# ZONING ORDINANCE

## TOWN OF OWLS HEAD

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# ARTICLE I. GENERAL

## 1.1 Title

This Ordinance shall be known and may be cited as the "Owls Head Zoning Ordinance," and will be referred to herein as this "Ordinance." This ordinance shall be used in conjunction with the Shoreland Zoning Ordinance if required.

## 1.2 Purpose and Applicability

The purpose of this ordinance is to protect the lawful use of land as existing on the date of adoption of this Ordinance (October 9, 1990), to provide for the development of Owls Head land in such a way as to protect Owls Heads environment, to further the maintenance of safe and healthy conditions and the general welfare, to prevent and control water pollution, protect our well water resource, protect spawning grounds, fish, aquatic and other wildlife habitats, and to control size and location of building sites, placement of structures and land uses.

## 1.3 Basic Requirements

All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved, and uses of premises in the Town of Owls Head shall be in conformity with the provisions of this Ordinance. Any subdivision (as defined herein) of a Property into three or more lots or three or more dwelling units shall be subject to review and approval by the Planning Board under the provisions of the Town of Owls Head Subdivision Ordinance which is incorporated by reference herein. There are also provisions of this Ordinance which make reference to The Site Plan Review Ordinance which is incorporated by reference herein.

## 1.4 Nonconforming Uses (Grandfather Clause)

A. All lots of record with or without buildings and all buildings of record on the effective date (October 9, 1990) of adoption of this Ordinance, or subsequent amendments thereto, not meeting the requirements of this Ordinance and any amendments thereto shall be referred to as "nonconforming lots and/or buildings", provided such lots and buildings were in legal existence.

B. Lots and/or buildings of record shall mean by recorded deeds, by deeds not yet recorded, written legal agreements of sale, land divided by inheritance of estate settlements, order of court or gifts of living relatives dated prior to the effective date of adoption or amendment of this Ordinance.

## 1.5 Nonconformance

A. Purpose

The purpose of this article is to regulate nonconforming lots, uses, and structures as defined in Article VII Definitions so they can be reasonably developed, maintained, repaired or changed so as not to worsen an existing nonconformance or create a new nonconformance (see 3.3 Land Uses and 3.4 Dimensional Requirements).

B. Nonconforming lots

1. Vacant lots

a. A nonconforming lot may be built upon provided that such a 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 and lot frontage can be met. Variance of other requirements shall be obtained only by action of the Board of Appeals.

b. If two or more vacant, contiguous lots are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if these lots do not individually meet the dimensional requirements of this Ordinance, the lots shall be combined to the extent necessary to meet the dimensional standards.

c. No division of any lot may be made which leaves the lot's frontage, lot's coverage, or lot area below the minimum requirements of this Ordinance or which worsens an existing nonconforming situation or creates a new nonconformance.

2. Lots with Structures

a. If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the applicable area and dimensional requirements, and if an allowed use exists on each lot, or if the lots were legally created and recorded before the adoption of this Ordinance, the nonconforming lots may be conveyed separately or together, providing all other State law and local Ordinance requirements are complied with.

b. Contiguous nonconforming lots of record, which at the effective date of adoption of this Ordinance, are the sites of permitted accessory structures, shall conform to the provisions of 1.5, B., 1., b.

C. Nonconforming Structures

1. Maintenance and Enlargement

A Structure legally in existence as of the effective date of adoption of this Ordinance that does not meet the height or yard requirements may be repaired, maintained and improved. It may be enlarged and/or accessory structures may be added to the site without a variance provided that:

A. The enlargement or accessory structure itself meets the height requirements of this Ordinance;

B. The enlargement or accessory structure in combination with the existing structure does not exceed the prescribed maximum lot coverage (referenced in section 3.4 Dimensional Requirements); and the enlargement or accessory structure does not create an increase in nonconformance as defined in the Ordinance itself;

C. There shall be no increase in the nonconformity of a structure, except that an existing lawfully nonconforming structure may be expanded in the area of the nonconformity of that structure (which does not comply with current front, side or rear yard setbacks) only if the resulting expansion of that structure, in the area of the nonconformity, shall be no closer to the front, side, or rear lot line setbacks than the existing lawfully nonconforming structure prior to the expansion. The total square footage of all structures on the property must not exceed the lot coverage required in section 3.4 Dimensional Requirements for the District in which the property is located. In addition, the resulting expansion of the existing structure in the area of the nonconformity shall be no higher than it is currently in the nonconforming portion of the existing structure prior to the expansion within the side and rear yard setbacks, and in no event higher than the district height standard If an expansion of the existing nonconforming part of that structure is approved, such plan must be filed with the Registry of Deeds prior to the issuance of a building permit.

D. No structure which is less than the required setback from the normal high water mark shall be expanded so that any portion of the structure is closer to the high water mark than the existing structure. No accessory structure shall be located within the required setback from the normal high water mark.

2. Reconstruction

Any nonconforming structure legally in existence which is hereafter damaged or destroyed by fire or any cause may be replaced or reconstructed so long as it is substantially started with a permit issued within two (2) years of the event causing the damage or destruction and substantially completed within five (5) years after the original permit was issued. In no event shall any replacement or reconstructed structure create any further nonconformity than was present with the nonconforming structure before said damage or destruction occurred. Current provisions of the Land Use Ordinance shall apply to all replacement or reconstructed structures other than for the continuance of preexisting nonconformity of the lot area per dwelling unit, lot size, front, side, or rear line setbacks. Nothing in this section shall prevent the demolition of the remains of any building damaged or destroyed.

E. Nonconforming Uses

1. Continuance

The use of land, building, or structure, lawful at the time of adoption of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance, except as provided in Paragraph 3 below.

2. Resumption

Whenever a nonconforming use of land and/or structure is superseded by a permitted use, such structure and/or land shall thereafter conform to the provisions of this Ordinance and the nonconforming use shall not thereafter be resumed.

3. Discontinuance

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 that preceding five (5) year period.

4. Expansion of Use

A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function.

5. Transfer of Ownership

Ownership of nonconforming lots, structures, and/or uses as defined in this Ordinance may be transferred without loss of their lawful but nonconforming status.

1.6 Board of Appeals

A. Appointment and Composition

The Board of Appeals shall consist of five members. A quorum of the Board shall consist of three members. Members shall be appointed by the Board of Selectmen. The term of office of a member is three years, but initial appointments shall be made for one, two, and three years respectively. Board members shall elect a Chairman. Tape recordings of the proceedings may serve in lieu of minutes. However, the vote on each question shall be recorded in writing. A decision reached by a majority of the members constituting the quorum shall be a decision of the Board. Any vote of the Board that results in a tie shall be deemed to be and shall be recorded as a decision against the matter being voted on.

All proceedings and records of the Board shall be a public record. Selectmen and their spouses shall not serve as members.

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

A member of the Board may be dismissed for cause by the Selectmen upon written charges and after a hearing.

One alternative member may be appointed by the Selectmen to serve in the absence or disqualification of a regular member. The term of office shall be three years.

B. Powers and Duties

1. To interpret provisions of this Ordinance which are called into question.

2. 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.

C. The Board of Appeals shall hear and decide upon applications in specific cases where relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in undue hardship. Variance applications shall be in writing to the Board of Appeals in sufficient detail with sketches and measurements as may be necessary for the Board of Appeals to render its decision.

D. A person or persons aggrieved by a decision of, or failure to act on the part of the Code Enforcement Officer (CEO) and/or the Planning Board may appeal to the Board of Appeals. Such appeal must be made within thirty (30) days following the decision or failure to act on the part of the CEO and/or Planning Board. A person or persons requesting a variance from a requirement of the Owls Head Zoning Ordinance may file an appeal to the Board of Appeals. In either case, in making this appeal the appellant(s) must complete the form entitled "Application for a Variance or Administrative Appeal to the Board of Appeals and file seven (7) completed copies with all supporting documentation for the appeal with the Code Enforcement Officer, paying at that time a filing fee as determined by the Board of Selectmen.

E. Before taking action on any appeal, the Board of Appeals shall hold a public hearing within 35 days of receipt of an Application for a Variance or an Administrative Appeal. The hearing shall be advertised 14 days in advance in a newspaper with local circulation. The Board of Appeals shall notify, in writing, the appellant, the Selectmen, the Planning Board, the Code Enforcement Officer, and all owners of property within 500 feet of the property involved in the appeal, of the nature of the appeal and of the time and place of the public hearing thereon. The

Department of Environmental Protection shall be notified twenty (20) days prior to the hearing for a variance request in the Shoreland Zone. Failure to receive notice shall not invalidate a Board of Appeals decision.

