SHORELAND ZONING ORDINANCE

TOWN OF OWLS HEAD

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Article 1. Purpose

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

Article 2. Authority

This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435- 449 of the Maine Revised Statutes Annotated (M.R.S.A.).

Article 3. Applicability

This Ordinance applies to all land areas within:

- 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action as determined by the yearly Highest Annual Tide (See Definitions: Highest Annual Tide (HAT))
- 250 feet, horizontal distance, of the upland edge of a freshwater wetland or great pond*;
- 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland. (See Definitions: Highest Annual Tide (HAT))

> NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

*NOTE: There are currently no great ponds or rivers in the town of Owls Head.

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.

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

**NOTE: There are currently no rivers in the town of Owls Head.

Article 4. Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was adopted by the municipal legislative body on December 5, 1991, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.
Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

Article 5. Availability

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

Article 6. Severability

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

Article 7. Conflicts with Other Ordinances

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

Article 8. Amendments

This Ordinance may be amended by majority vote of the municipal legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

Article 9. Districts and Zoning Map

A. **Town of Owls Head Zoning Map 1** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Town of Owls Head Zoning Map 1 which is made a part of this Ordinance:
   1. Resource Protection
   2. Rural Residential 1
   3. Rural Residential 2
   4. Commercial
   5. Commercial Fisheries/Maritime Activities
   6. Recreational

NOTE: The Town of Owls Head Zoning Map 1 may be amended by the Town of Owls Head from time to time.

B. Scale of Map

The Town of Owls Head Zoning Map 1 shall be drawn at a scale of: 1 inch = 1000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Town of Owls Head Zoning Map 1

The Town of Owls Head Zoning Map 1 shall be certified by the attested signature of the Town Clerk and shall be located in the Town Office, and a copy deposited with the Code Enforcement Officer.

D. Changes to the Town of Owls Head Zoning Map 1

If amendments, in accordance with Article 8, are made in the district boundaries or other matter portrayed on the Town of Owls Head Zoning Map 1, such changes shall be made on the Town of Owls Head Zoning Map 1 within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection and the municipal body.

Article 10. Interpretation of District Boundaries.

Unless otherwise set forth on the Town of Owls Head Zoning Map 1, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. The depiction of the Shoreland Districts on the Town of Owls Head Zoning Map 1 for the Town of Owls Head are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement of the distance indicated on the maps from the HAT of the water body or from the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location. (See Definitions: Highest Annual Tide (HAT))

Article 11. Land Use Requirements

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

Article 12. Non-conformance

NOTE: Refer to Article 17 for definitions of non-conforming condition, non-conforming lot, non-conforming structure and non-conforming use.

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in

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

B. General

(1) **Transfer of Ownership**. Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

(2) **Repair and Maintenance**. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See also the Floodplain Management Ordinance and the Zoning Ordinance of the Town of Owls Head.

C. Non-conforming Structures

(1) **Expansions**

All new structures must meet the shoreline setback requirements contained in Article 15(B). 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 nonconformity of the structure and is in accordance with the subsections of Article 12(C)(1).

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

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

(c) Notwithstanding Article 12(C)(1)(b), if a non-conforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of this Ordinance are met and the expansion is not prohibited by Article 12(C)(1) above:

(i) The maximum total footprint of the principal structure may not be expanded to an area greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.

(ii) The maximum height of the principal structure may not be made greater than 15 feet or the height of the ridge roofline of the existing structure, whichever is greater.

(d) All other non-conforming principal and accessory structures that do not meet the water body, tributary stream or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met and the expansion is not prohibited by Article 12(C)(1) and subsections (a), (b) or (c) above:

(i) For structures located between 25 feet and 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to an area greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.

(ii) For structures located between 25 feet and 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum height of any structure may not be made greater than 20 feet or the height of the roof ridgeline of the existing structure, whichever is greater.

(e) In addition to the limitations in Article 12(C)(1) and subsections (a), (b) and (c) above, structures that are non-conforming due to their location within the Resource Protection District and are located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

(i) The maximum combined total footprint of all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater.

(ii) The maximum height of any structure may not be made greater than 35 feet or the height of the roof ridgeline of the existing structure, whichever is greater.

(iii) Any portion of the structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland must meet the footprint and height requirements of Sections 12(C)(1)(d)(i) and (ii).

(iv) For the purposes of subparagraph a., a basement is not counted towards floor area.

(f) Notwithstanding the limitations on height imposed under paragraphs 12(C)(1)(c), 12(C)(1)(d) and 12(C)(1)(e), the height of a structure that is a legally existing non-conforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or to 3 feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This paragraph applies to structures that:

(i) Have been or are proposed to be relocated, reconstructed, replaced or elevated

to be consistent with the local floodplain management elevation requirement; and,

(ii) Are located in an area of special flood hazard.

