10-9-1996

Land Use Ordinance for North Haven, Maine

North Haven (Me.)

Follow this and additional works at: https://digitalcommons.library.umaine.edu/towndocs

Repository Citation
https://digitalcommons.library.umaine.edu/towndocs/741

This Plan is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.library.technical.services@maine.edu.
Land-Use Ordinance
FOR
NORTH HAVEN, MAINE

EFFECTIVE DATE: OCTOBER 9, 1996

AMENDED
Annual Town Meeting, March 8, 1997
Special Town Meeting, March 25, 1997
Special Town Meeting, April 14, 1998
Annual Town Meeting, March 11, 2000
Special Town Meeting, July 28, 2004
Special Town Meeting, January 23, 2008
Special Town Meeting, February 16, 2010
TABLE OF CONTENTS

PART I  GENERAL
  1.1 Authority ........................................................................................................1
  1.2 Purpose...........................................................................................................1
  1.3 Effective Date ................................................................................................1
  1.4 Amendments ..................................................................................................1
  1.5 Word Usage ..................................................................................................1
  1.6 Definitions ....................................................................................................2

PART II  NON-CONFORMANCE
  2.1 Purpose..........................................................................................................5
  2.2 Non-Conforming Use ....................................................................................5
  2.3 Non-Conforming Lots ...................................................................................5
  2.4 Transfer of Ownership ..................................................................................6
  2.5 Maintenance and Enlargement .....................................................................6
  2.6 Reconstruction ..............................................................................................6
  2.7 Pending Application for Land-Use Permits ..................................................7

PART III  ZONING DISTRICTS
  3.1 Zoning Districts ............................................................................................7
  3.2 Interpretation of District Boundaries ............................................................7
  3.3 Village District ..............................................................................................7
  3.4 Rural District ................................................................................................8
  3.5 Shoreland Protection District .......................................................................10
  3.6 Resource Protection District .........................................................................11
  3.7 Commercial District ....................................................................................11
  3.8 Fresh Pond Watershed Protection District ...................................................13

PART IV  PERFORMANCE STANDARDS
  4.1 Guest House ................................................................................................13
  4.2 Use of Signs ..................................................................................................13
  4.3 Off-Street Parking Requirements ................................................................14
  4.4 Setbacks .......................................................................................................14
  4.5 Building Height ............................................................................................14
  4.6 Multi-Family Dwelling Conversions ............................................................15
  4.7 Multi-Family Dwelling New Construction ..................................................15
  4.8 Subdivisions .................................................................................................15
  4.9 Land Surveys ...............................................................................................15
4.10 Lot Divided by Road..................................................................................15
4.11 Fences .................................................................................................16

PART V ADMINISTRATION
5.1 Land-Use Permits....................................................................................16
5.2 Application for Land-Use Permits............................................................16
5.3 Fees .......................................................................................................17
5.4 Code Enforcement Officer.......................................................................18
5.5 Board of Appeals ....................................................................................18
5.6 Enforcement............................................................................................19
5.7 Validity ....................................................................................................19
5.8 Conflict with other Ordinances...............................................................19

PART VI CONDITIONAL-USE PERMITS
6.1 Authorization ..........................................................................................19
6.2 Powers and Duties....................................................................................19
6.3 Activities Requiring Conditional-Use Permits .........................................20
6.4 Application Procedure ...........................................................................20
6.5 Standards for Conditional-Use...............................................................21
6.6 Conditions Attached to Conditional Use ...............................................21
6.7 Reapplication ..........................................................................................22
6.8 Duration of Conditional-Use Permit .......................................................22
PART I  GENERAL

1.1 Authority
This ordinance enacted pursuant to:
   1.1.1  Maine Constitution Article VIII a
   1.1.2  30A MRSA § 2691 and 4353
   1.1.3  30A MRSA § 4502 and 4503
   1.1.4  38  MRSA § 435 - 449
   1.1.5  30A MRSA § 3001
   1.1.6  30A MRSA § 4401
   1.1.7  30A MRSA § 4506

1.2 Purpose
The purpose of this Ordinance is to protect the safety, health, and general welfare of the inhabitants of the Town of North Haven; to preserve the surface and ground water supply, and minimize its contamination by overloading and improper operation sewage disposal systems; to preserve the Town’s shore land and other natural resources, as well as its ability to provide necessary and desirable public facilities and services; and to help keep its growth orderly.

This Ordinance establishes a system for dividing all the land in the Town into classifications as to use, together with regulations to guide future land use in accord with the objectives and goals of the Town Plan. These classifications are based on such factors, among others, as present land use, the types and quality of soils and water bodies, the ability of the Town and other public agencies to provide necessary facilities and services, and the purposes of the Mandatory Shoreland Zoning Act as set forth in 38 MRSA § 435. Since these regulations are based on present knowledge and goals for the Town’s future, the classification of certain areas may be changed. The classifications themselves may also be changed.

1.3 Effective Date
The effective date of this Ordinance is when approved, and subsequent dates on which amendments have been adopted.