F. The Board of Appeals may grant a variance only where strict application of this Ordinance would result in "undue hardship" to the petitioner. A variance shall not be granted to permit a use or structure otherwise prohibited by this Ordinance. "Undue hardship" shall mean:

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

G. As used in this Ordinance, a variance if approved and granted by the Board of Appeals may be authorized only for height, area of lot and density associated therewith, and size of structures and/or size of yards and setbacks. The Board of Appeals shall in granting an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Section 1.6 "Board of Appeals" and shall be imposed for the purpose of minimizing any adverse impact such variance would have on the Town and/or adjoining property owners. The Board of Appeals may after approving a variance with conditions refer the matter back to the Planning Board or Code Enforcement Officer to incorporate those conditions into their final approvals. However, a side yard or rear yard variance shall not be granted if it will interfere with access of fire fighting apparatus to a structure on the land in question or adjacent property.

H. The Board may grant a temporary variance without making a finding of undue hardship to a property owner for the purpose of making the property accessible to a person with a disability who is living on the property. Any such variance granted shall be restricted solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. For the purposes of this paragraph, a disability has the same meaning as a physical or mental handicap under MRSA Title 5 Section 4553, namely, any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, birth defect, environmental conditions or illness, and includes the physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist, as well as any other health or sensory impairment that requires special education, vocational rehabilitation, or related services. This temporary variance shall terminate upon the death or permanent

removal of the person(s) with the disabilities for whom the variance was granted from the dwelling; a discontinuation of the disabilities for any reason; or a sale of the dwelling in which the person(s) for whom the variance was granted no longer resides on the premises. On the happening of any of the conditions stated above, all exterior additions for which the variance was granted are to be removed from the exterior of the premises within 6 months.

I. If the Board of Appeals shall deny a variance, a second request for a variance, affecting the same property and requesting a similar result, shall not be submitted to the Board of Appeals within six (6) months from the date of denial, unless four members of the Board find that an error of law or misunderstanding of fact has been made or substantial change in circumstances which directly affected the outcome of the first appeal. A decision must be made within 60 days from the date of the hearing.

J. The Board of Appeals shall make their decision within thirty-five (35) days of the date of the hearing, and shall issue a written finding on all appeals.

K. 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 twenty (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.

L. Variance recorded. If the board grants a variance, or a temporary variance as defined in this section 1.6 H, under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds within 30 days of final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection.

M. A copy of all variances granted for properties within the Shoreland Zone shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

1.7 Validity

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

B. State statutes not included in this Ordinance remain applicable as governing land use in the Town of Owls Head and enforceable as directed by State authorities.

C. Whenever the requirements of this Ordinance conflict with those of another ordinance or other regulations, the stricter shall apply.

1.8 Amendments

This Ordinance may be amended by a majority vote of any legal town meeting when such amendment is published in the warrant calling for the meeting, and is not in conflict with State laws. Each Ordinance or amendment shall be on file with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public, at a reasonable cost, at the expense of the person making the request.

1.9 Effective Date, Repeal

This Zoning Ordinance shall be enacted and be of full force and effect on the day following the date of approval of this Ordinance by the voters of the Town of Owls Head at a town meeting, and any Zoning Ordinance of the Town of Owls Head in effect prior to the date of enactment of this Zoning Ordinance shall be repealed as of that date.

## ARTICLE II. ZONING MAP

2.1 Zoning Map Certification

A map entitled "Map 1 Zoning Map" is hereby adopted as part of the Owls Head Zoning Ordinance and shall be referred to as the "Map 1 Zoning Map" which shall be the zoning map of the Town of Owls Head. The Map 1 Zoning Map shall be identified by the signature of the Chairman of the Board of Select Board and attested by the signature of the Town Clerk. The Map 1 Zoning Map shall be located in the municipal office and in the office of the Town Code Enforcement Officer. It shall be used in conjunction with the written descriptions following as the final authority as to the current zoning status of the land and water areas in the Town. All references to Tax Maps and Lots herein are taken from the official Property Maps of the Town of Owls Head, Knox County, Maine adopted or as amended which is also located in the municipal offices. Any references to Metes and Bounds on the Map 1 Zoning Map, or on the list shown in this Article in section 2.2 (C) for lots in the Commercial District are those approved by the Town at a Town Meeting and have become the official boundaries of the lot description, in conjunction with Map 1 in that Commercial District.

2.2 District Boundaries

A. Uncertainty of Boundaries

Where uncertainty exists with respect to the boundaries of the various districts their lots and/or districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of roads and highways shall be construed to follow such center lines;

2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;

3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;

4. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams or rivers shall be construed to follow such center lines;

5. Boundaries indicated as being parallel to or extensions of features indicated in Paragraphs 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Any conflict between the zoning map and a description by metes and bounds in a deed shall be resolved in favor of the description by metes and bounds;

6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in circumstances where the items covered by paragraphs 1 through 5 above are not clear, the Board of Appeals shall interpret the Disrict boundaries.

B. Division of Lots by District Boundaries
Where a district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulation applicable to the less restricted portion of the lot may be extended into the more restricted portion of the lot, by not more than fifty (50) feet; provided, however, that minimum side yard and back yard requirements and buffering requirements for a nonresidential or multi-family use abutting a residential use shall be observed.

C. Commercial District Lots:

1. Knox County Regional Airport: Map 3 Lot 5-1 on the Northerly side of the Dublin Road, and Map 5 Lot 1,
2. Owls Head Transportation Museum: Map 8 Lot 40, and Map 5 Lot 8-40 3.
3. A portion of Map 4 Lot 69 (a parcel as defined by Metes and Bounds within said tax lot being 135,000. Sq ft.)
4. Map 4 Lot 95
5. Map 5 Lot 2
6. Map 5 Lot 3
7. Map 5 Lot 3-1
8. Map 6 Lot 1

9. Map 6 Lot 3
10. Map 7 Lot 141 and Lot 141-1
11. Map 7 Lot 6
12. Map 8 Lot 34
13. Portion of Map 9 Lot 18 (one acre on which boat sales is located abutting Woods Road)
14. Map 9 Lot 19 (The Grange Hall)
15. Portion of Map 11 Lot I ( one acre fronting South Shore Drive as defined by Metes and Bounds)
16. Map 11 Lot 7 (Old School House)
17. Map 11 Lot 12
18. Map 11 Lot 13
19. Map 11 Lots 21, 22, 23 and Lot 33
20. Map 11 Lot 43 and 100' X 300' portion of Lot 42-2 adjacent to the lobster pound
21. Portion of Map 12 Lot 54 (one acre on which shop is located)
22. Map 12 Lot 62
23. Map 13 Lot 20
24. Map 13 Lot 93
25. Map 16 Lot 25
26. Map 16 Lot 73

Note: A property owner can remove a parcel from a Commercial District if he/she or they decide to upon notification to the Owls Head Tax Assessor and Code Enforcement Officer and place it in the appropriate Rural Residential I or II which abuts the property. This will be reported at next Town Meeting on warrant and any change in tax assessment would go into effect the next fiscal year.

D. Resource Protection District

1. Where Broad Brook enters Broad Cove to a distance of seventy-five feet (75') upstream from high water mark. The width to be determined by its embankments.

2. All land between high-water mark and inland a distance of seventy-five feet (75') beginning at north westerly boundary Map/Lot 011-050 and continuing at the high-water mark across Map/Lot 011-052-001, Map/Lot 011-052-002 and Map/Lot 011-052-003 to the westerly boundary of Map/Lot 011-056 (Owls Head State Park).

3. All areas with the Shoreland Zone that are designated Resource Protection Districts on Map 7 Shoreland Zoning or in the text of the Shoreland Zoning Ordinance.

