fee must accompany the building permit application.
2. A non-transferable, non-refundable fee of twenty-five dollars (\$25.00) must accompany the application for a permit extension pursuant to Section 8.2.J.2.
3. A non-transferable, non-refundable fee of ten dollars (\$10.00) must accompany the application for written approval by the Fire Chief pursuant to Section 6.9.

B. New building construction additional fee

For new building construction there shall be a non-transferable, non-refundable base fee of twenty-five dollars (\$25.00) plus an additional non-transferable, non-refundable fee. The additional fee is based upon the greater of: 1) the square footage cost determined by using the New Construction Cost Table (§ 11.2.F. below) or 2) the actual cost. The additional fee for new construction is calculated as follows:

1. Determine the applicable construction type from Column One of the New Construction Cost Table.

2. Determine the Unit Cost for this type construction from Column Two of the New Construction Cost Table.
3. Multiply the Unit Cost by the square footage of the construction to determine the total cost of the project.
4. Determine the greater of the calculated cost or the actual cost and find the corresponding cost range in Column One of the Additional Fee Table (§ 11.2.G. below).
5. Determine the additional fee in Column Two that corresponds to the cost range determined above.

C. New construction additional fee

For new construction other than new building construction, there shall be a non-transferable, non-refundable base fee of twenty-five dollars (\$25.00) plus an additional non-transferable, non-refundable fee based upon the estimated cost of the project. In the event the actual cost of the project exceeds the estimated cost, the fee corresponding to the actual cost must be paid to the Town. The applicant shall inform the CEO of the actual cost and the CEO shall verify this cost. The additional fee for new construction is calculated as follows:

1. The applicant shall inform the CEO of the estimated cost and state the estimated cost on the application.
2. Find the corresponding cost range in Column One of the Additional Fee Table (§ 11.2.G below).
3. Determine the additional fee in Column Two that corresponds to the cost range determined above.

D. Remodeling fees

For remodeling there shall be a non-transferable, non-refundable base fee of twenty-five dollars (\$25.00) plus an additional non-transferable, non-refundable fee based upon the estimated cost of the remodeling. In the event the actual cost of the remodeling exceeds the estimated cost, the fee corresponding to the actual cost must be paid to the Town. The applicant shall inform the CEO of the actual cost and the CEO shall verify this cost. The additional fee for remodeling is calculated as follows:

1. The applicant shall inform the CEO of the estimated cost and state the estimated cost on the application.
2. Find the corresponding cost range in Column One of the Additional Fee Table (§ 11.2.G below).

3. Determine the additional fee in Column Two that corresponds to the cost range determined above.

E. Demolition or change of use fees

For demolition or change of use applications, there shall be a non-transferable, non-refundable fee of twenty-five dollars (\$25.00).

F. New Building Construction Cost Table

1. Construction Type		2. Unit Cost per Square Foot
Commercial	All Floors, All Spaces	\$180.00 / s.f.
Industrial	All Floors, All Spaces	\$180.00 / s.f.
Institutional	All Floors, All Spaces	\$180.00 / s.f.
Municipal	All Floors, All Spaces	\$180.00 / s.f.
Residential	Basement, Unfinished	\$25.00 / s.f.
	Basement, Finished	\$90.00 / s.f.
	First Floor	\$120.00 / s.f.
	Second or Third Floor	\$100.00 / s.f.
	Walk-Up, Unfinished Attic	\$25.00 / s.f.
Garage	Car Area	\$30.00 / s.f.
	Unfinished Room	\$25.00 / s.f.
	Finished Room	\$90.00 / s.f.
Finish an Unfinished Room		\$65.00 / s.f.
Deck		\$30.00 / s.f.
Covered Porch		\$60.00 / s.f.
Prefabricated/factory built building 200 square feet or smaller, or temporary structure		\$8.00 / s.f.

G. Additional Fee Table

1. Cost Range of Project			2. Additional Fee
\$1	To	\$1,500	\$0.00
\$1,501	To	\$5,000	\$25.00
\$5,001	To	\$20,000	\$50.00
\$20,001	To	\$35,000	\$75.00
\$35,001	To	\$50,000	\$100.00
\$50,001	To	\$75,000	\$150.00
\$75,001	To	\$100,000	\$200.00
\$100,001	To	\$1,000,000	\$2.00 per \$1,000 of Cost
Costs Over \$1,000,000			\$1.00 per \$1,000 of Cost

11.3. SITE PLAN REVIEW FEES

The fees required to cover the administrative costs associated with Site Plan Review under this Ordinance are as follows:

- A.** The non-transferable, non-refundable fee to accompany an application for a General Project is one hundred dollars (\$100.00).
- B.** The non-transferable, non-refundable fee to accompany an application for a Miscellaneous Projects is twenty-five dollars (\$25.00).
- C.** This Ordinance is available for \$10.00 per copy and application forms are available at no cost.

11.4. AFTER-THE-FACT APPLICATION FEE

Any Site Plan Review Application or Building & Use Application submitted after an activity, project or use has commenced shall be subject to an additional non-transferable, non-refundable fee, in addition to those required by Section 11.2 and Section 11.3 above, equal to twice the fee required by Section 11.2 and Section 11.3. This fee shall be paid prior to the review of any after-the-fact application by the Permitting Authority.

11.5. TECHNICAL REVIEW FEE

In addition to the fees required by Section 11.2, Section 11.3 and Section 11.4 above, the applicant shall pay a separate fee of five hundred dollars (\$500) to be used to reimburse the time and expenses incurred by the Town's Planning Consultant, if the Town has retained the services of such a Consultant, and/or such other independent consultant(s) the Board may deem necessary to assist it with its review of the application. Such other consultants shall be fully qualified to provide the required assistance, and may include but are not limited to:

- An Attorney.
- A Registered Professional Engineer.
- A Registered Architect.
- A Registered Landscape Architect.
- A Registered Geologist.
- A Licensed Soil Scientist.
- A Registered Land Surveyor.
- Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified by the Planning Board.