1.4 Amendments
This Ordinance may be amended by a majority vote of any Town Meeting. Amendments may be initiated by a majority vote of the Planning Board, or by request of the Board of Selectmen to the Planning Board or on petition presented to the Board of Selectmen by a number of registered votes equal to 10% of the votes cast in the last gubernatorial election in the Town. The Planning Board shall conduct a public hearing on any proposed amendment.

1.5 Word Usage
In this Ordinance, certain terms or words shall be interpreted as follows:
The word **person** includes a firm, association, organization, partnership, trust, company, corporation, municipal or quasi-municipal corporation, as well as an individual; the present tense includes the future tense, the singular number includes the plural and the word **may** is permissive; the words **uses or occupied** include the words **intended, designed, or arranged to be used or occupied**; the word **building** includes the word **structure**; and the word **dwelling** includes the **residence**; the word **lot** includes the words **plot or parcel**. The word **establish** includes the words **re-establish** and **expand substantially**. In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined will have customary dictionary meaning.

### 1.6 Definitions
In this Ordinance, the following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed.

**Accessory Use of Structure** – Use or structure located on the same lot, of a nature customarily incidental and subordinate to those of the principal use of structure.

**Boathouse** – A non-residential structure designed for the purpose of protection or storing boats for non-commercial purposes.

**Conditional-Use** – A use permitted only after review and approval by the Planning Board. A Conditional Use is a use that would not be appropriate without restriction, but which, if controlled under the provisions of this Ordinance, such uses may be permitted if specific provisions of such conditional-use is made in this Ordinance.

**Construction Trailer** - A trailer or building used only for the storage of building material and equipment may be moved on to a construction site two (2) weeks prior to the start of construction and must be removed within one month of the completion of active construction as determined by the Planning Board.

**Dwelling Unit** – A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall include mobile homes, but shall not include recreational vehicles.

**Expand Substantially** – An expansion resulting in an increase of more than thirty-three (33%) of the floor area of the structure.

**Family** – One or more persons occupying a dwelling unit and living as a single-housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.
Flag Lot – Lots or parcels with less frontage on a public street than is normally required. The panhandle is a narrow access corridor to the bulk of the lot of parcel located behind lots or parcels with normally required street frontage.

Frontage on a Water-body – The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high-water elevation.

Fish House – A non-residential structure designed for the purpose of protecting and storing gear and equipment required in fishing.

Height – The vertical distance above the average finished grade of the adjacent ground to the highest point on the highest roof of the structure. Amended March 8, 1997

Home Occupation – An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure, accessory to a dwelling unit, carried on by a member of the family residing in the dwelling unit, and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Incidental Protrusions – Shall mean any structures attached or fixed to a building or structure which do not exceed in area five percent of the square footage of the building or structure, or proposed building or structure and do not exceed in height twenty percent of the building or structure height or proposed building or structure height. Chimneys, antennas, cupolas, towers, or steeples are examples of the type of structures that are usually considered incidental protrusions. Incidental protrusions shall not include living space.

Land use – The purpose for which land is intended to be or is used (e.g., inactive, farming, woodlot, dwelling, retail store, marine service).

Lodging Facility – A building in which rooms are offered for overnight accommodations, with or without meals, for compensation. This definition includes tourist homes, inns, bed and breakfasts, and boarding houses.

Lot – A parcel of land having distinct and defined boundaries, described in a deed, plot plan, or similar legal document. Land located on opposite sides of a public or private road, as set forth in Performance Standard 4.10 and with the same limitations therein, shall be considered each a separate lot of land, even though the deed, plot plan, or similar legal document describes the land as a single lot. Added second sentence April 14, 1998

Low-Intensity Recreation – A non-commercial use – hunting, fishing, picnicking, swimming, birding – not involving a structure; earth-moving activity; the removal or destruction of vegetative cover; spawning grounds for fish, aquatic life, bird and other wildlife habitat; or the production of excessive noise or smoke.
**Multi-Family Dwelling** – A structure containing two (2) or three (3) separate dwelling units, either new or converted from an existing building.

**Non-Conformance** – The term *non-conformance* shall refer to aspects of a lot (area, frontage), a building (setbacks, height), or a land use which does not conform to the applicable standards or requirements of the Ordinance. Non-conforming aspects are permitted only because they were in lawful existence on the effective date of this Ordinance or subsequent amendments.

**Pond** – For the purpose of this Ordinance, any inland body of water which has a surface area in excess on ten (10) acres, except where such a body of water is man-made and is completely surrounded by land held by a single owner, and except those privately-owned ponds which are held primarily as waterfowl and fish breeding areas, or for hunting and fishing.

**Recreational Vehicles** – A vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons, and which is not a dwelling. The term may include pickup campers, travel trailers, tent trailers, and motor homes. In order to be considered as a vehicle and not as a structure subject to the Land-Use Ordinance of Federal Manufactured Housing Standards, the unit must remain with its tires on the ground, and most be road-worthy (i.e., possess a current registration sticker from any state Division of Motor Vehicles). A recreational vehicle shall not be occupied as a dwelling for more than 90 consecutive days, or more than 120 days in any calendar year.