4. All land within the following metes and bounds and / or as depicted on the Map 1 Zoning Map of the Town of Owls Head:

a. AREA 1. Beginning at a point Latitude N 44° 03' 52.8100" Longitude W 69° 06' 11.8899" then S 66° 18' 23"W along a line 353.55' to a point Latitude N 44° 03' 51.5048" Longitude W 69° 06' 16.9786" then S 21° 18' 23" W along a line

750.00' to a point Latitude N44° 03' 44.6391" Longitude W 69° 06' 20.6117" then S 68° 41' 37" E along a line 1000.00' to a point Latitude N 44° 03' 41.1182" Longitude W 69° 06' 07.8157" then N 21° 18' 23" E along a line 1000.00' to a point Latitude N 44° 03' 50.3451" Longitude W 69° 06' 02.9324" then N 68° 41' 37" along a line 750.00' to the place of beginning.

b. AREA 2. Beginning at a point Latitude N 44° 03' 35.4792" Longitude W 69° 05' 33.7374" then S 77° 21' 02" E a long a line 600.00' to a point Latitude N 44° 03' 34.2331" Longitude W 69° 05' 25.7069" then S 34° 18' 40" E along a line 1175.00' to a point Latitude N 44° 03' 24.6851" Longitude W 69° 05' 16.5413" then N 70° 02' 09" W along a line 515.80' to a point Latitude N 44° 03' 26.3901" Longitude W 69° 05' 23.1977" then N 19° 57' 51"vE along a line 199.84' to a point Latitude N 44° 03' 2499" Longitude W 69° 05' 22.2817" then N 70° 02' 09" W along a line 1400.00' to a point Latitude N 44° 03' 32.8772" Longitude W 69° 05' 40.3494" then N 61° 47' 25" E along a line 550.00' to the place of beginning.

c. Area 3. Beginning at a point Latitude N 44° 03' 32.7380" Longitude W 69° 06' 7283" then S 14° 14' 03" W along a line 1200.00' to a point Latitude N 44 03' 21.2320" Longitude W 69° 06' 13.6544" then S 181° 10' 30" E along a line 653.05' to a point Latitude N 44° 03' 15.'1197" Longitude W 69° 06' 10.7833" then S 76° 31' 58" E along a line 100.00' to a point Latitude N 44° 03' 14.8937" Longitude W 69° 06' 09.44667" then N 141° 14' 03" E along a line 1750.00" to a point Latitude N 44° 03' 31.6768" Longitude W 69° 06' 03.7437" then N 75° 45' 57" W along a line 450.00' to the place of beginning.

d. AREA 4 Beginning at a point Latitude N 44° 03' 22.3442" Longitude W 69° 05' 33.3061" then S 13° 41' 21" E along a line 890.22' to a point Latitude N 44° 03' 13.8172" Longitude W 69° 05' 30.3360" then N 62° 37' 31" E along a line 890.22" to a point Latitude N 44° 03' 17.9156" Longitude W 69 05' 19.5506" then N 65° 31' 55" W along a line 1100.00' to the place of beginning.

e. Area 5. Beginning at a point Latitude N 44° 03' 16.4273" Longitude W 69 05' 19.0282" then S 34° 39' 39" E along a line 250.00' to a point Latitude N 44° 03' 14.3935" Longitude W 69° 05' 17.0485" then S 55° 20' 21" W along a line 500.00' to a point Latitude N 44° 03' 11.5562" Longitude W 69° 05' 22.6524" then N 34° 39' 39" W along a line 250.00' to a point Latitude N 44° 03' 13.5769" Longitude W 69° 05' 24.6199" then N 55° 20' 21" E along a line of 500.00' to the place of beginning.

E. Recreational District

1. Owls Head Lighthouse State Park (Map 011-056 and Map 011-057),
2. Birch Point State Park (Map 001-039, Map 001-040, and Map 001-041),
3. Monroe Island (Map 007A-001), Sheep Island (Map 007B-001), and Ash Island (Map 002-107),
4. Plaisted Preserve (Map 037-002),
5. Ash Point Preserve (Map 002-069),
6. Trails End (Only the Town Owned property at the end of Ash Point Drive),
7. Crockett Beach (Map 004-054),
8. Richard Carver Harbor Park (Map 011-035),
9. Waldo Tyler Wildlife Management Area (Map 015-001),

F. Rural Residential I District

All lands in the Town of Owls Head not designated as being within a Commercial Zone, a Resource Protection Zone, a Recreational District, or a Rural Residential II District.

G. Rural Residential II District

That area consisting of the properties that are bounded by **Ash Point Drive** to the West, **South Shore Drive** to the South and East, and **North Shore Drive** to the North and East. More specifically, that portion of Section 4 on the "Map of Owls Head Properties, Knox County" referred to above which lies North of South Shore Drive; That portion of Section 6 which lies North of South Shore Drive; that portion of Section 7 which lies North of South Shore Drive; all of Sections 9 and 10 on said Map, and that portion of Section 11 which lies West of North Shore Drive, all of which is shown on the Zoning Map attached hereto.

An area framed by **Ash Point Drive, Dublin Road**, parts of the **Ballyhac Road** and the **Shoreland Zone**. More specifically described as follows: All of Section 1 with the exception of Spauldings Island; That portion of Section 2 which lies West of Ash Point Drive and North of Lucia Beach Road; That portion of Section 3 which lies in the area South of Dublin Road and East of Ballyhac Road; all of which is shown on the Zoning Map attached hereto.

NOTE: Detailed maps for use in determining boundaries are on file at the office of the Owls Head Code Enforcement Officer.

## ARTICLE III. LAND USES

3.1 General

Land uses and activities not involving construction, structural improvements or alteration of the land are allowed in all districts and shall not, unless specifically indicated in this Ordinance, require permits from the Code Enforcement Officer. These activities include, but are not limited to: hiking, hunting, snowmobiling, harvesting of wild crops, wildlife observation and wildlife management, fire prevention activities, surveying, noncommercial mineral exploration, trail construction and maintenance, and emergency operations. Such activities shall conform to applicable State and Federal laws and regulations. All other land uses and activities shall conform to applicable General Performance Standards of this Ordinance and Site Plan Review Ordinance is applicable.

3.2 Purpose

A. Rural Residential I District

To maintain the rural and marine-related character of Owls Head, while at the same time protecting this natural and rural quality from developmental sprawl.

B. Rural Residential II District

To better preserve the water quality, water retention, and recharge areas in Owls Head while protecting and maintain the rural quality of this more sensitive natural and ecological section of the Town.

C. Rural Residential Overlay District

The overlay is to allow certain carefully structured events that are closely associated and appropriate with agricultural uses in the Rural Residential I and Rural Residential IIDistricts but not Shoreland Zoning Districts as defined on the definitions page.

D. Commercial District

To provide within the Town of Owls Head the location of business and service uses consistent with the residential and rural character of the Town.

E. Recreational District

To provide areas for recreational space accessible to the public suitable for recreational activities, such as swimming, tennis, sightseeing, hiking, walking etc. as allowed and or as posted by owner. Recreational Districts is depicted as districts on "Map 1 Zoning Map", the Owls Head Zoning Map.

F. Resource Protection District

To preserve and protect areas in which development would adversely affect water quality, protective habitat, biotic systems, or scenic and natural values.

3.3 Land Uses

| Land Uses | Rural Residential I & II | Rural Residential I & II Overlay | Resource Protection | Commercial | Recreational |
|---|---|---|---|---|---|
| ADU (Accessory Dwelling Unit) (X) | CEO | CEO | NO | PB | No |
| Adult Entertainment | No | No | No | No | No |
| Agricultural and horticultural uses and sale, processing, and storage of products frown on the premises (F) | Yes | Yes | PB | Yes | No |
| Agricultural Events | No | PB/CEO (1) | No | Yes | No |
| Animal Kennels | No | No | No | PB(2) | No |
| Bait Houses Used For Commercial Purposes | No | No | PB (3) | PB | No |
| Bakery | No(4) | PB | No | PB | No |
| Bed and Breakfast, Tourist Home | PB | PB | No | PB | No |
| Boat Building | No(4) | No(4) | No | PB | No |
| Business and Professional Offices | No(4) | No(4) | No | PB | No |
| Campgrounds | No | No | No(5) | PB | PB |
| Cemeteries | PB | PB | No | PB | No |
| Certain Events as Authorized by Section 3.5 (W) | No | PB(6) | No | No | No |
| Church, Quasi-Public Facility | PB | PB | No(7) | PB | No |
| Commercial Building | No | No | No | PB | No |
| Commercial Storage of Motor Vehicles Aircraft, Boats | No | No | No | PB | No |
| Dwelling, Single or Two Family | CEO | CEO | No | CEO | No |
| Dwelling, Conversion of Existing Structures to Not More Than Two Dwelling Units | CEO | CEO | No | CEO | No |
| Dwelling, Multi-Family Dwellings/Apartment Houses (More than two families) | No | No | No | No | No |
| Day Care Center | PB | PB | No | PB | No |