(g) Any approved plan for expansion of a non-conforming structure under Article 12(C)(1) must be recorded by the applicant in the registry of deeds of the county in which the property is located within 90 days of approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary and evidence of approval by the municipal permitting authority.

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

(2) **Foundations**

Whenever a new, expanded or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the shoreline setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Article 12(C)(3) below.

(3) **Relocation**

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (10-144 CMR Ch.241), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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 farther from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be reestablished. 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.

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.

The Planning Board may also require replanting in accordance with Article 15(S).

(4) **Reconstruction or Replacement**

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with Article 12(C)(3) above. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

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 Article 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Article 12(C)(3) above.

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

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

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

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

D. Non-conforming Uses

(1) **Expansions.**
Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Article 12(C)(1) above.

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

(3) **Change of Use**
An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA District, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Article 12(C)(5) above.

E. Non-conforming Lots

(1) **Non-conforming Lots**: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width

and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

(2) **Contiguous Built Lots**: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons up to and including December 5, 1991, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

Article 13. Establishment of Districts

A. Resource Protection District

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

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. Also included in this district are areas within 250 feet, horizontal distance, of the upland edge of salt marshes and salt meadows which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the MDIF&W as of January 1, 1973.

(2) The Resource Protection District also includes the area contained within all freshwater wetlands as delineated on the Town of Owls Head Zoning Map 1.

(3) Repealed: as these areas do not exist in the Town of Owls Head.

NOTE: Areas 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps, are addressed in the Floodplain Management Ordinance for the Town of Owls Head.

(4) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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

NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

(6) Land areas adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

(7) The following areas are included in the Resource Protection District within the Shoreland Zone:

(a) Where Broad Brook enters Broad Cove for the first seventy five (75) feet upstream from the high water mark. The remainder will be measured from the top of the embankments;

(b) Deep Cove to Owls Head Lighthouse State Park, tax map 011, lots 052-001, 052-002 & 052-003 to the boundary line of 011-056, with a distance of seventy-five (75) feet from the normal high water line;

(c) All lands two-hundred and fifty (250) feet from the normal high water line on Spaulding Island

(d) All lands on Little and Emery Islands.

(8) Repealed: as these areas do not exist in the Town of Owls Head.

B. Rural Residential Districts

The Rural Residential Districts, which make up most of Owls Head that is within the 250 foot Shoreland Zone, are devoted, but not limited to, single- and two-family dwellings, agriculture, mobile home parks, schools, churches and convalescent homes. These districts also include the area within 75 feet, horizontal distance of a stream. Rural Residential District 1 has a minimum lot square footage of 40,000 sq ft. Rural Residential District 2 has a minimum lot square footage of 60,000 sq ft.

C. Commercial District

The Commercial District includes areas of mixed, light commercial and residential uses. Industrial uses are prohibited.

The Commercial District includes the following areas as delineated on the Town of Owls Head Zoning Map 1: the portion of Map 004, Lot 095, and Map 007, Lot 06. A town lot on Owls Head Harbor Tax Map 011 lot 033, (based on the 2020 Town of Owls Head Tax Maps).

D. Commercial Fisheries/Maritime Activities District

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

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

This district consists of the parcels depicted on the Town of Owls Head Tax Map 011, Lots 021, 023, a 100' x 300' portion of Lot 042-002 adjacent to the lobster pound, and Lot 043, (based on the 2020 Town of Owls Head Tax Maps).

E. Recreational District

The Recreational District includes areas that provide recreational space accessible to the public. Recreational activities, such as swimming, tennis, sightseeing, hiking, walking, etc.

(1) Owls Head Lighthouse State Park – 011-056, 011-057
(2) Birch Point State Park – 001-039
(3) Monroe Island – 007B-002, Sheep Island – 007A-001 and Ash Island – 002-107
(4) Plaisted Preserve – 011-037-002
(5) Ash Point Preserve – 002-069
(6) Trail's End, town owned property at end of Ash Point Dr. – 002-069
(7) Town owned Crockett's Beach – 004-056
(8) Richard Carver Harbor Park – 011-035 only

Article 14. Table of Land Uses

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

Key to Table 1:

YES - Allowed (no permit required but the use must comply with all applicable land use standards)
NO - Prohibited
PB - Allowed with permit issued by the Planning Board.
CEO - Allowed with permit issued by the Code Enforcement Officer
LPI - Allowed with permit issued by the Local Plumbing Inspector
N/A NOT APPLICABLE

Abbreviations:

RP - Resource Protection
RR1 - Rural Residential 1
RR2 - Rural Residential 2
CFMA - Commercial Fisheries/Maritime Activities
C - Commercial
REC - Recreational

NOTE: Terms are defined in Article 17, including but not limited to: functionally water-dependent uses.