**Road Frontage** – The linear distance between the sidelines of a lot, measured along the lot line that borders upon the road at the edge of the traveled way.

**Rod** – A linear measurement equal to 16.5 feet or 5.03 meters.

**Setback** – The minimum horizontal distance from a lot line to the nearest part of a structure. Setback from a road shall be measured from the middle of the road. *Amended March 8, 1997*

**Setback from Water** – The minimal horizontal distance from the normal high-water mark to the nearest part of a structure.

**Single-Family Dwelling Use** – A land use having its principal use that of a dwelling and its accessory uses, those incidental and subordinate to one customarily associated with the principal use, such as home gardening and home-occupations (e.g., doctor’s office, lobstering, crabmeat preparation and sale). The permitted structures for this are one principal dwelling unit and the appropriate structures for the accessory uses (e.g., garage, fish house, boathouse, tool sheds, workshop, studio, non-commercial entertainment barn, guest house).

**Small Wind Energy System:** A wind energy conversion system consisting of a wind
turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 20 kW and which is intended to primarily reduce on-site consumption of utility power.

**Structure** – Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground.

**System Height**: The tower height plus the blade radius from the hub.

**Timber harvesting** – The cutting and removal of trees from their growing site. Timber harvesting does not include the clearing of land for approved construction.

**Tower**: The structure on which the wind energy system is mounted.

**Tower Height**: The height above grade of the fixed portion of a tower, excluding the wind turbine.

**Turbine**: The parts of the wind system including the blades, generator and tail.

**Water or Water-body** – A pond or tidal salt water as defined in the Mandatory Shoreland Zoning and Control Act (38 MRSA § 436).

### PART II  NON-CONFORMANCE

2.1 **Purpose**

The intent of the Zoning Ordinance is to regulate non-conforming lots, uses, and structures. The Ordinance intends to be realistic so that: non-conforming lots of record can be reasonably maintained or repaired, and non-conforming uses can continue to be changed to other less non-conforming or to conforming uses. These regulations are designed for the betterment of the community and for the improvement of property values.

2.2 **Non-Conforming Use**

A. Any lawful use of buildings, structures, premises, land, or parts thereof, existing on the effective date of this Ordinance, or amendments thereto, and not in conformance with the provisions of this Ordinance shall be considered to be a non-conforming use.

B. Any non-conforming use may continue and may be maintained, repaired, and improved. No such non-conforming use or structure may be expanded, changed to another conforming use, replaced or renewed after it had been discontinued for a period of twelve (12) months, without
a permit from the Planning Board in accordance with the provisions of this Ordinance. No structure which is less than the required setback from the normal high-water mark shall be expanded toward the water.

2.3 Non-Conforming Lots
A. A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or frontage requirements of this Ordinance may be built upon provided that such lot is not contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance shall be met.

B. If two or more contiguous lots of record are in the same ownership on or after the effective date of adoption or amendment of this Ordinance and if all or part of the lots do not meet the area requirements of this Ordinance, the lands involved shall be considered to be a single lot for the purposes of this Ordinance, and may be built upon provided upon provided that all other provisions of this Ordinance shall be met.

C. On or after the effective date of adoption or amendment of this Ordinance, no division of a lot shall be made which reduces any dimension or area below the requirements of this Ordinance; and no lot shall be created which does not meet or exceed the area requirements of this Ordinance, except for conveyance to an abutting owner, in which case the provisions of the preceding paragraph shall apply.

D. Rear flag lots are allowed provided all dimensional requirements are met except for road frontage and road setback requirements.

2.4 Transfer of Ownership
Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

2.5 Maintenance and Enlargement
Any structure in existence as of the effective date of this Ordinance, which becomes non-conforming solely from a failure to satisfy the area requirements of the district in which it is located, may be repaired, maintained, and improved. It may be enlarged and/or accessory structures may be added to the site without a variance provided that:

A. the enlargement or accessory structure itself meets the height requirements of the district in which it is located; and

B. that the enlargement or accessory structure itself meets the setback requirements of the district, or, if located on the same lot as the non-conforming structure, and contains no more than 33% of the ground area of the grandfathered structure.
LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN, MAINE

2.6 Reconstruction
Any non-conforming use or structure which is hereafter damaged or destroyed by fire or cause other than the willful act of the owner of his agent, may be restored or reconstructed to its original dimensions, and used as before within twelve (12) months of the date of said damage or destruction; provided that such reconstruction and use shall not be more non-conforming than the prior non-conforming building or structure or use, and the non-conforming structure shall not be enlarged except in conformity with this Ordinance and Maine State Plumbing Code. Nothing in this section shall prevent:
   A. The demolition of the remains of any building so damaged or destroyed; or
   B. the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer.

2.7 Pending Application for Land-Use Permits
Nothing in this Ordinance shall require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which application for a Building Permit has been made or a Building Permit has been issued or upon which construction commenced prior to the adoption or amendment of this Ordinance, provided construction shall within (6) months after the issuance of such permit. A lawful land-use in existence on the date this ordinance, or amendments to it, becomes effective is not affected by them.