| Land Uses | Rural Residential I & II | Rural Residential I & II Overlay | Resource Protection | Commercial | Recreational |
|---|---|---|---|---|---|
| Earth Moving Contractors | No | NO | No | PB | No |
| Filling Station | No | NO | No | PB | No |
| Gravel, Loam, Sand, or Stone Removal | PB | PB | No | PB | No |
| Home Occupation, Defined in Article VII. (Antique/Gift/Specialty Shops) | CEO | CEO | No | CEO | No |
| Home Occupation, Special Provisions for Certain (Refer to 3.5 E 10) | Yes | Yes | No | Yes | No |
| Junkyard | No | No | No | PB | No |
| Light Manufacturing, Processing, Warehousing Distribution, Storage of Materials (other than those used in home occupation) | No(4) | No(4) | No | PB | No |
| Lumber Yard for Storage and/or Sale of Finished Lumber | No | No | No | PB | No |
| Medical Dispensaries/Clinics | No | No | No | PB(7) | No |
| Mineral Extraction, Processing & Storage | No | No | No | PB | No |
| Mobile Home Parks | PB(8) | PB(8) | No | PB | No |
| Motels/Hotels (I) | No | No | No | PB | No |
| Municipal Uses | PB | PB | No | PB | No |
| Neighborhood Store, including Sale of Motor Vehicles, Aircraft, Boats | No | No | No | PB | No |
| Nursing, Convalescent Home | PB | PB | No | PB | No |
| Personal Services | No(4) | No(4) | No | CEO | No |
| Public Utility Installations, Including Power Substations and Pumping Stations | PB | PB | No | PB | No |
| | | | | | |

| Land Uses | Rural Residential I & II | Rural Residential I & II Overlay | Resource Protection | Commercial | Recreational |
|---|---|---|---|---|---|
| Repair of Vehicles (including Body Shop), Engines, Boats, or Aircraft for Commercial Purposes | No | No | No | PB | No |
| Restaurants | No | No | No | PB | No |
| School, Commercial | No | No | No | PB | No |
| School, Public or Private | PB | PB | No | PB | No |
| Septic Waste Disposal | No | No | No | PB (9) (10) (11) | Yes |
| Small Wind Energy Systems | CEO | CEO | PB | CEO | No |
| Storage of Petroleum Products for Wholesale or Retail Purposes | No | No | No | PB | No |
| Storage of Three or More Unregistered Motor Vehicles | No | No | No | PB | No |
| Timber Harvesting, Forest Management Activities (F) | Yes | Yes | Yes | Yes | PB |
| Tradesman's Shops | No(4) | No(4) | No | CEO | No |

Key: Yes – Allowed No permits required. No – Not Allowed.
PB – Planning Board Approval Required. CEO – Building Permit Required From the Code Enforcement Officer

The above list of land uses is not meant to be all-inclusive. Where it is indicated in the above table that Planning Board approval is required, and for any other uses that may be proposed, the Board shall use the following general criteria as a guideline in making a decision:

Notes to the above Schedule

1. PB will review under Site Plan Review for first event- CEO will review all following events if no substantial change or complaints are received.
2. The proposed use will not create unreasonable demands for municipal services.
3. The proposed use will not unduly depreciate the value of adjacent real estate.
4. Unless operated as Home Occupations as defined in Article VII.
5. The proposed location is not undesirable for the proposed use.
6. On parcels of fifteen (15) acres or more with RR I and RR II with at least five (5) acres dedicated to agricultural uses (See Section 3.5(W).
7. Copies of all required, valid Maine State and federal license(s) must be presented to the Planning Board with the application.
8. Must comply with Title 30-A Chapter 187.

9. When put to any other use, a structure originally designated as a dwelling shall not be put to a use that would cause rapid deterioration of said dwelling.
10. The proposed use will not have an unreasonably deleterious effect on adjacent property in considering the overall design of the building and occupancy elements.
11. The proposed use will not have an unreasonable deleterious effect on the peace and comfort of surrounding property owners.

Additional Notes

12. Building permits are required for all buildings and for all structures other than fences, stone walls, and fireplaces 4 ft. or under in height.
13. The proposed use will not result in an inordinate amount of pedestrian and/or vehicular traffic.
14. Copies of all records and reports required by the State relative to the commercial and the operation thereof, is necessary as part of the Annual Review process.
15. There shall be a permit fee in such amount as the Board of Selectmen may from time to time establish by order.
16. Some require Site Plan Review in addition to requirements of this Ordinance. See Site Plan Review Ordinance.
17. With exception allowed as defined under the definition of Quasi-Public Facility to requirements to be met.

## 3.4 Dimensional Requirements

| Minimum Dimensions Per Lot | Rural Residential I | Rural Residential II | Rural Residential I&II Overlay | Commercial | Recreational |
|---|---|---|---|---|---|
| Lot Area Residential for ^ one Dwelling (1) | 40,000 sq. ft. | 60,000 sq. ft. | 15 acres (2) | 40,000 sq. ft. | N?A |
| Non-residential | N/A | N/A | N/A | 40,000 sq. ft. | 40,000 sq. ft. |
| Road Frontage (3) | 100 ft. | 100 ft. | 100 ft. | 100 ft. | 100 ft. |
| Rear Yard Width | 100 ft. | 100 ft. | 100 ft. | 100 ft. | 100 ft. |
| Lot Depth | 100 ft. | 100 ft. | 100 ft. | 100 ft. | 100 ft. |
| Front Yard Setback | 25 ft. | 25 ft. | 25 ft. | 25 ft. | 25 ft. |
| Side yard Setback (4), (5) | 25 ft. | 25 ft. | 100 ft. for events | 25 ft. | 25 ft. |
| Rear Yard Setback (4), (5) | 25 ft. | 25 ft. | 100 ft. for events | 25 ft. | 25 ft. |
| Shoreline Setback (6) | 75 ft. | 75 ft. | N/A | 75 ft. | 75 ft. |
| Fence Setback | On owner's side of the property line | On owner's side of the property line | On owner's side of the property line | On owner's side of the property line | On owner's side of the property line |
| Driveway or Road Setback from Sideline or Rear Setback of the property line | 10 ft. | 10 ft. | 10 ft. | 10 ft. | 10 ft. |
| Maximum Dimensions Building Height (ft) (7) | 35 ft. | 35 ft. | 35 ft (all structures including tents) | 35 ft. | 35 ft. |
| Municipal Town Owned Sand & Salt Building Height (ft) (7) | 42 ft. | 42 ft. | N/A | 42 ft. | 42 ft. |
| Lot Coverage by Structure (8) | 20% | 20% | 20% total including event structures permanent or temporary | 50% | 20% |

Notes to the above schedule

1. If more than one residential dwelling is to be constructed or established on a single parcel, all existing dimensional and other requirements for the district in which this parcel is located shall be met for each additional dwelling unit, principal structure, or use.
2. The 15 acres shall be contiguous and a minimum of 5 acres must be in production.
3. Road frontage may be reduced to 35 ft., measured along the chord of a cul-de-sac. A cul-de-sac shall have a minimum right of way outside radius of 60 feet, with a traveled way minimum outside radius of 40 feet and a maximum inside radius of 19 feet. Where a lot is land-locked, and meets all other requirements of this Ordinance, the road frontage requirement is waived, but there must be a Private Right of Way plan prepared and signed by a licensed surveyor, submitted to the Code Enforcement Officer for approval in accordance with the provisions of this code. When approved, the plan must be legally recorded to become a legal Private Right of Way. All Private Right of Ways must possess a minimum width of 50 feet to provide access to a landlocked parcel.
4. For any grandfathered nonconforming lot with a width or length dimension of 80 feet or less, but measuring 40 feet or more, the side and rear setback for primary building and garage shall be taken from the chart below: (80 feet and above the setback shall be 25 feet. For lots 50 feet or less in width, the setback shall be 10 feet minimum. Use formula below:

   Setback (ft) = Road Frontage in ft (1/2) – 15 ft
   (no setback to be less than 10')

5. In all districts, stand-alone accessory buildings, including but not limited to sheds and tool houses but excluding garages and living quarters, may be placed within the side and rear setbacks under the following conditions:
   - Total ground coverage shall not exceed 150 square feet.
   - Building height shall not exceed 10 feet.
   - The building shall not be used for storage of flammable liquids or gases of more than 5 gallons.
   - No portion of the building shall be placed closer than 10 feet from the property line. Only one accessory structure is allowed per lot under these criteria, without exception.
6. Not applicable to piers, docks, and retaining walls.
7. Height of building shall be calculated by averaging the measurements from the highest point of the building to the highest and lowest finished grade levels next to the building, excluding incidental protrusions such as chimneys, ventilators, and non-inhabited towers and spires. Free-standing structures such as satellite dishes and radio towers are permitted but they must be set back from the nearest lot line one foot for every foot of height.
8. Any lot in a Rural Residential District which was on 1 July 1995 an active house of worship, comprising at least twenty five members all of whom reside in the State of Maine, may cover a maximum of 36% of that lot with structures.

3.5 General Performance Standards

A. Purpose: The standards contained in this section are intended to allow various uses to be accommodated without detriment to neighboring uses and properties.