This Technical Review Fee shall be paid prior to the start of the Planning Board's review of any application for Site Plan Review deemed by the Planning Board to require review by a consultant. This fee shall be paid in the form of a check made payable to the Town of Castine and the purpose of the fee shall be clearly indicated on the check.

If the balance of the unexpended funds are drawn down by fifty percent (50%) or more, the applicant shall be notified and required to pay an additional two hundred fifty dollars (\$250). The applicant shall continue to be notified and required to pay the appropriate additional amounts as necessary whenever the balance of the funds is drawn down by fifty percent (50%) of the original amount. Failure to pay the required amount within thirty (30) days shall also be a violation of this Ordinance and be cause to stop the review process. Any balance remaining, after the completion and inspection of required improvements, shall be returned to the applicant.

11.6. ZONING BOARD OF APPEALS ADMINISTRATION FEES

All applications for administrative appeals and variances to the Zoning Board of Appeals under this Ordinance shall be accompanied by a non-transferable, non-refundable fee of one hundred dollars (\$100.00).

11.7. CONTRACT ZONING APPLICATION FEES

All applications to the Planning Board for contract zoning under this Ordinance shall be accompanied by non-transferable, non-refundable fee of one hundred dollars (\$100.00).

11.8. ADJUSTMENT OF FEES BY SELECTMEN

Any or all of the foregoing cost schedules or fees may be adjusted from time to time as circumstances require by vote of the Board of Selectmen, after notice and hearing. Fees shall at all times not exceed the reasonable cost of processing, review, regulation and supervision of the application by the Town and its consultants and the administration of any requirement for a certificate of compliance with any permit conditions. Fee adjustments shall take effect immediately upon approval and shall be inserted into this Ordinance and incorporated herein as though originally enacted as part hereof. Fee adjustments by the Board of Selectmen shall be identified as such and include the date of adjustment.



ARTICLE 12: ENFORCEMENT

12.1. CODE ENFORCEMENT OFFICER

- A.** The Code Enforcement Officer (CEO) shall be appointed pursuant to Title 30-A M.R.S.A., § 2601-A, as amended.
- B.** The CEO shall be certified by the Executive Department, State Planning Office pursuant to Title 30-A M.R.S.A., § 4451, as amended.
- C.** It shall be the duty of the CEO to enforce the provisions of this Ordinance and other Town Ordinances as required therein.
- D.** The CEO shall provide staff support to the Planning Board.

12.2. ENFORCEMENT PROCEDURE

- A.** If the CEO shall find that any provision of the Ordinance is being violated, the CEO 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. Any such notice is not a prerequisite to bringing any legal action noted in Section 12.3 below, and the failure to give notice shall not in any way affect such legal action. However, any such notice constitutes a final determination by the Code Enforcement Officer, which is not merely advisory and which is subject to review by the Board of Appeals in an Administrative Appeal under Section 14.2.A, and which, if not appealed, becomes binding, final administrative action.
- B.** The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.
- C.** The CEO shall keep a complete record of all essential transactions of his office, including applications submitted, permits granted or denied, 30-percent-expansion records, variances granted or denied, revocation actions, violations investigated, violations found, and fees collected.

12.3. LEGAL ACTION

The Board of Selectmen, upon notice from the CEO, may institute any and all actions, and proceedings, either legal or equitable, including seeking injunctions against violators 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 Castine.

The Board of Selectmen, or their authorized agent, is hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and assessing fines without Court action. Such agreements should 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 verified erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith.

12.4. 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 assessed a monetary penalty on a per-day basis in accordance with Title 30-A M.R.S.A. § 4452, as amended.



ARTICLE 13: PLANNING BOARD

13.1. AUTHORITY

The Planning Board created by the Town on March 21, 1960 is hereby authorized to exercise all powers delegated to the Planning Board by the provisions of this Ordinance. The Planning Board also continues to have the authority to administer the Town of Castine Subdivision Ordinance, and any other Town Ordinance granting such powers to the Planning Board.

13.2. ESTABLISHMENT AND ORGANIZATION OF PLANNING BOARD

There shall be a Planning Board of five (5) members and two (2) associate members appointed by the Board of Selectmen. Only residents of the Town of Castine are eligible to serve on the Planning Board. Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the board.

The Planning Board in existence at the time of the enactment of this Ordinance is continued and its members are hereby appointed to serve under this Ordinance in that capacity and for the balance of their previously appointed terms.

Members shall be appointed by the Board of Selectmen for terms of five (5) years. The terms of the members shall be such that the term of at least one (1) member will expire each year. The term of the associate members shall be one (1) year, and they shall be designated First and Second Associate in the order of their seniority by appointment. The Board of Selectmen may dismiss a member or associate member of the Planning Board for cause, after notice and hearing, before the member's or associate member's term expires.

In the absence or incapacity of members, the First and/or Second Associate shall act in the order of their seniority by appointment. The associate members may also act in place of any member who abstains or is unable to vote due to a conflict of interest or any other reason. In the case of resignation or dismissal of a member, and with the approval of the Board of Selectmen, the First Associate shall become a regular member for the remainder of the unexpired five (5) year term, the Second Associate shall become the First Associate, and the Board of Selectmen shall appoint a new Second Associate for the remainder of the unexpired one (1) year term.

The Planning Board shall keep minutes of its proceedings, recording the vote of each member on all matters coming before the Planning Board. The minutes of the Planning Board and all correspondence shall be a public record. The presence of three (3) voting members of the Planning Board shall constitute a quorum for conducting a meeting and deliberating and voting on a particular matter. A member who abstains or is disqualified or recused from deliberation and voting on a particular matter shall not be counted in determining whether a quorum exists for such matter. The concurring opinion of a majority of the voting members present is necessary to act on any matter. The only action that

can be taken in the absence of a quorum is to fix the time to which adjourn, recess or take measures to obtain a quorum. In addition, the Planning Board may adopt any procedural rules not in conflict with State law or this Ordinance, which it deems necessary or proper for the conduct of its business.