Table 1. Land Uses in the Shoreland Zone	**Districts**					
LAND USES	**RP**	**RR1**	**RR2**	**C**	**CFMA**	**REC**
1. Non-intensive recreational uses not requiring structure, such as hunting, fishing & hiking	YES	YES	YES	YES	YES	YES
2. Motorized vehicular traffic on existing roads & trails, snowmobiling	YES	YES	YES	YES	YES	YES
3. N/A	—	—	—	—	—	—
4. N/A	—	—	—	—	—	—
5. Clearing of vegetation for approved construction & other allowed uses	CEO (8)	YES	YES	YES	YES	YES
6. Fire prevention activities	YES	YES	YES	YES	YES	YES
7. Wildlife management practices	YES	YES	YES	YES	YES	YES
8. Soil & water conservation practices	YES	YES	YES	YES	YES	YES
9. Mineral exploration	NO	NO	NO	PB (9)	PB (9)	NO
10. Mineral extraction including sand/gravel extraction	NO	NO	NO	PB (10)	PB(10)	NO
11. Surveying & resource analysis	YES	YES	YES	YES	YES	YES
12. Emergency operations as defined in Article 17	YES	YES	YES	YES	YES	YES
13. Agriculture*	PB	YES	YES	YES	YES	PB
14. Aquaculture*	PB	PB	PB	YES	YES	PB
LAND USES	**RP**	**RR1**	**RR2**	**C**	**CFMA**	**REC**

15. Principal structures, uses & activities						
a. 1 & 2 family residential including driveways	PB (6)	CEO	CEO	CEO	NO	PB
b. Multi-unit residential	NO	NO	NO	NO	NO	NO
c. Commercial	NO	NO(14)	NO(14)	PB	PB (1)	NO
d. Industrial	NO	NO	NO	NO	PB (1)	NO
e. Governmental & institutional	NO	NO	NO	PB	PB (1)	PB
f. Small non-residential facilities for educational, scientific or nature interpretation purposes.	PB	PB	PB	PB	PB (1)	PB
g. Projects that provide for the safety of airport operations.	YES	YES	YES	YES	NO	NO
16. Structures accessory to allowed uses	PB	CEO	CEO	CEO	CEO	CEO
17. Piers, docks, wharves, bridges & other structures & uses extending over or below the normal high water line or within a wetland	See Temporary or Permanent below.					
a. Temporary	CEO (15)	CEO (15)	CEO (15)	CEO (15)	CEO (15)	CEO (15)
b. Permanent	PB	PB	PB	PB	PB(1)	PB(1)
18. Conversions of seasonal residences to year-round residences.	LPI & CEO (5)	LPI & CEO	LPI & CEO	LPI & CEO	NO	N/A
19. Home occupations	NO	CEO	CEO	CEO	CEO	N/A
20. Private sewage disposal systems for allowed uses.	PB/LIP (6)	LPI	LPI	LPI	LPI	LPI
21. Essential services						
a. Roadside distribution lines, 34.5kV and lower.	CEO (2, 12)	YES (16)	YES (16)	YES (16)	YES (16)	PB
b. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone.	PB (2, 12)	PB	PB	PB	PB	PB
c. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone.	PB (2, 12)	PB	PB	PB	PB	PB
d. Other essential services	PB (2, 12)	PB	PB	PB	PB	PB
22. Public & private recreational facilities involving minimal structural development.	PB (7)	PB	PB	PB	CEO (1)	CEO
23. Individual private campsites	CEO	CEO	CEO	CEO	CEO	CEO
24. Campgrounds	NO (3)	NO	NO	PB	NO	NO
25. Road construction (see 15A)	NO (4)	CEO	CEO	PB	PB (1)	PB
26. Parking facilities	NO (3)	PB	PB	PB	PB (1)	PB
27. Marinas	NO	NO	NO	NO	PB	NO
28. Service drops as defined to allowed uses	YES	YES	YES	YES	YES	YES
29. Lodging facilities including Bed & Breakfast	NO	PB	PB	PB	NO	NO
30. Hotels, motels	NO	NO	NO	PB	NO	NO
31. Filling & earthmoving of less than 10 cubic yds.	CEO	YES	YES	YES	YES	YES
32. Filling & earthmoving of more than 10 cubic yds.	PB	CEO	CEO	CEO	CEO	CEO
33. Cemeteries **	NO	PB	PB	NO	NO	NO
34. Septage Waste Disposal	NO	NO	NO	NO	NO	NO
35. Signs	CEO	CEO	CEO	CEO	CEO	CEO
36. Forest management activities except for timber harvesting & land management roads	CEO	YES	YES	YES	YES	YES
37. N/A						
LAND USES	**RP**	**RR1**	**RR2**	**C**	**CFMA**	**REC**

38. Use similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
39. Use similar to use requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
40. Use similar to use requiring a PB permit	PB	PB	PB	PB	PB	PB

NOTES:

(1) Functionally water-dependent uses and accessories to such water – dependent uses only.