B. Air Pollution

1. All air pollution control shall comply with minimum Federal, State and local requirements.

2. Any activity emitting toxic or odoriferous substances shall submit detailed plans to minimize such emissions to the Code Enforcement Officer and the Department of Environmental Protection before a permit for construction is granted:

3. An environmental impact study may be required at the applicant's expense.

C. Corner Clearances For purposes of traffic safety, no building or structure may be erected and no vegetation other than shade trees may be maintained more than three feet above street level within forty feet of the intersection of the center line of intersecting streets or driveways serving nonresidential uses.

D. Dwelling Conversions
A single-family dwelling may be converted to no more than two dwelling units provided:

1. All dimensional requirements for a single-family dwelling shall be met for properties located in Rural Residential District I (40,000 sq. ft. total), and in Rural Residential District II (60,000 sq. ft. total).

2. The lot shall have suitable soil conditions for on-site disposal in accordance with the Maine State Plumbing Code.

3. Off-street parking shall be provided in accordance with this Ordinance.

E. Home Occupations and Tradesman's Shops

1. Shall be secondary and subordinate to the primary use of the lot which is residential.
2. Shall be carried on within the principal and/or secondary building, and utilize no more than 1000 sq. ft. excluding interior storage space of not more than 500 sq. ft. A secondary building shall be on the same lot as the primary building.
3. Shall be carried on by the family residing in the dwelling unit with a total of not more than 6 participants. This total shall be made up of resident family members and up to 3 non-resident family or non-family members.
4. There shall be no structural variations made in the primary or secondary building detracting from the residential character of the neighborhood.

5. Objectionable conditions such as offensive noise, vibration, smoke, dust, odors, heat, traffic, or parking problems, and soil or water contamination shall not be generated by the home occupation. Noise, smoke and odors shall not be detectable beyond the property line by normally sensitive human beings.
6. The exterior storage and display of materials and finished products for the home occupation is not allowed unless screened from view from adjacent lots and from public view, maintaining as much as possible the residential character of the neighborhood. Because of the key part that the lobster industry has played and still plays in Owls Head, storage of lobster traps is exempt from this screening requirement as being impractical.
7. Yard (or garage) sales of household goods, curios, and the like are permitted, but shall not be conducted more often than four (4) days in any six (6) month period. Sales conducted more frequently will fall into the category of a home occupation, and must meet all the requirements of a home occupation.
8. There shall be sufficient off-street parking space for employees and customers of the home occupation.
9. A home occupation selling products and/or services on-site to the public may not commence until a nontransferable use permit has been obtained from the CEO. Home occupations already in existence must obtain a permit within one year after the date this ordinance is adopted or cease operation.

10. Special Provisions

No home occupation permit required if all of the following are met:

a. All work performed relative to the home occupation, which is performed on the premises, is to be done exclusively by residents of the premises.

b. The pursuit of the home occupation is to cause no noise, nor create any odor, dust, or vibration detectable, without instruments, at any point on the boundary of the property upon which the home occupation is being conducted.

c. The nature of the home occupation is such that there will never be more than 10 customers/client visits per month to the premises.

d. The nature of the home occupation is such that the sum of all vendor, supplier, and delivery service visits will not exceed 10 per month to the premises.

e. There will be no signs relative to the home occupation on the premises, although a single notice, no larger than 8.5" X 11 ", bearing characters no greater than I" high may be posted on or near one of the building's doors.

f. No material or equipment relative to the home occupation shall not be stored or displayed out of doors.

F. Agricultural

Agriculture (or farming) is defined in Article VII section 7.2 herein. However, for the purposes of this section only, it shall include forestry management/conservation, and timber harvesting. On parcels of fifteen (15) acres or more in size in the Rural Residential Overlay District in which at least 5 acres are in active agriculture (or farming) production, forestry management/conservation and timber harvesting, the following shall be considered permitted agricultural and horticultural uses in (1) & (2) below and agricultural events in (3) through (6) below:

1. A horse farm, including boarding stables, riding area, indoor riding facility and equestrian instruction.

2. The sale, on-site or by shipping or delivery off-site, of agricultural products grown or produced on premise at vineyards/wineries and farms or closely related items with a minimum of $2000 or more gross annual sales. Sale of any unrelated items not to exceed 10% of gross annual sales.

3. Farm to table dinners, serving products primarily raised or created on premise. Not more than 100 attendees per event, no more than one event per month between June through November. Events shall fall between the hours of 10:00 am. to 8:00 pm. This time window includes all set up and clean up. Events are required to:

    a. Adhere to noise levels stated in this Ordinance Appendix A in Land Use Guidelines for activities outside the Commercial District & guidelines in the Site Plan Review.
    b. Obtain approved licensed permit by the Selectmen prior to the events serving alcohol.

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Note: The Planning Board may require a new Site Plan Review, at the owner's expense, for any change in scope of business or complaints, if filed with the Code Enforcement Officer.

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4. Educational classes for the promotion of agricultural methods & products. Not more than 20 attendees per class. Classes shall fall between the hours of 8:00 am. to 6:00 pm.

5. Events promoting agricultural methods & products which are directly related to products grown on the farm. No more than one event per month and events shall fall between the hours of 10:00 am. to 8:00 pm. This time window includes all set up and clean up. Events are required to comply to the following with exclusion of State wide events which are free to the public:

a. Adhere to noise levels stated in this Ordinance Appendix A in Land Use Guidelines for activities outside the Commercial District & guidelines in the Site Plan Review.

b. Obtain approved licensed permit by the Selectmen prior to the events serving alcohol.

6. Excluded events are: rodeos and rodeo related activities, tractor pulls, horse pulls, any other steam, gas or diesel engine competition or demonstration, farm equipment sales, swap meets or flea markets. This also includes any event not pertaining to farming or events deemed not appropriate by the Planning Board.

G. Manufacturing, Processing, Warehousing, Distribution and Storage in a Commercial District.

1. These uses shall conform to dimensional requirements for nonresidential uses.

2. No parking or outdoor storage shall be located within the yard setbacks.

3. Off-street parking and loading shall conform to the off-street parking and loading requirements of this Ordinance.

4. All outdoor storage of materials, goods or vehicles shall be screened from view from adjacent residential lots and from public view, as required for off street parking and loading spaces.

H. Mineral Extraction. Processing and Storage

Topsoil, rock, minerals, sand, gravel, and similar earth materials may be removed for commercial purposes from locations where permitted under the terms of this Ordinance only after such operations have been approved by the Planning Board and a permit has been issued by the Code Enforcement Officer provided that:

1. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon completion of operations, it shall be at a slope not steeper than two feet horizontal to one foot vertical (2:1), and shall be loamed with not less than four inches of topsoil and seeded and mulched to prevent erosion.

2. No excavation shall be extended below the grade of adjacent streets unless 100 feet from the street line or unless provision has been made for reconstruction of the street at a different level.

3. No below grade excavation except for drainage ways shall occur within 50 feet of any lot line, except as allowed in No. 2 above. Natural vegetation shall not be removed or disturbed within the 50-foot setback from all lot lines.

4. The operation shall be shielded from view from adjacent residential lots and from public view.

5. Removal of sod, loam or topsoil shall leave not less than four inches of topsoil. Where sand, gravel, or other minerals are to be removed, sufficient topsoil shall be stockpiled to permit covering all areas with not less than four inches of topsoil. Upon completion of each section, in accordance with the approved plans, all disturbed areas shall be loamed, with not less than four inches of topsoil, seeded, and mulched to prevent erosion.

6. No excavation, filling or storage of materials shall occur within 50 feet of the bank of any permanently flowing watercourse or within 100 feet of any pond. No excavation shall result in standing water unless in conformance with a final grading plan approved by the Planning Board.

7. A bond or other surety payable to the Town of Owls Head in an amount recommended by the Planning Board and approved by the Select Board shall be filed with the Town of Owls Head. The amount shall be sufficient to guarantee conformity with Planning Board approval.

8. No activity permitted under this section shall result in erosion and/or transport of sediment beyond the property lines of the lot(s) for which the permit is issued.

I. Motels

Motels shall conform to the following:

1. Lots shall meet all requirements for nonresidential uses and shall have a lot area of not less than 5,000 square feet per sleeping room.

2. New buildings shall be no more than 25 feet in height.

3. No parking shall be located within 10 feet of any lot line.

4. Off-street parking shall be provided in accordance with this Ordinance.

J. Off-Street Parking and Loading Standards

1. Applicability: In all new construction, alterations, and changes of use there shall be provided off-street parking and loading space adequate for their use.