The question of whether a member has a conflict of interest sufficient to disqualify the member from participating in the consideration of a particular matter shall be decided by majority vote of the Planning Board, excluding the member being challenged. Any member so disqualified or who has recused himself must abstain entirely from the Planning Board's deliberation and voting on the matter giving rise to his disqualification or recusal.

13.3. POWERS AND DUTIES

A. General

The Planning Board shall hear and decide all applications for Site Plan Review and shall undertake any other activities assigned or allotted to it by the provisions of this Ordinance.

B. Forms and procedures

Except for forms and procedures relating to appeals, the Planning Board shall have authority to adopt and revise forms, charts and other documents for the administration of this Ordinance, and to adopt and revise administrative procedures consistent with the provisions of this Ordinance.



ARTICLE 14: ZONING BOARD OF APPEALS

14.1. ESTABLISHMENT AND ORGANIZATION OF ZONING BOARD OF APPEALS

There shall be a Zoning Board of Appeals, consisting of five (5) regular members and two (2) associate members, appointed by the Board of Selectmen. Only residents of the Town of Castine shall be eligible to serve on the Zoning Board of Appeals. Neither a municipal officer nor the spouse thereof may be eligible for appointment as a regular or associate member of the Zoning Board of Appeals.

A regular member shall be appointed by the Board of Selectmen for a term of five (5) years. An associate member shall be appointed for a term of one (1) year. So far as possible, the terms of regular members shall be arranged so that the term of at least one (1) regular member will expire each year. The Board of Selectmen may dismiss, prior to the expiration of his/her term, a regular or associate member for just cause, after notice and hearing.

In the absence or ineligibility of a regular member an associate may act as a regular member through appointment by the chair. In the event of the resignation or dismissal by the selectmen of a regular or associate member, the selectmen shall fill the vacancy as soon as possible, by appointment.

The Zoning Board of Appeals in existence at the time of enactment of this ordinance is continued and its members are hereby appointed to serve under this ordinance in that capacity and for the balance of their previously appointed terms.

The Zoning Board of Appeals shall keep minutes of its proceedings, recording the vote of each member on all matters decided by it. The minutes of the Zoning Board of Appeals and all correspondence, testimony and documents related to the appeal shall be a public record. Three (3) members of the Zoning Board of Appeals are required for a quorum. A concurring vote of three (3) members shall be required to grant a variance. Any application not receiving three (3) votes in favor of its granting shall be deemed denied. A member who abstains or is ineligible to vote shall not be counted to determine a quorum. The Zoning Board of Appeals shall be governed by the procedures in Title 30-A M.R.S.A., § 2691, and this ordinance.

The Zoning Board of Appeals may adopt and/or revise any forms, bylaws, and/or procedural rules not in conflict with applicable law and this ordinance. The board shall file originals of all such forms, bylaws, and/or procedural rules with the Town Clerk, who shall cause copies of each and every such document to be made available, at the published copying cost, to any person making written request therefor during regular business hours. Such documents may be read in the Town Office by any person during regular business hours upon oral request to the Town Clerk.

A question of whether a member has a conflict of interest or bias deemed to disqualify the member from participating in the board's consideration of a

particular matter shall be decided by the majority vote of the Zoning Board of Appeals, excluding the member challenged. A member who is either disqualified by the vote of the Zoning Board of Appeals or who has recused himself/herself shall abstain entirely from the deliberations of the board and shall not vote on the matter giving rise to his/her disqualification or recusal.

14.2. POWERS AND DUTIES

A. Administrative appeals

To hear and decide appeals alleging error by the CEO and/or Planning Board in any written order, written determination, final written decision including a notice of violation issued by the CEO under Section 12.2.A), or failure to act, where action is required, in the administration of this ordinance. The Board of Appeals may affirm or reverse the order, determination or decision appealed from or may remand the matter to the CEO or Planning Board, as appropriate, for correction or action in accordance with the order of the Zoning Board of Appeals. A decision of the Zoning Board of Appeals other than a remand to the CEO or Planning Board constitutes final administrative action, subject to appeal to the Superior Court under Section 14.4, and is binding on parties, not advisory. The Board of Appeals does not have authority to review action or inaction of the Board of Selectmen under Section 12.3.

B. Variance appeals

To hear and decide appeals for variances made for (a) reasons of physical disability and (b) relief from dimensional standards of the ordinance when undue hardship is alleged.

1. Disability variances

The Zoning Board of Appeals may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling pursuant to Title 30-A M.R.S.A. § 4353(4-A), as amended.

2. Variances of dimensional standards for practical difficulty

The Zoning Board of Appeals may grant a variance from the dimensional standards of this ordinance pursuant to Title 30-A M.R.S.A. § 4353(4-C), as amended when strict application of the ordinance to the applicant and the applicant's property would cause a practical difficulty.

3. Limitations on variances

The Zoning Board of Appeals shall strictly limit the grant of a variance so as to comply with the provisions of this ordinance, and, in so doing,

may impose specific conditions. The party to whom a variance is granted shall strictly comply with all conditions.

4. Variances recorded

When the Zoning Board of Appeals grants a variance under this section, a certificate bearing the name of the current property owner, identifying the property by the reference to the last recorded deed in its chain of title and indicating that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared by the board of appeals in recordable form. The certificate must be recorded by the landowner in the Hancock County Registry of Deeds within ninety (90) days of the date the variance is granted, or the variance is void. A variance is neither effective nor valid until duly recorded as provided in this subsection. No permit shall be issued until it is established that the variance has been recorded. A variance, after being granted and duly recorded as prescribed, shall become void if the permit to which the variance applies either becomes void under the provisions of Section 8.2.J of this Ordinance or expires under the provisions of Section 9.11 of this Ordinance.