    Added last sentence March 8, 1997

PART III ZONING DISTRICTS

3.1 Zoning Districts
The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the official map entitled Land-Use District Map- Town of North Haven on file in the municipal office of the Town, which is hereby made a part of this Ordinance.

For the purposes of this Ordinance, the Town shall be divided into six districts
   A. Village District
   B. Rural District
   C. Shoreland Protection District
   D. Resource Protection District
   E. Commercial Districts
   F. Fresh Pond Watershed Protection District

3.2 Interpretation of District Boundaries
Unless otherwise set forth, the districts’ boundaries are property lines, the center lines of streets, roads, and rights-of-way. Where uncertainty exists as to the exact location of any district boundary line, the Board of Appeals, with advice from the Town Planning Board, shall interpret the intent and purpose of the zoning map.
3.3 **Village District**

It is the intent of this District to provide areas for residential growth and development as are compatible with public sewer and water.

A. **Area Covered**

   Beginning at the southwest corner of Map 30, Lot 2, and proceeding north along Main Street and westerly along road to Pulpit Harbor to the Grange Hall, thence back easterly and southerly along same roads to Map 31, Lot 53, thence easterly to Lot 75, Map 30, thence southerly to center line of Iron Point Road, thence westerly following Main Street to the point of beginning at the Thorofare. Along the roads, this includes the area 300 feet on both sides of road, measured from the middle of the road, ending at a point 300 feet on the southerly side of the Crabtree Point and North Shore roads as indicated on attached zoning map. If 50% of a lot lies within the Village District, the whole lot shall be considered within the District.

B. **Permitted Uses**

   1. Low-Intensity Recreation Use
   2. Single-Family Dwelling Use
   3. Timber Harvesting

C. **Conditional Uses**

   1. Multi-Family Dwelling
   2. Municipal
   3. Restaurant
   4. Retail Trade
   5. Commercial
   6. Lodging Facilities
   7. Boathouse and Marine Storage
   8. Business and Professional Office
   9. Public Utilities
   10. Church
   11. Small Non-Residential Facilities for Education, Scientific or Nature Services
   12. School and Day-Care Facilities

D. **Space Standards**

   1. Minimum lot size (outside Shoreland Zone).............................. 20,000 sq. feet
   2. Minimum road frontage.............................................................100 feet
   3. Maximum building height excluding incidental protrusions..........35 feet
   4. Minimum setback from road...........35 feet plus one-half the width of the road side.................................................................10 feet
      rear...................................................................................10 feet
      shore.................................................................................. 75 feet
5. Minimum shore frontage.................................................................150 feet
Amended (4) March 11, 2000 Amended (3) February 16, 2010

3.4 Rural District
The Rural District generally extends beyond the area of North Haven that is serviced by year-round public water and sewer. It is intended that open space, agricultural, low-density residential uses be encouraged, in that they tend to enhance, reinforce, and protect the rural, open atmosphere now characterizing much of the Town.

A. Area Covered
This includes all land on North Haven except those defined in the Village, Shoreland Protection, Resource Protection, Commercial, and Fresh Pond Watershed Protection Districts.

B. Permitted Uses
1. Low-intensity Recreation
2. Single-Family Dwelling
3. Farming and Market Gardening, including accessory structures
4. Timber Harvesting
5. Wireless Telecommunication Facilities Added (5.) July 8, 2004

C. Conditional Uses
1. Multi-Family Dwelling
2. Municipal
3. Restaurant
4. Retail Trade
5. Commercial
6. Lodging Facilities
7. Boathouse and Marine Storage
8. Business and Professional Office
9. Public Utilities
10. Church
11. Small non-residential facilities for Education, Scientific, or Nature Services
12. School and Day-Care Facilities

D. Space Standards
1. Minimum lot size, serviced by year-round water......................... 1 acre
2. Lots not serviced by year-round water.................................2 acres
3. Minimum road frontage ......................................................150 feet
4. Maximum building height excluding incidental protrusions …… 35 feet except for a structure that has been approved pursuant to the Wireless Telecommunications Facilities Ordinance and Small Wind Turbine Ordinance

5. Minimum set back from the road ....................................................50 feet plus one-half the width of the road

........................................................................10 feet

rear .................................................................10 feet

Amended (5.) March 8, 1997
Amended (5.) March 11, 2000
Amended (4.) July 28, 2004 to exclude structures approved under WTF Ordinance.
Amended (4.) January 23, 2008 to exclude structures approved under SWT Ordinance
Amended (4.) February 16, 2010

3.5 Shoreland Protection District
It is the intent of this District to protect fragile shorelines and surrounding waters by discouraging inappropriate uses in accordance with the purposes and guideline of the Mandatory Shore Zoning Act (38 MRSA § 435). Also see separate ordinance effective January 15, 1995.