2. Off-Street Parking Standards: Off-street parking shall be considered as an accessory use when required or provided to serve conforming uses located in any district. An area of 200 sq. ft. appropriate for the parking of an automobile, exclusive of maneuvering space shall be considered as one off street parking space. No off-street parking facility shall have more than two (2) entrances/exits on the same street. Parking areas with more than four parking spaces shall be so arranged that vehicles can be turned around within such areas and can conveniently avoid the need to back into the street. The intent of this section is to assure that there are sufficient parking spaces provided so that no vehicles will

have to park on a public or private way. If the number of parking spaces required in the table below prove to be insufficient to prevent the need for on-street parking, the owner will be required to provide sufficient on-site parking.

The following minimum number of spaces shall be provided and maintained:

| | |
|---|---|
| All uses not specifically listed or able to be placed into one of the below categories<br><br>Planning Board Discretion | Sufficient number of parking spaces, as determined by the Planning Board during site plan review, or by the Code Enforcement Officer if there is no site plan review, to eliminate the necessity of on street parking.<br><br>The Planning Board may, increase or decrease the parking requirements depending upon the individual applicant circumstances.<br><br>An applicant requesting a deviation from the standards must demonstrate to the satisfaction of the Planning Board that the request is appropriate to the planned use through the submission of parking information for similar uses or other similar information. |
| ADU (Accessory Dwelling Unit) | No additional Parking Required |
| Bed & Breakfasts, Tourist Homes, Rooming Houses | 2 parking spaces for each dwelling unit plus 1 space for each room offered for rent |
| Boat Building/Repair | 1 space for every employee |
| Bowling Alleys | 4 parking spaces for each bowling lane |
| Campgrounds | 4 spaces plus 1 space for each site available for occupancy |
| Dwellings, Single Family | 2 parking spaces per dwelling unit |
| Dwelling, Multi-family | 2 parking spaces per dwelling unit |
| Events | 1 parking space for each three people attending (if on premise parking is provided) |
| Hospitals & Nursing Homes | 1 parking space for each 3 beds plus 1 space per employee based on the shift with the largest number of employees |
| Industrial Uses | 1 parking space for each 500 square feet of gross floor area and in no case less than 1 space for each 1.2 employees at peak shift |
| Marinas | 1 space for every 3 slips |
| Motels, Hotels and Inns | 2 parking spaces plus 1 parking space for each sleeping room |

| | |
|---|---|
| Nursery Schools / Day Care Facilities | 1 parking space for each 4 children |
| Offices, Professional and Public Buildings | 1 parking space for each 200 square feet of gross floor space |
| | |
| Rental Uses and Personal Services | 1 parking space per 200 square feet of gross floor area |
| Restaurants & night Clubs | 1 space for each 3 seats |
| Restaurants, Drive-in, Take-out, Snack Bars | 25 parking spaces plus 1 space for each 50 square feet of floor space in excess of 2,500 square feet |
| Schools, public & private | As specified by the Maine State Dept. of Education, or where not specified by the State, 1 parking space per adult employee plus 1 parking space per 5 students at the time of peak enrollment |
| Schools, commercial | 1 space for each 3 students based on the maximum number of students attending the school at any 1 period in the day |
| Theaters, Auditorium, Churches, Arenas | 1 parking space for each 4 seats or for every 500 square feet of assembly area of no fixed seats |

3. Location of Off-Street Parking

Required off-street parking shall be located on the same lot as the principal building or use, except that where off-street parking cannot be provided on the same lot, the Planning Board may permit such off-street parking to be located a reasonable distance from the principal building or use. If serving a business or commercial use, such parking area shall be in a commercial district. Such parking areas shall be held under the same ownership or lease. The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that the parking facility will substantially meet the intent of the requirements by reasons of variation in the time of use by patrons or employees among such establishments. No part of any parking area may be within ten feet of any property line.

4. Off-Street Loading Standards

Retail, wholesale and industrial operations with a gross floor area of more than 2,000 sq. ft. shall provide one loading bay, with minimum dimension of fourteen (14) feet by fifty (50) feet, for each 60,000 sq. ft. of floor area or fraction thereof. Off-street loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way.

Any required loading bay or bays shall be in addition to the required off street parking.

5. Landscaping of Parking Areas

In addition to the off-street parking spaces and loading bays required by this Ordinance, the following minimum standards for landscaping of parking areas shall apply:

a. Where a commercial parking area abuts a public right of way, a minimum of ten (10) feet in width along the public right of way within the parking area shall be provided and properly maintained, provided, however, that the growth shall not interfere with sight distance and traffic safety.

b. In addition to the area required for parking spaces and loading bays, a minimum of five (5) percent of the total area of any parking lot, including drives and entrances, accommodating ten (10) or more parking spaces, shall be landscaped and properly maintained. Parking areas shall be divided into small areas of no more than 50 parking spaces each, by landscaping such as shade trees, shrubs, and park benches.

c. Required loading and parking spaces for nonresidential uses, where not enclosed within a building, shall be effectively screened from view by continuous landscaping or natural growth, not less than six (6) feet in width containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

K. On-Site Sale of Products
Agricultural or horticultural products, the major portion of which are grown or produced on the premises, may be sold from a stand not exceeding 100 sq. ft. in area.

L. Polluting Factors
All new commercial and/or industrial enterprises or (an) expansion(s) of (an) existing enterprise(s) shall be permitted if and only if it/they conform(s) to the requirements of the LAND USE GUIDELINES in the Site Plan Review Ordinance.

M. Public Buildings
Public buildings shall conform to the applicable off-street parking and loading requirements and to the land use standards applicable to similar privately operated facilities.

N. Public Utility Buildings
Public utility buildings shall conform to the applicable off-street parking and loading requirements. Offices shall conform to the land use standards for retail and professional offices. Storage, manufacturing and research uses shall conform to the land use standards for manufacturing, processing, warehousing, distribution and storage.

O. Retail, Wholesale and Commercial Businesses, Personal Services, Business and Professional Offices, and Tradesman's Shops shall conform to the following:

1. Applicable off-street parking and loading requirements of this Ordinance shall be met.

2. No parking or outdoor storage shall be located within 10 feet of any lot line.

3. All outdoor storage of materials, goods or vehicles shall be screened from view from adjacent residential lots and from public view as required for off street parking and loading areas

P. Restaurants shall conform to the following:

1. Lots shall meet all requirements for commercial uses.

2. Applicable off-street parking and loading requirements of this Ordinance shall be met.

3. No parking shall be located within 10 feet of any lot line.

4. Refuse containers not within a building shall be placed no less than 30 feet from any lot line and shall be screened from view and maintained so as to prevent access by flies and vermin.

5. Restaurants serving take-out food or providing outdoor dining on the premises shall provide suitable waste receptacles for use by customers.

Q. School, Commercial, Public and Private, Quasi-Public Facilities, Churches, Cemeteries

1. Lots shall meet all requirements for nonresidential uses.

2. No parking or outdoor storage shall be located within 10 feet of any lot line.

3. Applicable off-street parking and loading requirements of this Ordinance shall be met, except that no off-street parking shall be required for cemeteries.

R. Signs

1. Residential uses, including home occupation, may display no more than one sign attached to a building plus no more than one detached single or double faced sign relating to uses or goods sold or services rendered on the premises, the total display area of any one sign shall not exceed eight (8) square feet. No part of the detached sign, or its supporting framework, shall exceed a height of 8 feet above the finished grade upon which it is erected. No part of any sign shall be located within or over a public right of way excepting a sign on a DOT sign post.

2. Nonresidential (On Premises)

a. Nonresidential uses may display attached, detached, single-faced or double-faced signs, identifying uses or goods sold or services rendered on the premises. Signs that project over a public right of way are not permitted.

b. To the extent that they are within the jurisdiction of the laws of the State of Maine, on-premise signs shall comply with Title 23, Chapter 21, Maine Revised Statutes Annotated, as amended, and shall further comply with the standards of this Ordinance.

c. The maximum total display area of all signs, including attached and detached, on each premise shall not exceed 100 sq. ft. In addition, one row of characters identifying the name or owner of the business is permitted on the building and does not count towards the total amount of signage, provided the characters do not exceed 18 inches in height.

d. Detached signs shall not exceed 16 feet to the highest point above the finished grade upon which they are erected.

e. No sign shall be located in a manner that will constitute a hazard to vehicular or pedestrian traffic.

f. Signs with visible movement or any animated or moving parts or that have blinking, moving, or glaring illumination are strictly prohibited. There shall be no more than two illuminated signs allowed on a premise. If flood or spot lamps are used to illuminate a sign, the lamps shall be shielded from view from the public way and nearby residents

g. At the entrance of an industrial park, commercial or business park, or shopping center, where three or more tenants are located off a public highway, the owner of the development may place a single or double-faced sign of not over 180 sq. fl. displaying the name of the development. Each tenant may display, if permitted by the developer, a single or double-faced sign of not over eight (8) sq. ft. attached to the bottom of the sign owned by the developer. All attached signs shall be of uniform size, shape, color and style of characters displayed. However, a product logo may be arrayed on an attached sign in its standard color(s) and style. A sign permit will be required from the Code Enforcement Officer for each sign displayed.