5. Shoreland Overlay District - Notice of Variance to DEP

A copy of each variance request, including the application and all supporting information supplied by the applicant, where such variance applies to structures or land within the Shoreland Overlay District, shall be forwarded by the CEO 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.

A copy of any variance granted by the Zoning Board of Appeals shall be submitted by the CEO to the Department of Environmental Protection within seven (7) days of the board's decision, where such variance applies to structures or land within the Shoreland Overlay District.

14.3. APPEAL PROCEDURE

A. Time limit for appeal

Application for an administrative appeal must be made by an aggrieved person within thirty (30) days of the date of the decision appealed from, and not otherwise.

B. Written notice of appeal

Any appeal shall be made by filing with the Zoning Board of Appeals, on the official form available at the Town Office, a detailed written statement

indicating the relief requested and why it is contended it should be granted, with supporting documentation attached.

C. Hearing notices

Notice shall be sent by certified mail/return receipt requested or hand delivered to the appellant (including his/her representative), and the owner(s) of property, if different from the appellant, which is the subject of the appeal, no later than fourteen (14) days prior to the date set for hearing. Notice by first class mail shall also be sent to abutters and any owner of property which has a lot line within 150 feet or less from a lot line of the property which is the subject of the appeal, no later than fourteen (14) days prior to the date set for hearing. Notice shall be sent to the address shown on the Town's tax card for the person named as the property owner.

Notice to municipal officers and concerned Town officials shall be given by the posting in the Town Office no later than fourteen (14) days prior to the date set for hearing.

Notice by the Zoning Board of Appeals giving the date, time, place and a brief statement of the purpose of the hearing shall be placed in a newspaper of general circulation in the local area for publication on a date no later than fourteen (14) days prior to the date set for hearing.

D. Record of the case

Upon receipt of notice of an appeal the CEO shall transmit to the Zoning Board of Appeals all papers and information in any form which constitute the complete record of the request, decision, action or failure to act which is said to have given rise to the appeal.

E. Public hearing

A public hearing shall be held by the Zoning Board of Appeals within thirty-five (35) days from the date of receipt of a completed appeal, with payment of the prescribed fee, in the Town Office of Castine, Maine 04421.

F. Hearing by Zoning Board of Appeals

1. The person filing an appeal, who may be represented by an agent or attorney, shall have the burden of proof. The Zoning Board of Appeals shall consider the evidence in the public record and any relevant evidence offered by a person appearing at and participating in the hearing. An abutter or other person with standing may be made a party to the appeal if he/she or his/her representative appears and participates in the hearing of the appeal.
2. The Board has filed bylaws with the Town Clerk, which shall be available to the public. Said bylaws contain the hearing procedures of the Zoning Board of Appeals. The Board may revise its bylaws from

time to time, without the need to amend this Ordinance, and shall any such revised bylaws with the Town Clerk.

3. Following the public hearing of an appeal, the Zoning Board of Appeals may reverse or affirm the findings of the CEO and/or Planning Board. A decision of the CEO or Planning Board may be reversed only upon condition that the decision or failure to act was contrary to the specific provisions of this ordinance. In making its decision the Zoning Board of Appeals may consider evidence *de novo* as well as the record of the case submitted under Section 14.3.4, it being expressly declared in this Ordinance that the Board may what are described as “hybrid proceedings” in the opinion of the Maine Supreme Judicial Court in *Stewart v. Town of Sedgwick*, 200ME 157, 757 A.2d 773, and may interpret the provisions of the ordinance. Such interpretations shall thereafter be binding upon the CEO and planning board. Hearings shall not be continued to other times except for good cause.
4. Within thirty-five (35) days after the close of the hearing the zoning board of appeals shall reach its decision, which shall be issued in writing within seven (7) days thereafter.

A decision by the Zoning Board of Appeals shall only be made in a public hearing or meeting. It shall include a written statement of the board’s findings of fact and conclusions of law and the board’s order, which shall become a matter of public record. Copies of the written decision shall be mailed by certified mail/ return receipt requested or hand delivered, to the appellant or his/her designated representative, to the owner(s) of property, if different from the appellant, which is the subject of the appeal and to the Department of Environmental Protection, when structures or land within the Shoreland Overlay District is the subject of the appeal, within seven (7) days from the date on which the board reaches its decision. On the date of mailing to the appellant, the CEO, Planning Board and chair of the Board of Selectmen shall receive copies of the decision by posting in the Town Office in the mailboxes customarily used for those officers and officials.

Should the decision of the Zoning Board of Appeals so require, the Board’s order shall include instructions either to the Planning Board immediately to issue site plan approval to the CEO and/or to the CEO immediately to issue a permit, as applicable.

G. Reconsideration

The Zoning Board of Appeals has the opportunity, but no obligation, to reconsider its decision. The vote of the board to reconsider, which may be upon its own motion or the motion of a party, and any action taken on that reconsideration must occur and be completed within forty-five (45) days of the vote on the original decision. A request for reconsideration must be filed within ten (10) days of the decision to be reconsidered. As provided in Title

30-A M.R.S.A., § 2691, the board may conduct additional hearings and receive additional evidence and testimony.

14.4. APPEAL TO SUPERIOR COURT

Appeals of decisions of the Zoning Board of Appeals to the Superior Court are governed by Title 30-A M.R.S.A., § 2691.



ARTICLE 15: DEFINITIONS

- 15.1.** For the purpose of interpreting the Subdivision Ordinance and Zoning Ordinance, the following terms, phrases and words, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary meaning.
- 15.2.** The present tense when used includes the future; the singular includes the plural; the word “shall” means mandatory; the word “may” is permissive; the words “used” or “occupied” include the words “intended”, “designed” or “arranged to be used or occupied”; the word “structure” includes the word “building”; and the word “lot” includes the word “plot.”
- 15.3.** The word “dwelling unit” as used in this Ordinance is synonymous to the word “lot.”
- 15.4.** It is intended that this ordinance not be gender specific. Thus, when nouns or pronouns indicate or imply a male or female, such use shall also mean the other gender.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every 100 years.