(2) See further restrictions in Article 15., K., Land Use Standards – Essential Services.

(3) Except when the area is restricted for RP due to flood plain criteria, in which case a Planning Board permit is required.

(4) Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the Resource Protection, in which case a Planning Board permit is required. (see Article 15(H).

(5) Along tidal waters only, and upon proof of adequate sewage disposal capacity to accommodate year-round residential use. Expansion of structure is prohibited.

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

(7) Including museums, offices, and its supporting operational spaces as defined under the definition of Public Facility.

(8) In RP not allowed within 75 feet horizontal distance of the normal high-water line except to remove safety hazards.

(9) Requires permit from the Code Enforcement Officer or Planning Board if more than 100 square feet of surface area, in total, is disturbed.

(10) Not allowed in areas so designated because of wildlife value.

(11) Provided that a variance from the setback requirement is obtained from the Board of Appeals.

(12) See further restrictions in Article 15 (L).

(13) Repealed.

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

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

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

* Subject to specific land use standards, Article 15.

** No cemetery can be located, wholly or in part, within 75-feet, horizontal distance, of the upland edge of coastal and freshwater wetlands as identified by the U.S. Fish & Wildlife National Wetland Inventory and Maine Geologic Survey, nor within 75-feet, horizontal distance, of the normal high-water line of a stream.

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

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

Article 15. Land Use Standards

All land use activities within the Shoreland Zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards	Minimum Lot Area (sq.ft)	Min. Shore Frontage-ft
1. Residential per dwelling unit in RR1		
a. Within the Shoreland Zone adjacent to Tidal	40,000	150
b. Within the Shoreland Zone adjacent to Non-tidal areas	40,000	200
2. Residential per dwelling unit in RR2		
a. Within the Shoreland Zone adjacent to Tidal	60,000	150
b. Within the Shoreland Zone adjacent to non-tidal areas.	60,000	200
3. Governmental, Institutional or Commercial principal structures		
a. Within the Shoreland Zone adjacent to Tidal areas exclusive of those districted for CFMA	40,000	200
b. Within the Shoreland Zone adjacent to Tidal areas districted for CFMA	20,000	100
c. Within the Shoreland Zone adjacent to Non-tidal areas	60,000	300
4. Public and Private Recreational Facilities		
a. Within the Shoreland Zone adjacent to Tidal and Non-tidal areas	40,000	200

5. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

6. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

7. 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.

8. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. All new principal and accessory structures

(1) All new principal and accessory structures shall be set back at least seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, except that in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified shall apply.

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

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

In addition:

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) 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 official(s) 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 to the Board of Appeals.

(c) On a non-conforming lot of record on which a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of

yard tools and similar equipment. Such accessory structures shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetative clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

NOTE: Refer to Article 17 for definitions of coastal wetland and tributary stream.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Rural Residential, Commercial and Recreational Districts shall not exceed thirty-five (35) feet in height.

(a) This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(b) The height of a structure shall exclude a non-habitable feature mounted on a structure roof for observation purposes, such as a cupola, a dome or a widow's walk, provided the following conditions are met:

(i) the feature is being added to, or is part of, a conforming structure,
(ii) the structure is not located in a Resource Protection District,
(iii)the feature does not extend beyond the exterior walls of the structure,
(iv)the feature has a floor area of fifty-three (53) square feet or less, and
(v) the feature does not increase the height the structure, as defined, more than seven (7) feet.

(3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance that is consistent with the April 2005 or later version under the National Flood Insurance Program.

(4) Except in the shoreland zone of coastal wetlands that are designated as Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed twenty (20) percent of the portion of the lot located within the shoreland zone. In the shoreland zone of coastal wetlands that are designated as Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed seventy (70) percent of the portion of the lot within the shoreland zone. Non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces.

Article 15(B)(4) shall not apply to public boat launching facilities, regardless of the district in which the facility is located.

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

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

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

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

(d) The total height of the wall(s), in the aggregate, is no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

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

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

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

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Article 15(P)(2)(a), may traverse the buffer.

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.
NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program.
http://www.maine.gov/dacf/mnap/features/invasive plants/invasives.htm

(6) Conversion of seasonal residences to year-round residences in a Resource Protection District along tidal waters may be permitted by the Plumbing Inspector upon proof that the sewage disposal system can accommodate year-round residential use. Expansion or enlargement of existing principal or accessory structures is prohibited.