A. Area Covered
All surrounding Shoreland and wetland, two hundred fifty (250) feet deep measured from the normal high water mark.
B. Permitted Uses
   1. Low Intensity Recreation
   2. Single Family Dwelling
   3. Timber Harvesting
   4. Livestock Grazing with no accessory structure

C. Conditional Uses
   1. Multi-family Dwelling
   2. Restaurant
   3. Retail Trade
   4. Commercial
   5. Lodging Facilities
   6. Boathouses and Marine Storage
   7. Piers, Docks, Wharves, Breakwaters
   8. Boatyard
   9. Marina
   10. Commercial Fisheries

D. Space Standards
   1. Minimum lot size.................................................................3 acres
   2. Minimum road frontage .......................................................150 feet
   3. Maximum building height excluding incidental protrusions........35 feet
   4. Minimum setback from the road .........................................50 feet
      plus one-half the width of the road
      side .................................................10 feet
      rear ...............................................10 feet
      shore ..........................................75 feet
   5. Minimum shore frontage .................................................200 feet

   Amended (4.) March 8, 1997
   Amended (4.) March 11, 2000
   Amended (3.) February 16, 2010

3.6 Resource Protection District
It is the intent of this District to protect the water supply in which development would
lower the water quality, significantly disturb essential natural plant and animal
relationships, or general scenic and natural values, and to discourage developments in
unsafe or unhealthy areas.

A. Area Covered
   600 feet back from the shore of the Fresh Pond.
B. Permitted Uses
   Low-intensity recreation

C. Conditional Uses
   Timber harvesting

D. No new structure shall be located within six hundred (600) feet of the Fresh Pond (Town Water Supply) as designated on the official zoning map.

E. In the Resource Protection District, a residential use which becomes non-conforming as a result of its location under this Ordinance may be expanded, reconstructed, or accessory buildings added, if the Planning Board issues a permit after review and approval under Sections 5.2 and 6.5.

3.7 Commercial Districts
It is the intent of these districts to provide for small businesses which, but their nature and character, can fit in harmoniously with the existing pattern of residential and commercial uses.

A. Area Covered
   Beginning at the most western boundary of Map 30, Lot 107 (land now or formerly of Andrew T. L. Anderson-Bell and Fiona Anderson-Bell), thence following the Thoroughfare generally easterly to the most eastern boundary of Map 30, Lot 87 (land now or formerly of James E. Brown), including all land on the southern side of Main Street between these two points. Also, the following properties are specifically zoned for Commercial use:

<table>
<thead>
<tr>
<th>Map</th>
<th>Lot</th>
<th>Landowners 2/1/2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>11</td>
<td>Edwin Thayer</td>
</tr>
<tr>
<td>10</td>
<td>4</td>
<td>David Haskell</td>
</tr>
<tr>
<td>10</td>
<td>6-A</td>
<td>Fox Islands Electric Co-op, Inc.</td>
</tr>
<tr>
<td>10</td>
<td>9</td>
<td>Charles Curtis</td>
</tr>
<tr>
<td>10</td>
<td>11</td>
<td>Rexford Crockett</td>
</tr>
<tr>
<td>19</td>
<td>13</td>
<td>North Haven Historical Society</td>
</tr>
<tr>
<td>19</td>
<td>25</td>
<td>Gordon &amp; Marnelle Bubar</td>
</tr>
<tr>
<td>21</td>
<td>7</td>
<td>Elliott &amp; Jane Brown</td>
</tr>
<tr>
<td>23</td>
<td>11</td>
<td>David &amp; Linda Haskell</td>
</tr>
<tr>
<td>30</td>
<td>34</td>
<td>North Haven House, LLC</td>
</tr>
<tr>
<td>30</td>
<td>42</td>
<td>Nancy Hopkins-Davisson</td>
</tr>
<tr>
<td>30</td>
<td>45</td>
<td>David &amp; Roberta Cooper</td>
</tr>
<tr>
<td>30</td>
<td>58</td>
<td>Herbert J. Parsons</td>
</tr>
<tr>
<td>31</td>
<td>25</td>
<td>Douglas Stone</td>
</tr>
</tbody>
</table>

B. Permitted Uses
1. Single-family Dwelling
2. Boatyard
3. Marina
4. Commercial Fisheries
5. Retail Trade
   Added (6) March 8, 1997
7. Wireless Telecommunications Facilities Added (7.) July 28, 2004

C. Conditional Uses
1. Multi-family Dwelling
2. Lodging Facilities
3. Piers, Docks, Wharves, Breakwaters
4. Restaurants
5. Business and Professional Office
7. Public Utilities
8. Municipal
9. Place of Public Assembly Added (9.) March 8, 1997

D. Space Standards
All uses shall meet all dimensional requirements of the district in which it is located, with the  
Village Commercial District meeting the Village District Space Standards, excluding the shore  
setback and shore frontage.