ABUTTER / ABUTTING: Having a common boundary with, including lots which meet only at the corners. Streets, alleys or rights of way shall be deemed not to separate lots, and lots which would otherwise abut except for the width of an intervening street shall be deemed to abut.

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

ACCESSORY APARTMENT: The portion of a single-family residence used as separate living quarters by a second household. The accessory apartment will have no more than one thousand (1,000) gross square feet of floor area and will consist of no more than two (2) sleeping rooms, one (1) full bathroom, one (1) half bathroom one (1) kitchen/eating area and one (1) living/sitting room. The accessory apartment will require one (1) additional off-street parking space. The accessory apartment and residence will be served by common utility services.

AFFORDABLE HOUSING: Housing that meets the needs of families and others who wish to live in the Town of Castine, and whose household income is no more than 125% of the median income of Hancock County. This housing will be restricted by means of deed covenants (such as full-time occupancy, rental restrictions and resale restrictions), or other binding, long-term methods.

AGGRIEVED PARTY: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person

or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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

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

ANIMAL HUSBANDRY: The commercial raising of domestic animals or livestock for agricultural purposes. This term does not include the commercial raising or boarding of domestic animals for domestic purposes such as kennels; these domestic uses shall be deemed home occupations.

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

APPLICANT: The person, partnership, trust, fiduciary, business entity, agent of the owner or corporation applying for CEO or Planning Board approval. It may also be a proposed purchaser or an agent of a proposed purchaser whose purchase and sales agreement gives him the right to apply as a condition of sale.

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

ATTIC: That part of a building which is immediately below, and wholly or partly within, the roof framing.

AUTO SERVICE STATION / FILLING STATION: A commercial establishment open to the public, supplying engine fuel at retail, direct to the customer; the sale of lubricants, minor accessories and minor services for automobiles may be included.

AUTO REPAIR GARAGE: A commercial establishment open to the public where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

AUTOMOBILE GRAVEYARD: An “automobile graveyard” as defined in Title 30-A M.R.S.A., § 3752 as amended.

AVERAGE DAILY TRAFFIC (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

BASAL AREA: The area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

BASEMENT: The substructure of a building with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level_ which may or may not be used for living space.

BED AND BREAKFAST: A facility in which breakfast is the only meal served and in which there are four (4) or fewer rooms, serving eight (8) or fewer people, available for rent.

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.

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

BUILDING: Any roofed structure maintained or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. Where independent units with separate entrances are divided by walls, each unit is a building.

BULK STORAGE: The storage of liquids, solids or gases which are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk.

CAMPGROUND: Any land area used to accommodate two (2) or more parties in temporary living quarters including, but not limited to tents, recreational vehicles and/or towed travel trailers. Accessory uses, subject to Site Plan Review, include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

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

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

CERTIFICATE OF COMPLETION: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance, certifying completion of the project for which a permit was obtained. A Certificate of Completion is not otherwise a certificate of fitness, safety or suitability.

CERTIFICATE OF OCCUPANCY: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance upon compliance with all necessary provisions of the Zoning Ordinance, allowing the property owner to occupy the premises. A Certificate of Occupancy is not otherwise a certificate of fitness, safety or suitability.

CHURCH: A building, together with its accessory buildings and uses, where people regularly assemble for religious worship and which buildings, together with its accessory buildings, and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLUSTER HOUSING: A subdivision (neighborhood) in which the required density and open spaces are maintained in combination with a group of residences in close proximity.

CLUSTER SUBDIVISION: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

CLUSTER SUBDIVISION, AFFORDABLE: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located and which may qualify for a density incentive in return for the provisions of permanent open space and lots reserved for affordable housing.

COASTAL WETLAND: All tidal and sub-tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest annual high tide level as identified in tide tables published by the National Ocean Service. **Note:** All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

CODE ENFORCEMENT OFFICER (CEO): A person appointed by the Town Manager and confirmed by the Board of Selectmen to enforce this Ordinance and to assist the Planning Board in its administration.

COMMERCIAL USE: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent or result of which activity is the generation of revenue from the buying and selling of goods and/or services and the use of golf courses and other recreational facilities for which a payment is due from users; does not include rental of residential buildings and/or dwelling units other than boarding houses, bed & breakfasts, inns and hotels.

COMMON OPEN SPACE: Common elements or land within or related to a subdivision, not individually owned, which is designated & intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, which are typically used for maintenance and operation of open space or for outdoor recreation.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance or by a vote by the Board to waive the submission of required information.

COMPLETE SUBSTANTIAL CONSTRUCTION: The construction of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to

consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a planned unit development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

COMPREHENSIVE PLAN: A document or interrelated documents containing the elements established under Title 30-A M.R.S.A., § 4326, Sub-Sections 1 - 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under Title 30-A M.R.S.A., Sub-Chapter II.

CURRENT EDITION: The most recent version of the cited regulation, technical manual or other publication.

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

a. Day Care Center: A Day Care Facility as defined in State statutes for thirteen (13) or more children on a regular basis; and

b. Day Care Home: A Day Care Facility as defined in State statutes for three (3) to twelve (12) children on a regular basis.

DBH: The diameter of a standing tree measured 4 ½ feet from ground level.

DECK: An accessory attachment to a principal structure with no roof or framed or screened walls. It may contain railings with screening and gates to enclose pets or children.

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

DEER FENCES: Fences specially constructed to prevent deer from attacking gardens or orchards. Such fences may be constructed of vertical posts of wood, steel or other suitable material and of horizontally strung wire or coarse wire mesh between such posts. No vegetation shall be allowed to grow upon and no other material may be attached to such wire or wire mesh, and no solid material such as wooden planking or woven matting may be fastened to or strung between posts at a height greater than six (6) feet.