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

(1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Article 15 (A), a second structure may be allowed and may remain as long as the lot is not further divided.

(2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(3) The location shall not interfere with existing developed or natural beach areas.

(4) The facility shall be located so as to minimize adverse effects on fisheries.

(5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

(6) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

(7) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as, a watercraft.

(8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any zone.

(9) Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 MRSA, Sec.480-C.

(10) The Planning Board may approve shoreline stabilization of an eroding shoreline, provided that the following requirements are met:

(a) Construction equipment may access the shoreline by barge when feasible, as recommended per professional engineer.

(b) When necessary, the removal of vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the shoreline stabilization is complete, the construction equipment access way must be restored.

(c) Any restoration or revegetation shall occur in accordance with Article 15(S).

NOTE: A permit pursuant to the Natural Resources Protection Act is required from the Department of Environmental Protection for shoreline stabilization activities.

D. Campgrounds

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

(1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

(2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites

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

(1) On a vacant lot, one campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

(2) On a lot that contains a principal use or structure, the lot shall contain the minimum lot dimensional requirements for that principal use or structure separately from the thirty thousand (30,000) square feet of lot area within the shoreland zone required per individual private campsite.

(3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

(4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

(5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

(6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

(7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds, and rivers and streams which flow to great ponds.

1) Auto washing facilities
2) Auto or other vehicle service and/or repair operations, including body shops
3) Chemical or bacteriological laboratories
4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
5) Commercial painting, wood preserving, and furniture stripping
6) Dry cleaning establishments
7) Electronic circuit assembly
8) Laundromats, unless connected to a sanitary sewer
9) Metal plating, finishing, or polishing
10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sale associated with marinas
11) Photographic processing
12) Printing

G. Parking Areas

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists farther from the shoreline or tributary stream.

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

(a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
(b) Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways

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

(1) All portions of roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line of 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 Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. 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 for each five (5) percent increase in slope above twenty (20) percent.

Article 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary

docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Article 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

(2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

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

(4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Article 15(T).

(5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

(6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an un-scarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an un-scarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto un-scarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
   (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

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

21 + 40

(b) Drainage dips may be used in place of ditch relief culverts only where the grade of the road or driveway is ten (10) percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(8) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs.

The following provisions shall govern the use of signs in the Resource Protection, Rural Residential I, Rural Residential II, Commercial, Commercial Fisheries/Marine Activity, and Recreational Districts:

(1) Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Commercial Fisheries/Marine Activity District, however, such signs shall not exceed sixteen (16) square feet in area. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.

(2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

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

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

(5) Signs relating to public safety shall be allowed without restriction.

(6) No sign shall extend higher than twenty (20) feet above the ground.

(7) Signs may be illuminated only by dark sky, non-flashing lights.

J. Storm Water Runoff

(1) All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

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

K. Septic Waste Disposal

(1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

(a) Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland; and

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced except by variance.

(b) Replacement systems shall meet the standards for replacement systems as contained in the Rules.

(c) A holding tank is not allowed for a first time residential use in the Shoreland Zone.

L. Essential Services

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

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

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Article 15 (L)(4) below.

(2) Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A, Article 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet of the normal high-water line of any 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.

(3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., Article 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

(b) The final graded slope shall be two and one-half to one (2 ½:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

(1) All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1,2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209) and subsequent revisions thereof

(2) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of water bodies, tributary streams or wetlands. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

(3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the Knox-Lincoln Soil and Water Conservation District office.

(4) There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies; nor within twenty-five feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and 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.

O. Timber Harvesting - Repealed

P. Timber Harvesting – Statewide Standards

The Bureau of Forestry will administer the regulation of all forestry activities within the municipality.

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

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

(2) Except in areas as described in Article P(1) above, within a shoreline buffer extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the shoreline buffer is not created.

(b) Selective cutting of trees within the shoreline buffer is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Article 15(P)(2)(b) a "well-distributed stand of trees" shall be defined as maintaining a rating score of 16 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4 ½ feet Above Ground Level (inches)	Points
2 < 4 in.	1
4 < 8 in.	2
8 < 12 in.	4
12 in. or greater	8

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

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

$$(4x1) + (2x2) + (3x4) + (2x8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 20 points (36 - 16 = 20) may be removed from the plot provided that no cleared openings are created. 16 total points must remain.

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

(ii) Each successive plot must be adjacent to, but not overlap a previous plot;

(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches inches in diameter.

For the purposes of Article 15(Q)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover

and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath as described in Article 15(P) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain the vegetation in the shoreline buffer, removal of storm-damaged, hazard or dead trees and any required replanting shall occur in accordance with Article 15(R).