3. Nonresidential (Off-Premises)

a. Only Official Business Directional signs, as defined by the State of Maine, shall be allowed to be located off-premises in the Town.

b. Off-premises signs shall comply with Title 23, Chapter 21, Maine Revised Statutes Annotated, as amended, and shall further comply with the standards of this Ordinance.

c. Each place of business, service, or point of interest, provided that such place of business, service, or point of interest is located within Owls Head, shall be eligible for a maximum number of four Official Business Directional signs, which shall be placed within a radius of no more than 5 miles from the business, service, or point of interest.

d. Reflective or non-reflective Business Directional signs shall be 9 inches by 48 inches and shall have white lettering on a blue, green, brown, or red background.

4. Temporary Signs

No permit shall be required for temporary signs.

5. Administration and Enforcement

a. No sign, either on-premises or off-premises, shall be erected, attached to a building, physically altered or reconstructed until a permit has been issued by the Code Enforcement Officer to the owner or person in control of the sign. The application for a permit shall be accompanied by plans and specifications showing the location, dimensions, materials, and type of sign, and the manner in which it is to be secured to the premises. Official Business Directional signs erected and maintained in accordance with the Maine Traveler Information Services Act, Title 23, Section 1906 M.R.S.A. but shall also require a permit from the Town of Owls Head. All applications for signs requiring a permit shall be submitted with the accompanying fee.

b. Permits are not required for:

Street numbers and personal occupant signs not exceeding two square feet in total display area.

Signs, not exceeding four in number and eight square feet each in display area, which advertise the sale, rental or lease of the premises on which they are located. Each double faced sign counts as two.

Signs denoting the architect, engineer, contractor, or funding agency when placed upon work under construction, not exceeding eight square feet in total display area, and removed upon completion of construction.

Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

Traffic or other municipal signs, legal notices, danger and such temporary emergency or non-advertising.

Signs indicating only business hours.

Signs indicating "No Trespassing" or "No Hunting" posted in accordance with State laws and regulations.

c. In considering whether to grant a variance under this subsection, the Zoning Board of Appeals shall consider the criteria listed in 1.6 F, and in the Planning Board Land Use Guidelines.

d. Any sign in existence prior to the date of adoption or amendment of this Ordinance shall not be governed by the terms of this Ordinance. However, any alteration of a nonconforming sign, unless the sign is specifically designed for a periodic change of message, or of total sign display area, shall constitute a new sign and such changes shall be governed by the terms of this Ordinance. Replacements of signs that have deteriorated to the point that they are no longer useful, shall meet the requirements of this Ordinance.

e. The owner of any premises where business goods are no longer sold or produced or where services are no longer provided shall have 60 days to remove any remaining or derelict on-premise or off-premise signs following notification by the Code Enforcement Officer. Where due written notice has been given and compliance has not been made within 60 days, the Town may seek removal by means of a court order.

f. All signs, including their supporting structures and other components, shall be kept in good repair and shall be maintained to prevent rust, peeling, or similar deterioration. Vegetation and landscaping adjacent to any sign shall be maintained in a neat and attractive condition, and shall not interfere with the legibility of the sign. Damaged signs shall be repaired or removed within 30 days. Any sign determined by the Code Enforcement Officer to be an immediate public safety hazard shall be removed or repaired within 24 hours. The Code Enforcement Officer may take measures to have it made safe at the cost of the owner of the property on which the sign is located.

g. The performance standards contained in this Article shall apply to all signs in the Town, unless specified, whether or not a permit is required.

S. Water Quality

1. No building, structure, activity, or use shall discharge untreated waste water directly to a water body.

2. There shall be no storage of materials which by their volume, toxicity, temperature or obnoxiousness or by their location, will run off from or percolate into the soils and pollute surface or ground waters.

T. Prevention of Erosion and Flooding

No person shall perform any act or use of the land in a manner that would cause erosion and/or flooding to neighboring properties. If this should occur, the person responsible must take appropriate corrective action.

U. Septic Waste Disposal

All subsurface waste disposal systems shall be installed and maintained in conformance with the current State of Maine Subsurface Wastewater Disposal Rules.

V. Small Wind Energy Systems

1. Purpose The intent of the Section is to regulate the placement, construction, and modification of small wind energy systems while allowing the safe, effective, and efficient use of this technology.

2. Siting Requirements for Small Wind Energy Systems

a. Small wind energy systems shall be a permitted use in all Districts and must meet the Shoreland Zoning set-back of seventy five (75) feet.

b. Each parcel shall be limited to one small wind energy system.

c. Small wind energy system towers and all attachments shall not exceed a maximum height of sixty (60) feet above existing grade, except school parcels which shall not exceed a maximum height of 140 ft above existing grade.

d. Small wind energy system towers shall not be lighted unless required by the Federal Aviation Administration (FAA).

3. Setback Requirements

a. Small wind energy systems shall be set back a distance equal to one hundred (100) percent of the height of the tower and blade length from adjoining property lines.

b. Small wind energy systems shall be set back a distance equal to one hundred (100) percent of the tower and all attachments plus an additional seventy five (75) feet within the Shoreland Zone.

4. Sound Requirements

a. An automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.

b. Prior to approval, the applicant shall provide documentation from the manufacturer that the wind energy system will not produce noise levels in excess of the following standards, as measured at the closest property line.

| Ambient Reading without Wind Tower | Maximum Permitted Reading with Wind Tower |
|---|---|
| 45 | 55 |
| 50 | 56 |
| 55 | 61 |
| 60 | 63 |
| 65 | 68 |

c. Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the Planning Office. The report shall be submitted to the Planning Office for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded in which case the owner of the system shall pay the fee.

d. If the maximum decibel readings are exceeded, the installation shall be considered a nuisance under the provisions of this Ordinance.

e. The nuisance violation must be corrected within 90 days from notification of the violation and if the violation cannot be corrected, the wind energy system shall be removed or relocated.

5. Permitting Requirements

In addition to the application and supporting documentation required by Article IV., the applicant for a small wind energy system shall provide the following information to the Code Enforcement Officer:

a. A site plan of the property showing the location of the proposed system, existing and proposed structures, and any other significant features on the property,

b. Structural drawings of the wind tower, base pad, footings, and guy wire prepared by the manufacturer or a professional engineer,

c. Drawings and specifications of the generator, hub, and blade, prepared by the manufacturer or a professional engineer,

d. Photographs of the proposed site and the specific small wind energy system to be installed.

W. Events in Rural Residential District

Events, including dinners, weddings, reunions, seminars, classes, corporate and community gatherings, and other events of similar type of impact, shall be permitted with Planning Board approval on parcels of fifteen (15) acres or more in size in the Rural Residential I and II Districts in which at least 5 acres are in active agriculture or farming production, provided the following standards are met in addition to the general approval criteria in Section 3.3

a. Events shall fall between the hours of 10:00am and 10:00pm, with cleanup complete by 11:00pm.

b. Events shall adhere to noise levels stated in this Ordinance Appendix A in Land Use Guidelines for activities outside the Commercial District.

c. The event operator shall obtain an approved permit for the Selectmen on an annual basis prior to any event or series of events serving alcohol.

d. Adequate wastewater disposal and sanitary facilities shall be provided, with toilets provided at a rate of one (I) for every fifty (50) persons anticipated to attend.

e. Adequate water supply shall be provided for drinking and sanitation purposes.

   Adequate refuse disposal shall be provided

f. Parking shall be provided on premises according to the standards in Section 3.5 (J) with no obstruction to public roads or public or private property.

g. Traffic related to events shall not create any safety hazard or unreasonable burden on neighboring properties.

h. Events shall not create any unreasonable nuisance to surrounding properties through lights, trespassing or odors.

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These standards shall be considered ongoing performance standards that shall be adhered to in order for the property to remain in compliance with this Ordinance.

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X. ADU Requirements

a. If a property (lot) has a single family dwelling unit a single Accessory Dwelling Unit (ADU) is allowed.

b. No additional parking for the ADU,

c. No additional lot size,

d. All dimensional requirements apply (Setbacks, height, lot coverage).

e. All Plumbing, water, sewer laws apply,

f. All Shoreland requirements apply.

g. All Subdivision requirements apply.

h. Both units must have common ownership.

i. An accessory dwelling unit must meet a minimum size of 190 square feet. If the Technical Building Codes and Standards Board under Title 10, section 9722 adopts a different minimum size, that standard applies and a maximum of 800 square feet or smaller than the primary structure, whichever is smaller.