DENSITY: The number of dwelling units per acre or square foot of land.

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

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

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

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

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

DWELLING: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters and containing cooking, sleeping and toilet facilities. The term shall include single-family, two-family and multiple-family dwellings, mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

- **Dwelling, Single Family:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family at a time.
- **Dwelling, Two-Family:** A detached or semi-detached building used as living quarters by two (2) families living independently of each other.
- **Dwelling, Multi-Family:** A building or portion thereof used as living quarters by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

EARTH MOVING: Any displacement, addition or subtraction of earth (including loam, clay, gravel, stone, etc.) from or to a given location.

EASEMENT: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

EASEMENT, CONSERVATION: An easement for the purpose of including, retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

ENGINEER, PROFESSIONAL: An individual licensed by the State of Maine to engage in the practice of professional engineering pursuant to Title 32 M.R.S.A., Chapter 19, as amended.

ENGINEER, TOWN: Any Maine registered professional engineer employed or retained by the Town either as staff or as a consultant.

ENGINEERED SUBSURFACE WASTEWATER DISPOSAL SYSTEM: A subsurface wastewater disposal system designed, installed, and operated as a single wastewater unit to treat

2,000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater. All such systems shall be reviewed and approved by the Department of Health and Human Services prior to the issuance of a permit by the Local Plumbing Inspector.

ENLARGEMENT: An addition to the height, floor area or the volume of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

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.

EXPANSION OF A STRUCTURE: An increase in the height, floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches, and greenhouses. To be attached the extension must abut a common wall with the original structure.

EXPANSION OF USE: The use of more volume, floor area or ground area devoted to a particular use. In the Shoreland Overlay District, expansion of a use shall include the addition of four (4) or more weeks to the operating season of a use.

FAMILY: Two or more persons occupying a residence, who are related either by marriage, domestic partnership or consanguinity.

FARMERS' MARKET: A site or building used by two or more individual vendors, primarily farmers, for the direct sale to consumers of their products such as nursery products, natural products, fruits, vegetables, eggs, dairy products, meat, poultry, fish, grain, honey, maple products, beverages, prepared foods and crafts.

FENCE: An above-ground structure, including stone or brick walls, constructed for the purpose of dividing, defining or enclosing a lot or portion of a lot.

FLOODPLAIN: Either riverine or inland depression areas. Riverine floodplains are those areas contiguous to a river, stream, or stream bed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected one hundred (100) year flood elevation. Inland depression floodplains, not associated with a stream system, are low points to which surrounding lands drain.

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 surface areas of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

FLOWING WATER: Surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.

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 related activities but not timber harvesting and the construction, creation, or maintenance of roads.

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

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

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including but not limited to basements, slabs, sills, posts, frostwalls or other base consisting of concrete, block, brick or similar material.

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

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

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

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

FUNCTIONALLY WATER-DEPENDENT USE: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. These 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 and port facilities, shipyards and boatbuilding facilities, marinas, navigational aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot be reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Does not include private non-commercial boathouses, storage sheds, etc.

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

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

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

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

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

HEIGHT: The vertical distance between the mean elevation of the original (prior to construction) grade at the building and the highest point of the roof. For buildings in the Shoreland Overlay District, the vertical distance between the mean elevation of the original grade at the downhill side of the building and the highest point of the roof. For those structures without roofs, the highest point of the structure. For buildings with multiple roofs, each roof shall be considered in relation to the original grade upon which that part of the structure rests.

HIGH INTENSITY SOIL SURVEY: A map prepared by a certified Soil Scientist, identifying the soil types down to one-eighth (1/8) acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a seasonal high water table or bedrock at that point. Single test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity surveys.

HOME OCCUPATION: An occupation or profession which can be conducted within the principal residential dwelling unit or an accessory structure on the premises where the applicant resides and: 1) which is clearly incidental to and compatible with the

residential character of the property and neighborhood; 2) which employs no more than three (3) persons other than family members residing in the home; and 3) which meets all the requirements of this Ordinance.

HOSPITAL: An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

HOTEL AND INNS: A facility in which more than four (4) but no more than twenty-four (24) rooms are available for rent. Meals may be served.

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

INCREASE IN NON-CONFORMITY OF A STRUCTURE: Any change in the structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body or yard setback distances, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which causes no further increase in the linear extent of non-conformity of the existing structure shall not be considered to increase non-conformity. (For example, there is no increase in non-conformity within a setback if an expansion extends no further into the required setback area than does any portion of the existing non-conforming structure.) A structure may expand laterally provided the expansion extends not closer to the point from which the setback is measured. Included in this allowance are expansions which fill in irregularly shaped structures.

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

IN-LAW/CAREGIVER APARTMENT: The portion of a single-family residence used exclusively as separate living quarters by no more than two members of the homeowner's family or by a personal care attendant for the homeowner. The in-law/caregiver apartment will have no more than one thousand (1,000) gross square feet of floor area and will consist of no more than two (2) sleeping rooms, one (1) full bathroom, one (1) half bathroom one (1) kitchen/eating area and one (1) living/sitting room. The in-law/caregiver apartment and residence will be served by common utility services and will require one (1) additional off-street parking space.

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.

JUNKYARD: As used in this Ordinance the term junkyard means either:

- a. An "automobile graveyard" as defined in Title 30-A M.R.S.A., § 3752 as amended; or
- b. A "junkyard" as defined in Title 30-A M.R.S.A., § 3752 as amended.

LEVEL OF SERVICE: A qualitative measure that incorporates the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition, as established by the Institute of Transportation Engineer's *Transportation and Traffic Engineering Handbook*, 2nd edition.

LICENSED FORESTER: A forester licensed under Title 32 M.R.S.A. Chapter 76.

LOADING AREA: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOCAL PLUMBING INSPECTOR (LPI): A person appointed by the Board of Selectmen to enforce the Maine Internal Plumbing Rules and the Maine Subsurface Wastewater Disposal Rules.