(f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Article 15(Q)(2).

(3) At distances greater than 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.

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

(4) Legally existing non-conforming cleared openings may be maintained, in accordance with Article 15(Q). If these areas, fields or other cleared openings have reverted back to primarily woody vegetation, as a result of not maintaining them in accordance with Article 15(Q), then the provisions of Article 15(P) shall apply.

R. Hazard Trees, Dead Trees and Storm-Damaged Trees

(1) Hazard trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:

(a) Within the shoreline buffer, extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the opening shall be replaced with native tree species, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches in diameter, measured at four and one half (4.5) feet above ground level. If new growth is not present, then replacement trees shall consist of native species, be at least four (4) feet in height and be no less than two (2) inches DBH. Stumps shall not be removed.

(b) Outside the shoreline buffer, if the removal of hazard trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then replacement with native tree species is required, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches DBH. If new growth is not present, then replacement trees shall consist of native species and be no less than two (2) inches DBH.

(c) The code enforcement officer may require the applicant to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(d) The code enforcement officer may require more than a one-for-one replacement for removed hazard trees that exceed eight (8) inches in diameter at four and one half (4.5) feet above ground level.

(2) Dead trees may be removed without a permit, provided the following requirements are met:

(a) The trees are dead from natural causes. Dead trees are those that contain no foliage during the growing season.

(b) The removal of dead trees does not result in the creation of new lawn areas or other permanently cleared areas.

(c) Stumps shall not be removed.

(3) Storm-damaged trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:

(a) Within the shoreline buffer, if the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the following shall be required:

(i) The area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required at a density of one seedling/sapling per every eighty (80) square feet of open canopy.

(ii) The removal of storm-damaged trees does not result in the creation of new lawn areas or other permanently cleared areas.

(iii) Stumps shall not be removed.

(iv) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree.

(b) Outside the shoreline buffer, if the removal of storm-damaged trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then the area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required on a one-for-one basis.

S. Exemptions to Article 15(Q)

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

(1) The clearing or removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the standards of Article 15(Q), such as but not limited to cleared openings in the canopy or fields. If any of these areas revert back to primarily woody vegetation, due to a lack of removal of vegetation every two (2) years, the requirements of Article 15(P) shall apply.

(2) The clearing or removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Article 15(B) are not applicable.

(3) The clearing or removal of vegetation from the location of public swimming areas associated with allowed public recreational facilities.

(4) The clearing or removal of vegetation associated with allowed agricultural uses, provided that all requirements of Article 15(N) are complied with, and that best management practices are utilized.

(5) The clearing or removal of vegetation associated with brownfields or voluntary response action program projects pursuant to 38 M.R.S.A Article 343-E, provided that the following provisions are met:

(a) The clearing or removal of vegetation is within the shoreland zone of a coastal wetland that is designated as a Commercial Fisheries / Maritime Activities District; and

(b) The clearing or removal of vegetation is necessary for remediation activities to clean up contamination.

(6) The clearing or removal of non-native invasive vegetation, provided that the following requirements are met:

(a) If clearing or removal of vegetation occurs via wheeled or tracked motorized equipment, then the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that the wheeled or tracked motorized equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

(b) The clearing or removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

(c) If the clearing or removal of non-native invasive vegetation results in a standard of Article 15(P) being exceeded, then the area shall be revegetated in accordance with Article 15(S) to achieve compliance with the applicable standard(s) of Article 15(P).

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

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

T. Revegetation Requirements

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

(1) The applicant must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

(2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed, and must occur at a density comparable to the pre-existing vegetation. If this is not feasible due to shoreline stabilization, then revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.

(3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

(4) Revegetation activities must meet the following requirements for trees and saplings:

(a) All trees and saplings removed must be replaced with native noninvasive species;

(b) Replacement vegetation must consist of saplings at a minimum;

(c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

(d) No one species shall make up 50% or more of the number of trees and saplings planted;

(e) If revegetation is required for shoreline stabilization, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

(f) A survival rate of at least eighty (80) percent of planted trees/saplings is required for a minimum of five (5) years.

(5) Revegetation activities must meet the following requirements for all woody vegetation and for other vegetation under three (3) feet in height:

(a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

(b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

(d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

(e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained in Article 15(P) for a minimum of five (5) years.

(6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:

(a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(b) Where necessary due to a lack of sufficient ground cover, the area must be supplemented with leaf mulch and/or bark mulch at a minimum of four (4) inches deep to prevent erosion and provide for effective infiltration of stormwater; and

(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this Ordinance for a minimum of five (5) years.

U. Erosion and Sedimentation Control

(1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

(a) Mulching and revegetation of disturbed soil.