E. Other Standards
Commercial District includes a prevailing mix of existing uses of residential and low-intensity  
business, commercial or recreational water-dependent uses. It is compatible with the  
comprehensive plan for the waterfront. Resumed uses will not be precluded by a twelve month  
time limit. An existing structure built on, over or abutting a pier, dock, wharf, or other  
structure extending beyond the normal high-water line of a water body may be converted to a  
residential dwelling unit in the Commercial District provided it complies with applicable  
health, building, and fire safety codes, and is connected to a public sewerage system, or a  
central collection and treatment system in accordance with the Maine State Plumbing Code.  
Added (E.) March 8, 1997

3.8 Fresh Pond Watershed Protection District

PART IV PERFORMANCE STANDARDS
4.1 **Guest House**
   A. Only one guest house per lot
   B. Will not exceed footprint of the principal structure
   C. In no case shall all structures, including the guest house, cover more than 20% of a lot.
   D. All other provisions of this Ordinance must be met before building a guest house.

4.2 **Use of Signs**
   In all districts, the use of signs shall be governed by the following provisions and do not require a permit.

   A. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided such signs shall not exceed two signs per premises, and shall not exceed six (6) square feet in all districts, except eighteen (18) square feet in the Commercial District. Directional signs shall be permitted, provided such signs shall not exceed two (2) square feet. Billboards and signs relating to goods and services not rendered on the premises shall be prohibited.

   B. Name signs of family living on premises shall be permitted, provided such signs shall not exceed two (2) signs per premises and providing that no such sign exceeds two (2) square feet in area.

   C. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

   D. Signs relating to trespassing and hunting shall be permitted without restriction as to the number provided that no such sign shall exceed two (2) square feet in area.

   E. No sign shall extend higher than twenty feet above the ground.

   F. Signs may be illuminated only by shielded, non-flashing lights.

   G. Off-premises signs are permitted for non-profit organizations, religious groups, political candidates, and similar signs, using 23 MRSA § 1901 et seq as a guide.

   H. Realty signs are permitted and shall not exceed six (6) square feet. *Added (H.) March 8, 1997*

4.3 **Off-Street Parking Requirements**
   No use of premises shall be authorized or expanded, and no structures shall be constructed or enlarged unless there is off-street automobile parking space provided in accordance with this Ordinance:
A. Single-family dwelling – one space.

B. One space for each sleeping room in tourist home, boarding or lodging house, or bed and breakfast establishment.

C. Retail or service business – one space for up to three hundred (300) square gross floor space area, and two spaces for over three hundred (300) square feet of gross floor space area.

D. Multi-Family Dwelling – Off street parking shall provide a minimum of one (1) space per dwelling unit.

4.4 Set Backs

A. In no district shall any expansion of an existing non-conforming use or structure, or any new structure be built or placed nearer to any lot line than ten (10) feet.

B. In no district, except the Commercial District, shall any expansion of an existing non-conforming use or structure, or any new structure be built or placed nearer to the normal high-water line of any water-body than seventy-five (75) feet. This restriction shall not apply to boathouses or fish houses provided such structures do not contain sanitary facilities.

4.5 Building Height

On any new building, the highest point shall not exceed a height of thirty-five (35) feet, excluding vertical distance above the average finished grade of the adjacent ground, excluding incidental protrusions.  
Amended February 16, 2010

A. Transmission towers erected for licensed amateur radio purposes are limited to a height of 65 feet and meet the provisions of FCC Rulemaking under PRB-1 codified as FCC Part 97.15 a-e.  
The proposal must be reviewed by the Planning Board and meet the criteria of health, safety, and aesthetics described in Part V of this Ordinance.  
Paragraph added March 25, 1997

4.6 Multi-Family Dwelling Conversions

A dwelling or other building may be converted to no more than three (3) dwelling units per lot, provided:

A. exterior alterations shall be limited to these required to comply with applicable health, building, and fire safety codes, and shall not substantially alter the historical structure of the building;
B. multi-family dwelling units shall meet all dimensional requirements of the district in which it located:

C. if not connected to a public or private sewerage system, the lot must contain sufficient area and suitable soil conditions for on-site disposal in accordance with the Maine State Plumbing Code, Part 2; and

4.7 Multi-Family Dwelling New Construction
A dwelling designed for multiple families living independently shall conform to the following:

A. the minimum setback from all lines shall meet the requirements of the district in which they are located; Amended (A.) March 8, 1997

B. multi-family dwelling units shall meet all dimensional requirements of the district in which they are located;

C. all units shall be connected to a common water supply and distribution system, either public or private;

D. all units shall be connected to a public sewerage system, if available, or to a central collection and treatment system in accordance with the Maine State Plumbing Code; and

4.8 Subdivisions
See separate ordinance approved December 4, 1989.

4.9 Land Surveys
Any land surveys should follow the standards as set forth in the Standards of Practice for Land Surveyors (Title 32, Chapter 121, Revised Statures of 1964)

4.10 Lot Divided by Road
In all zoning districts, including all districts set forth in the Shoreland Zoning Ordinance, land on opposite sides of a public or private road (including a town way or public easement as defined in Title 23 MRSA § 3655, and including a private way established legally by any means) shall be considered each a separate lot unless such road was established by the owner of land on both sides thereof after September 22, 1971. Added April 4, 1998

4.11 Fences
In all zoning districts, when a fence is built new or to replace an existing fence and it is designed to have a finished face, the finished face is to be erected towards the nearest abutting property. Added March 11, 2000
5.1 Land-Use Permits
No person may establish, expand substantially or re-establish a land use not in existence on the date this Ordinance, or amendments to it, becomes effective without first having obtained a land-use permit granted by the Code Enforcement Officer or Planning Board. No land-use permit shall be issued except in conformity with the provisions of this Ordinance. A land-use permit, secured under the provisions of this Ordinance, shall expire if the Planning Board determines that the work or change is not commenced within one (1) year of the date on which the permit is granted.