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

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land considered not suitable for development under the provisions of this Ordinance including land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

LOT COVERAGE: The maximum combined ground floor area of all principal and accessory buildings on a lot, divided by the area of such lot, the result expressed as a percentile. In the Shoreland Overlay District lot coverage also includes all unvegetated areas.

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

- a. Front Lot Line:** That lot line which fronts upon or runs most nearly parallel to the nearest public highway, road or street.
- b. Rear Lot Line:** That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.
- c. Side Lot Line:** Any lot line other than a front or rear lot line.

LOT, NON-CONFORMING: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or dimensional requirements of this Ordinance.

LOT OF RECORD: A lot the dimensions of which are contained in a deed, instrument or plan recorded in the Hancock County Registry of Deeds.

LOT WIDTH: The horizontal distance between the side lot lines as measured at the road frontage or the site of the principal structure, whichever results in the greater width.

LOT WIDTH, MINIMUM: 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.

MANUFACTURED HOUSING OR HOME: A structural unit or units designed to be used as a dwelling, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

- a. **Pre HUD Code Mobile Home:** A structure constructed prior to June 15, 1976, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.
- b. **HUD Code Mobile Home:** A structure constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development ("HUD") standard, meaning a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401, *et seq.*
- c. **State Certified Modular Home:** A structure the manufacturer certifies is constructed in compliance with the State's Manufactured Housing Act and regulations, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating air-conditioning or electrical systems contained therein. Such homes may not be more than one story in height but may have a non-habitable attic space.

MANUFACTURED HOUSING COMMUNITY: A parcel or adjoining parcels of land under single ownership, which has been planned and improved for the placement of three or more manufactured homes as defined above, where no more than 50% of the homes are “State Certified Modular Homes” that are no more than one story in height but may have a non-habitable attic space and where at least 50% of the homes are “Pre HUD Code Mobile Homes” or “HUD Code Mobile Homes”, but shall not include a construction camp or a campground. “Manufactured Housing Community” is synonymous with “Mobile Home Park” as used in this Ordinance.

MARINA: A commercial wharf or other business establishment having frontage on navigable water within the town and providing for hire offshore mooring or docking facilities for boats as its principal use, and which may provide accessory services and facilities such as boat and boat-related sales, boat hauling, repair and construction, engine servicing, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, ice, water, and marine fuel.

MARKET: Premises in which produce, foodstuffs and/or manufactured goods are offered for retail sale to the general public.

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

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

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

MOBILE HOME PARK: See “**MANUFACTURED HOUSING COMMUNITY**” above.

MOTOR VEHICLE: Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any Maine public highway, or which is not being used for the purpose for which it was manufactured.

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

NATIVE: Indigenous to the local forests.

NEIGHBOR / NEIGHBORING: An abutter or a property owner situated within one hundred fifty (150) feet of a lot boundary.

NET RESIDENTIAL AREA: The total area available for the subdivision as shown on the proposed subdivision plan minus the area for streets or access.

NON-CONFORMING LOT: See “**LOT, NON-CONFORMING**” above.

NON-CONFORMING STRUCTURE: See “**STRUCTURE, NON-CONFORMING**” below.

NON-CONFORMING USE: See “**USE, NON-CONFORMING**” below.

NORMAL HIGH-WATER LINE (NON-TIDAL WATERS): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. **Note:** Adjacent to tidal waters, setbacks are measured from the upland edge of the coastal wetland.

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

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

OPEN SPACE: Undeveloped natural, wooded or unwooded land.

OPEN SPACE USE: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

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

PARKING AREA (SHORELAND ZONE): An area for parking motor vehicles excluding the area associated with a driveway used for parking two or fewer vehicles.

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

PERMITTING AUTHORITY: The person or entity responsible for issuing a particular permit or approval under this Ordinance. The permitting authority will be either the CEO or the Planning Board.

PERSONAL WIRELESS SERVICES: Any communications service which, for a fee to the public or a substantial portion thereof, provides for the transmission between or

among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent or received, and:

- a.** is comprised of for-profit radio communications between mobile and fixed radio stations, and linked to public switched communications networks (example: commercial ship-to-shore radio facilities);
- b.** which is transmitted or received by means of devices which do not require individual FCC licenses, but excluding direct-to-home satellite services (example: cellular telephone services); or
- c.** which offers access to telephone exchange services or facilities for the purpose of origination or termination of telephone toll services by a common carrier of interstate or foreign radio transmissions.

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.

PESTICIDE: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

PIERS, DOCKS, WHARVES, BRIDGES, AND OTHER STRUCTURES OR USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND:

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

PLAN:

- a. Sketch Plan:** Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review by the Board prior to submitting an application for subdivision approval.
- b. Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval.
- c. Recording Plan:** An original of the paper and mylar versions of the final plan suitable for recording at the Registry of Deeds.

PLANNING BOARD: The Planning Board established by the Town on March 21, 1960.

PORCH: An accessory attachment to a principal structure having a roof, canopy, or awning. It may have framed or screened walls or railings with screening and gates to enclose pets or children.

PROJECT: Any activity requiring approval by the appropriate Permitting Authority under this Ordinance.

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.

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

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

RECREATIONAL FACILITY: A place designed and equipped for the participation in sports, leisure time activities, and other customary and usual recreation activities, including swimming pools, but excluding boat launching facilities.

RECREATIONAL FACILITY, PRIVATE: An accessory recreational facility located on private residential property for the use of the property owner or guests at no charge, including but not limited to swimming pools and tennis courts.

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.

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

- a. Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
- b. A cafeteria type operation where food and beverages generally are consumed within the restaurant building; or
- c. A carry-out or delivery service, drive-in service, and service or consumption outside a fully enclosed structure, but excluding catering for off-premises consumption.

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

RIVER: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. **Note:** The portion of a river that is subject to tidal action is a coastal wetland.