(b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c) Permanent stabilization structures such as retaining walls or riprap.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the

activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

(a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

(6) When an excavation contractor will perform these activities, compliance with the following shall be required:

(a) A person certified in erosion control practices by the Maine Department of Environmental Protection shall be responsible for management of erosion and sedimentation control practices at the site. This person shall be present at the site each day these activities occur for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until installation of erosion and sedimentation control measures that will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.

(b) Include on the required plan or permit application, the name and certification number of the person who will oversee activities causing or resulting in soil disturbance.

V. 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 groundwater 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.

W. 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.

X. Archeological Site.

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

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

16. Administration

A. Administering Bodies and Agents

(1) **Code Enforcement Officer**. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

(2) **Board of Appeals**. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. Article 2691.

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

B. Permits Required.

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

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

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

(b) The replacement culvert is not longer than 75 feet; and

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

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

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

C. Permit Application

(1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Article 14.

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

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

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

(5) The applicant is required to provide to the municipal permitting authority preconstruction photographs and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site. (Pursuant to 38 M.R.S. §439-A(10))

D. Procedure for Administering Permits.

Within thirty-five (35) days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Article 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35)

days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

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

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

E. Special Exceptions.

In addition to the criteria specified in Article 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

(1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

(3) All proposed buildings, sewage disposal systems and other improvements are:

(a) Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway of the 100-year floodplain outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.

(4) The total footprint, as defined, is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

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

F. Expiration of Permits.

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

G. Installation of Public Utility Service.

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(a.) **Administrative Appeals:** To hear and decide appeals on an appellate basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.

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

(c) In administering the review of an Administrative Appeal, (an appeal other than the review of a request for a variance), the Board of Appeals shall be governed by the provisions of Article 1., General, Article 1.6 Board of Appeals, of the Zoning Ordinance of the Town of Owls Head. However, whenever there is found to be a conflict between the requirements of the Zoning Ordinance and the Shoreland Zoning Ordinance, the more severe requirement as judged to be against the interest of the appellant shall apply.

(d) The Board of Appeals shall hear matters on an appellate basis. The Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon a finding that the decision was clearly contrary to specific provisions of this ordinance.

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

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

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

(c) In the Shoreland Zone, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

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

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

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

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

c. That the granting of a variance will not alter the essential character of the locality; and

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

(e) Notwithstanding Article 16(H)(2)(d)(ii) above, in accordance with 30-A M.R.S.A Article 4353-A, the Code Enforcement Officer may approve a permit to the owner of a residential dwelling unit for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses that dwelling. The permit is deemed to include the variance, which shall be solely for installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Code Enforcement Officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include ramps and associated railing, and wall or roof systems necessary for the safety or effectiveness of the structure. Such permitting is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.

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

(g) A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

(3) **Administrative Appeals**

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) **Appeal Procedure**

(a) **Making an Appeal**

(i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision showing of good cause, may waive the thirty (30) day requirement.

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

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

(b) **Decision by Board of Appeals**

(i) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(ii) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

(iii) The person filing the appeal shall have the burden of proof.

(iv) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(v) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

(5) **Appeal to Superior Court**. Except as provided by 30-A M.R.S.A. Article 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

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

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

I. Enforcement

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

(2) **Code Enforcement Officer**

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

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

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

(3) **Legal Actions.**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) **Fines**. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. Article 4452.

(5) The applicant is required to provide to the municipal permitting authority preconstruction photographs and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site. (Pursuant to 38 M.R.S. §439-A(10))

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

17. Definitions

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

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

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

Aquaculture: the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. This includes operations on land and in, on and around water bodies.

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

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

Beach: a strip of land covered with sand, pebbles, or small stones at the edge of a body of water, especially by the ocean between high- and low-water marks.

Bed & Breakfast: a single-family, owner-occupied dwelling in which lodging or lodging and meals are provided to overnight guests for a fee, and which consists of no more than three (3) bedrooms for lodging purposes.

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.

Brown field: Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Essentially, a Brownfield site is a property where re-development is impeded because of contamination, real or perceived.

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

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

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

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

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.

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

Commercial Fishing Activities: activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets, and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

Densely Developed: any commercial, industrial or compact residential area of 10 or more acres with a density of at least one principal structure per two (2) acres.

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

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

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

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

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

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

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

Excavation contractor: an individual or firm that either is engaged in a business that causes the disturbance of one or more cubic yards of soil, or is in a business in which the disturbance of one or more cubic yards of soil results from an activity that the individual or firm is retained to

perform. Disturbance includes: grading, filling, and removal. A person or firm engaged in agriculture or timber harvesting activities is not considered an excavation contractor as long as best management practices for erosion and sedimentation control are used. Municipal, state and federal employees engaged in projects associated with that employment are not considered excavation contractors.