5.2 Application for Land-use Permit
A complete land-use permit application (obtained at the Town Office or from the Code Enforcement Officer) shall be filed in writing with the Code Enforcement Office. With fourteen (14) days of filing an application, the CEO shall mail a form to the applicant if the application is incomplete. If the application is incomplete, specific areas of information required to make the application complete will be outlined.

A. Before granting a permit for any land use not requiring review by the Town Planning Board, the CEO shall satisfy himself that the statements made in the application are substantially correct and true, and that the proposal complies with the requirements of this Ordinance. The CEO shall take action within 14 days of receiving the completed application.

B. All applications with the necessary information as stated shall be on file in the Town Office seven (7) days prior to the regularly scheduled Planning Board meeting. Once the application is complete, the Planning Board will hold a Public Hearing within thirty (30) days and make a final determination, in writing, that the application is either approved, approved with specific conditions, or denied within 60 days. If the application is denied, the reasons for denial shall be specified.

C. Applications for a permit for a land use requiring review by the Town Planning Board shall be granted only after the Board reviews the following criteria and makes a finding based on the information presented to it that, the applicant has complied with provisions of this Ordinance. The Board has the authority to approve, approve with conditions, or deny an application based on the findings. The proposed use will not result in:
   1. unhealthy pollution of the public water supply or the ground water;
   2. undue water or pollution;
   3. an undue burden on an existing water supply;
   4. unreasonable soil erosion or saturation so as to cause a dangerous, unhealthy, or water polluting situation;
   5. creation of undue road or highway congestion, or unsafe road or highway conditions;
6. inadequate provisions for sewerage disposal;
7. overburdening of existing sewerage or solid waste disposal facilities;
8. an unreasonable burden on municipal sewers;
9. will protect archaeological and historic resources as designated in the Comprehensive plan; and
10. wherever situated, in whole or in part, within two hundred fifty (250) feet of the normal high-water mark of any pond or salt water body adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

5.3 Fees

**Commercial Property**
New Construction - $.12 per square foot - $10 minimum, $200 maximum
Renovations - $.08 per square foot - $10 minimum, $150 maximum

**Residential Property** (includes Garage)
New construction - $.10 per square foot - $10 minimum, $150 maximum
Renovations - $.08 per square foot- $10 minimum, $150 maximum

**Minor Structures**
Porches, decks, residential garages of less than three cars, utility sheds of less than 200 square feet, small agricultural barns of less than 500 square feet - $.05 per square foot, $5 minimum, $25 maximum.

**Subdivisions**
Under five lots-$50 per lot, payable upon submission of final plan
Five or more lots:
1. Pre-application meeting $50
2. Preliminary Plan $100 per lot
3. Final Plan $100 per lot (Fees do not include land-use permit)

**Amended Permit**
The fee for an amended permit which changes the footprint shall be based on the above fees. The minimum charge shall be $30 amendment.

**Permit Renewal Fee**
The fee for renewal of a permit shall be 10% of the original fee. Renewal will be from time of expiration and will be one only.

5.4 **Code Enforcement Officer**
The Board of Selectmen shall appoint a Code Enforcement Officer and fix his/her salary and expense provisions. The Code Enforcement Officer shall:

A. grant land-use permits in accordance with this Ordinance and/or the Planning Board’s written instruction.

B. enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

C. conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance;

D. keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

5.5 Board of Appeals
The Appeals Board shall consist of five (5) members and each member shall serve for a term of five (5) years. One member shall be elected each year at Town Meeting. The Board of Appeals may authorize a variance for lot size, height, lot coverage by structures, frontages, and set-backs. A variance may be granted by the Board only where strict applications of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words *undo hardship* mean:

A. the land in question cannot yield a reasonable return unless a variance is granted;
B. the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
C. the granting of a variance will not alter the essential character of the locality; and
D. the hardship is not the result of action taken by the applicant or prior owner.

Administrative Appeals: The Board of Appeals shall 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 of Planning Board in the administration of this Ordinance.
The Appeals Board shall have the authority to hear and decide appeals set forth in Section 10 of the Wireless Telecommunication Facilities Ordinance. Added paragraph July 28, 2004

5.6 Enforcement
Any person who established, re-establishes, or expands substantially a land use not in existence on the date of this Ordinance or amendments to it become effective without having first been granted a permit by the Code Enforcement Officer or Planning Board, or who fails to comply with a permit issued by the CEO or the Planning Board, is subject to a minimum penalty of $100 and a maximum penalty of $2,500. Each day of violation, after notification to cease and desist given in writing by the CEO, shall be deemed a separate violation.