ROAD OR STREET: A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding driveways as defined above.

a. Private Road or Street: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

b. Public Road or Street: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

c. Collectors: These roads handle internal traffic movements within a town or between a group of towns and are designed for moderate speed travel. The only collectors in Castine are State Highways, routes 166, 166A and 199.

d. Local: These are lightly traveled streets whose primary purpose is to serve residential areas. They are designed for slow speed travel and to carry low volumes of traffic short distances.

e. Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

f. Industrial or Commercial Street: Streets servicing industrial or commercial uses.

g. Private Right-of-Way: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

ROOM: A walled or partitioned portion of space within a structure or building as defined below:

a. Unfinished Room: A space only enclosed by open stud walls and/or exposed structural members of the building.

b. Finished Room: A space with any higher level of finish than that of an unfinished room.

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

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

SAND AND SALT PILES: A mixture of salt and sand or salt stored for winter road and yard maintenance.

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

- a. Setback, Front:** The setback between the front lot line and the nearest part of a structure or other regulated object or area.
- b. Setback, Rear:** The setback between the rear lot line and the nearest part of a structure or other regulated object or area.
- c. Setback, Side:** The setback between the side lot line and the nearest part of a structure or other regulated object or area.
- d. Setback, Shoreline:** The nearest horizontal distance from the normal high-water line of a water body or tributary stream or the upland edge of a wetland and the nearest part of a structure or other regulated object or area.

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

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

SHORE FRONTAGE: See FRONTAGE, SHORE

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

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

SHORELINE ACCESS: A stairway or similar structure to provide shoreline access in areas of steep slopes or unstable soils and where no reasonable access alternative exists on the property; the structure is limited to a maximum of four (4) feet in width and the structure shall not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Board of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. § 480-C).

SIGNIFICANT RIVER SEGMENTS: See Title 38 M.R.S.A. § 437, as amended.

SIGHT DISTANCE: The length of unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used herein as a reference for unobstructed road visibility.

SIGN: Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place, and which is visible to the public. A sign does not include any flag, pennant or insignia of a nation, State, town or other political entity. Whenever dimensions of a sign are specified they shall include frames. Each visible sign face shall constitute a separate sign, except that a sign with two (2) faces shall be considered one (1) sign so long as the distance between the faces does not exceed twelve (12) inches.

STREAM: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within the Shoreland Area.

STREET: See “**ROAD OR STREET**” above.

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, tents in place for ten (10) days or less, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes walls in the Shoreland Zone and structures temporarily or permanently located, such as decks, patios, raised walkways and satellite dishes larger than thirty-nine (39) inches in diameter.

STRUCTURE, ACCESSORY: A structure which is incidental and subordinate to the principal structure. 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.

STRUCTURE, NON-CONFORMING: A structure that does not meet the minimum setback, maximum height, maximum lot coverage or similar requirements for the zoning district in which it is located.

STRUCTURE, PRINCIPAL: A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same premises.

SUBDIVISION: The term shall be defined as in Title 30-A MRSA §4401, sub-§4, as amended.

SUBSTANTIAL COMPLETION / SUBSTANTIALLY COMPLETED: Completion of ninety percent (90%) of a permitted structure or use measured as a percentage of estimated total cost.

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

SUBSURFACE SEWAGE DISPOSAL SYSTEM: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes;

does not include any discharge system licensed under Title 38 M.R.S.A. § 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

SUBSURFACE SEWAGE DISPOSAL 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.

SUSTAINED SLOPE: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TELECOMMUNICATIONS TOWER: Any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access and phone services, and personal communications service (PCS) or pager service, but excluding private ham radio.

TIDAL WATERS: All waters affected by tidal action during the highest annual tide.

TIMBER HARVESTING: The cutting and removal of trees from their growing site for the primary purpose of selling or processing forest products, and the attendant operation of harvesting machinery, but not the construction or maintenance of roads. Timber harvesting does not include the cutting or removal of trees in the Shoreland Zone on a lot that has less than two (2) acres within the Shoreland Zone, the cutting of firewood for the non-commercial use of the property owner, the tipping or pruning of trees, the removal of dead wood, broken limbs or downed or broken trees for the purpose of mitigating a safety hazard, or the clearing of land for approved construction for which a lawful permit has been issued in accordance with State and local codes, ordinances, statutes, rules and regulations.

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.

TOWN: The Town of Castine, Maine.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership whether or not the tract is separated at any point by an intermittent or non-navigable stream, tidal waters where there exists no flow at low tide, or a private road established by the land owners or the abutting land owners. Lands 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. Private roads created before September 23, 1971 shall be considered the same as public roads.

TRIBUTARY STREAM: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock, and which is

connected hydrologically with other water bodies. This definition does not include rills or gullies forming because of accelerated erosion in disturbed soils where vegetation has been removed by human activity and does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Note: Shoreline setback requirements apply to tributary streams within the Shoreland zone.

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

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

USE, ACCESSORY: A use which is incidental and subordinate to the principal use. Accessory uses, when aggregated shall not subordinate the principal use of the lot.

USE, NON- CONFORMING: A use which is not a permitted use in the zoning district in which it is located.

USE, PRINCIPAL: A use other than one which is wholly incidental or accessory to another use on the same premises.

VEGETATION: All shrubs and other plants including all live trees of four and one-half (4½) feet or more in height, of whatever diameter.

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

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof, including roofed and screened porches.

WATER BODY: Any great pond, river or stream.

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

WALKWAY: A pedestrian access-way six (6) feet or less in width.

- a. Private Walkway:** A pedestrian access-way designated for private use and maintained by a property owner.
- b. Public Walkway:** A public thoroughfare, way, or easement permanently established for passage of persons.

WETLAND: A freshwater or coastal wetland.

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

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

- a. Front Yard:** The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
- b. Rear Yard:** The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
- c. Side Yard:** The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line.



ZONING MAPS

Zoning maps follow.