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

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

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

Fence: a barrier enclosing or bordering a field, yard, etc., usually made of vertical posts connected with horizontal sections of sturdy material or materials such as wood, metal, vinyl, or wire, used to prevent entrance, to confine or to mark a boundary.

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

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

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

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

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

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

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

1. Of 10 or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

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

*NOTE: There are currently no great ponds or rivers in the town of Owls Head.

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

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

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

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

A. With respect to existing principal or accessory structures, including legally existing non-conforming structures, located within an area of special flood hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required by a local floodplain management ordinance, the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area; and

B. With respect to new principal or accessory structures and to existing principal or accessory structures other than those described in paragraph A, including legally existing non-conforming structures, the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

Highest Annual Tide (HAT): an approximation of the landward extent of inundation during the highest predicted tide of the year along the Maine coast. These elevations were derived from the published tide tables for NOAA NOS tidal stations along the Maine coastline. These values are then adjusted (using VDATUM) to land elevations all along the coast, giving a continuous coast-wide representation of the landward limits of the year's HAT. Though the years HAT varies due to the hydrology of the Maine coast, over the course of a year, actual measurements at tidal stations could potentially exceed those from the annual prediction tables due to the influence of storm surge.

The extent of the highest tide has been shown to match closely with the upper boundary of Maine's coastal wetlands, and has been adopted as a coastal regulatory boundary under Maine's Mandatory Shoreland Zoning Act.

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

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

Individual private campsite: an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals

and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

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

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

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

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

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

Maritime Activities: the construction, repair, storage, loading and unloading of boats, chandlery and other commercial activities designed and intended to facilitate maritime trade.

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

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

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

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

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

Native vegetation: vegetation which is indigenous to the local forests.

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

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

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

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

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

Normal high-water line (non-tidal waters): that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

Normal High-Water Line (Tidal Waters): all tidal and sub-tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. (See Definitions: Highest Annual Tide (HAT))

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

Piers, docks, wharves, bridges and other structures and uses extending or located below the normal high-water line or within a wetland:

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

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

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

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

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

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

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

Recreational vehicle: a vehicle or an attachment to a vehicle designed and maintained 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 motorhome.

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

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

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

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

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

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

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

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

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

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

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

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

1. in the case of electric service
    a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; *and*
    b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service
    a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
    b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback: the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area. [See Definitions: Highest Annual Tide (HAT)]

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

Shoreland zone: the land area located within two hundred and fifty (250) feet, horizontal distance, of the 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. [See Definitions: Highest Annual Tide (HAT)]

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

Shoreline Buffer: extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland,

Significant River Segments: See 38 M.R.S.A. Article 437.

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

Stream: a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey, on the website of the United States Geological Survey or the national map, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure: whether temporary or permanent: anything located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind; anything built, constructed or erected on or in the ground. The term structure includes decks, patios, and satellite dishes. Structure does not include fences; poles; wiring, guy wires, guy anchors and other aerial equipment normally associated with service drops; subsurface waste water disposal systems as defined in Title 30-A, Article 4201, subArticle 5; geothermal heat exchange wells as defined in Title 32, Article 4700-E, subArticle 3-C; and wells or water wells as defined in Title 32, Article 4700-E, subArticle 8.

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

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

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

Tidal waters: all waters affected by tidal action during the highest annual tide. [See Definitions: Highest Annual Tide (HAT)]

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

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

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

Tourist Home: an establishment in a private dwelling that provides temporary accommodations to overnight guests for a fee.

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

NOTE: Water 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. (See Definitions: Highest Annual Tide (HAT))

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

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

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

Water body: any ocean, glacier, sea, lake, river or stream. Applicable water bodies referred to in this ordinance are ocean and stream.

Water crossing: any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and

cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland: a freshwater wetland or coastal wetland.

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

Article 18. Certification of Adoption

We hereby attest that this is a true copy of the SHORELAND ZONING ORDINANCE of the Town of Owls Head, Maine, duly adopted at a Special Town Meeting held on December 5, 1991 and amended at Town Meetings held on:

Amended - October 27, 1993
Amended - August 28, 1995
Amended - November 20, 1995
Amended - September 8, 1997
Amended - November 22, 1999
Amended - August 26, 2002
Amended – April 7, 2008
Amended – June 1, 2009
Amended – March 4, 2013
Amended - July 20, 2026

APPROVED BY THE TOWN OF OWLS HEAD
BY TOWN WIDE VOTE,
CERTIFIED BY TOWN SELECT BOARD

Mike Keating-Chair Mike Keating Date Aug 3-26

Pam Holland

Russ Krauss

Attested To Eleanor Stone Date AUG 11 2026
(Eleanor Stone -Town Clerk)