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

5.8 Conflict with other Ordinances
Whenever the requirements of this Ordinance are inconsistent with the requirements of this Ordinance or any other Ordinance, code, or statute, the more restrictive shall apply.

PART VI CONDIONAL-USE PERMITS

6.1 Authorization
The Planning Board is hereby authorized to hear and decide upon application for a conditional use in accordance with State law and the provisions of this Ordinance. The decision of the Planning Board may be appealed to the Board of Appeals, and thence to Superior Court.

6.2 Powers and Duties
The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for conditional-use permits. No conditional-use permit shall be authorized unless specific provisions for such conditional use is made in this Ordinance.

A. The uses classified as conditional use are intended as potential land uses in the district in which they are designated.

B. Any use or activity which was commenced prior to the enactment of this Ordinance, and would have required a conditional-use permit in compliance with Ordinance been in effect, is hereby deemed to be non-conforming in use and any expansion of such use shall require a conditional-use permit in compliance with this Ordinance.

6.3 Activities Requiring Conditional-Use Permits
A building, structure, or parcel of land may be employed for a conditional use if the use is specifically listed in the regulations governing the zoning district in which the use is proposed, and if a conditional-use permit is approved by the Planning Board. A conditional-use permit shall also be required for any substantial increase or expansion in the volume or intensity of any existing non-agricultural or non-single family residential use, or for the resumption of any such conforming use on a continued basis which has been discontinued for at least two (2) years.

6.4 Application Procedure
Application for a conditional-use permit shall be made to the Code Enforcement Officer on forms provided for that purpose. All plans for conditional use presented for approval shall also include:

A. Such materials as will enable the Planning Board to determine that the standards for approval of a conditional-use permit have been met. The burden for providing the information upon which the Board bases its findings shall be the applicant’s.

B. Following the receipt of a completed application, and before taking action on any application, the Planning Board shall hold a public hearing on the application within thirty (30) days. Notice of such hearing shall be given to the CEO, the Selectmen, and the Board of Appeals at least ten (10) days in advance of the time and place of the hearing, and shall be posted in three (3) obvious places about Town.

C. The Planning Board shall notify the applicant and owners of all property within two hundred (200) feet of the property involved, at least ten (10) days in advance of the hearing, the nature of the application, and the time and place of the public hearing.

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

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

F. The Planning Board shall reach a decision on a conditional use after the public hearing and shall inform, in writing, the applicant, the CEO, and the Selectmen of its decision and its reason therefore. If, within sixty (60) days of the public hearing, the Board has not reached a decision, the application shall be deemed denied.

G. In reviewing any conditional use, a quorum of the Planning Board shall consist of three (3) members. The Board shall approve a conditional use only by majority of those members present and voting, and in so doing, may prescribe conditions and safeguards as are appropriate under this Ordinance.
H. A conditional-use permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced with one (1) year of the date on which the conditional use is authorized.

I. Upon notification of the decision of the Planning Board, the CEO, as instructed, shall issue, issue with conditions prescribed by the Planning Board, or deny a permit.

6.5 Standards for Conditional-Use Permits
A conditional-use permit may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Board that:

A. neither the proposed use nor the proposed site upon which the use will be located are of such a character that the use will have an adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from the permitted use in the zoning district;

B. the proposed use will be compatible with the permitted uses, as stipulated in the Subsections of Part III, within the district in which it is located, and Subsection 5.2 C of Part V;

C. safe and healthful conditions will be maintained at all times within and about the proposed use;

D. the proposed use will not create new hazards or increase existing hazards to vehicular or pedestrian traffic on or about the proposed use;

F. satisfactory provisions shall be made for off-street parking and loading areas where required, with particular attention to the economic, noise, and the impact of the proposed use on local population and community facilities; and

G. that all applicable requirements of the ordinance have been met.

6.6 Conditions Attached to Conditional-Use
Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to ensure compliance with the requirements of this Ordinance. Such conditions may include, but are not limited to, specifications for type of vegetation, increased setback and yards, specified sewerage disposal and water supply facilities, landscaping and planting screen, period of operation, operational controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, location of piers, docks, parking and signs, type of construction or any other conditions necessary to endure compliance with the requirements of this ordinance.
6.7 Reapplication
If the Planning Board denies a conditional-use permit, a second request of a similar nature shall not be brought before the Board within two (2) years from the date of the first request unless, in the opinion of the majority of the Board, substantial new evidence can be brought forward, or unless the Board finds that an error of law or misunderstanding of facts has been made, or unless amendment to the zoning Ordinance has been made which changes the status, circumstances, or conditions of the matter which was brought before the Board.

6.8 Duration of Conditional-Use Permit
Provided all conditions and standards of approval are met, a conditional-use permit shall be a permanent grant of permission and shall run with the land, subject to compliance with the expiration provisions in Sections 5.1 and 6.2.