## ARTICLE IV. ADMINISTRATION

4.1 Permits Required

None of the following actions shall be taken until the Code Enforcement Officer has issued a Building, Use, and/or Demolition Permit certifying that the plans of an intended use of the land or building are in conformity with this Ordinance. In addition to the actions identified below, this Ordinance applies to any other actions which do not require a building or use permit. Copies of building permits, applications and their accompanying plans shall be maintained as a permanent record by the Code Enforcement Officer.

A. Building or emplacing a new residence (including mobile home) or commercial structure
B. Building or emplacing a new garage or workshop
C. Building or emplacing a shed
D. Renovation, external structural alteration, including deck
E. Moving any building (including mobile home) or other structure
F. Sign erection
G. Change of use
H. Demolition
I. Excavation or filling of land causing the removal or addition of earth, gravel, or stone exceeding 100 cubic yards, except commercially operated pits and aggregate storage areas
J. Placement of riprap along shoreline
K. Construction or emplacing of a permanent or temporary wharf or pier
L. Placement of fence over 4 ft. in height
M. Home Occupation
N. Small Wind Energy Systems

4.2 Demolition Permit

Before a demolition permit is issued, a plan must be submitted showing the following:

A. Date the work will start.

B. Date the work will be completed. On completion of work, the site shall include finish grading, landscaping, and proper drainage to make the area look presentable.
C. Disposal site(s) for demolition debris at a site authorized by the Town or State.

4.3 Temporary Structures

No building permit is required for structures built or placed on a lot in accordance with the requirements stated in A. and B. below. However, temporary structures must meet all of the set-back requirements of this ordinance.

A. Contractor's or engineer's offices and supply/tool storage facilities used in connection with construction projects. Portable toilets. These temporary structures must be removed within one year or shall be considered a permanent structure requiring a building permit.

B. Structures to cover boats, wood or other items may be erected as long they are seasonal in nature and do not remain in place longer than six months.

4.4 Permit Application

Applications shall be in writing on forms provided by the Code Enforcement Officer. The Code Enforcement Officer may require the submission of whatever additional information may be necessary to determine conformance with the provisions of this Ordinance.

4.5 Soil Analysis and Permit

A building permit shall not be issued for any building or structure, including manufactured homes, which requires any form of plumbing until such time as the applicant has secured a satisfactory soil analysis test and a subsurface wastewater disposal system permit.

4.6 Approval of Permits

A permit shall not be denied by the Planning Board or Code Enforcement Officer if the proposed use and structure are in conformance with this Ordinance. All permits shall be approved or denied within 30 days of receipt of completed applications or such additional information as may be required. Permits shall be valid for a period not to exceed one year from the date of issuance and shall expire if the proposed activity is not substantially begun during that one year period. An extension of time to commence shall be granted upon application to and approval by the Code Enforcement Officer if reasonable need can be shown.

4.7 Construction without Required Building Permit

Any on-site construction activity prior to issuance of a valid building permit by the Code Enforcement Officer shall be a violation of this Ordinance.

4.8 Appeals

In the event of an adverse decision by the Planning Board or Code Enforcement Officer, an aggrieved party may appeal to the Board of Appeals in accordance with Section 1.6 of this Ordinance.

4.9 Permit Fees

All building/use permit applications shall be accompanied by a fee. The fees shall be established by the Select Board and may be revised as required from time to time in order to cover the costs of administrating and enforcing this and other land use ordinances. The fee schedule shall be on record at the Town Office.

## ARTICLE V. ENFORCEMENT

5.1 Enforcement Agencies

The Select Board shall appoint a Code Enforcement Officer to administer these duties. The Select Board may also appoint a Deputy Code Enforcement Officer to assume any and all duties of the Code Enforcement Officer.

5.2 Enforcement Procedures

If the Code Enforcement Officer shall find that provisions of this Ordinance are being violated, he shall notify in writing the party responsible for such violation, indicating the nature of the violations and specifying the action necessary to correct them. He shall order discontinuance of illegal use of land, buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. Failure by the party so notified to take the corrective action indicated shall make that party subject to the penalties provided in this Ordinance. Any violation of this Ordinance shall be a nuisance. In addition to such penalties, the Town may bring action in court to enjoin violations of this Ordinance and impose such other penalties as by law may be provided. The Code Enforcement Officer shall keep records of his proceedings and such records shall be made public on request.

5.3 Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectboard, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and impositions of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance.

## ARTICLE VI. PENALTIES

6.1 Penalties for violations of this Ordinance shall be as follows:

A. The minimum penalty for starting construction or undertaking a land use activity without the required permit shall have a penalty of a double permit fee or;

B. Assessment of penalties under this Ordinance shall be in accordance with Title 3 8 M.R.SA, Section 429, and Title 30-A., Section 4452. Each day a violation continues may be counted as a separate offense. Assessment of penalties shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer to the person or party in violation of this Ordinance. Return of the receipt indicating that the notice was undeliverable as addressed or otherwise not delivered to the person or party shall not in any respect invalidate enforcement of this Ordinance or any penalties for violation thereof. In addition to the penalties provided herein, the Town may bring action in court to enjoin violation of the Ordinance and for such other relief as the law may provide.

## ARTICLE VII. DEFINITIONS

7.1 Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word "lot" shall include "parcel" and "plot." The word "shall" is used to indicate the mandatory, and the word "may" is used to indicate the permissive. The words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied." Any item not defined, see the dictionary definition.

7.2 Definitions

**Abutting Property** - any lot which is physically contiguous with the lot in question even if only at a point.

**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.

**ADU (Accessory Dwelling Unit):** Smaller, independent residential dwelling unit located on the same lot as a single-family dwelling. One Accessory Dwelling Unit is allowed on an existing lot within the existing dwelling unit, inside or attached to the existing unit or as a new structure.

**Agriculture (or Farming)** - 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. See but not limited to below examples:

- Agricultural use includes a commercial riding facility, which means a place, building or track of land in or on which equines are kept for purposes of offering to the public recreational riding in or instruction in riding or driving. A commercial riding facility may include a boarding stable which means a place, building or track of land in or on which privately owned equines are kept for their owners in return for a fee. A commercial riding facility may include an indoor riding facility or building. Commercial riding facilities are permitted. A commercial riding facility shall not be considered a commercial outdoor recreational use as that term is used in this ordinance.
- For lots at least twenty (20) acres in size located in the Rural Residential district, agricultural use may include a farm winery that is permitted/licensed by the State of Maine. A farm winery includes a facility to process grapes, fruit, and juice into wine. It may also include a building or portion of a building for wine tasting and the sale of wine produced on this property and closely related items. The gross sales value of these "closely related" items shall not exceed 10% of the establishment's sales volume. The major portion of grapes and fruit used for wine production must be grown on the property. For purposes of complying with this requirement, each grape vine planted in a vineyard will be assumed to produce twelve pounds of grapes, meaning that for each vine the equivalent of fewer than twelve pounds of grapes from another vineyard may also be used.

**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, marine plant or animal species. This includes operations on land and in, on and around water bodies.

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

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

**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 (or Tourist Home)** - 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. This establishment may provide guests with a morning meal. Such establishments do not provide guests with the independent living quarters and eating facilities normally associated with a hotel or motel. If located in a Rural Residential District, they must in addition comply with all conditions of a home occupation.

**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.

**Building** - any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattel. Each portion of a building, separated from other portions by a fire wall, shall be considered as a separate building. **(See Structure)**

**Bureau of Forestry** - State of Maine Department of Agriculture, Conservation and Forestry, Bureau of Forestry.

**Business Service**: services, including by way of example but not limited to advertising, credit reporting and collection, mailing and reproduction services, services to buildings, personnel supply services, computer and data processing services, management and public relations, similar services to businesses, and the business offices of corporations or firms.

**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.

**Church** - as used in this Ordinance, refers to a place of worship regardless of denomination.

**Coastal Wetland (Wetland - Coastal)** - 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: 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.

**Code Enforcement Officer (C.E.O.)** - The official responsible for enforcement of this Ordinance and for other duties set forth by state statute and other ordinances.

**Commercial** - buying and selling or manufacturing of goods, and/or providing services other than home occupations.

**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.

**Commercial Outdoor Recreation** - outdoor recreation activities that are operated by an entity other than a unit of government and which are available for use for a fee, including but not limited to golf courses, ice skating rinks, tennis courts, and cross-country ski trails. Private outdoor recreation facilities serving exclusively residential use shall be considered accessory to the residential use.

**Commercial Structure in a Commercial District** - a structure primarily used for the buying or selling of goods, manufacturing, and/or providing services.

**Community Living Arrangement** - a residential grouping of handicapped people which is designed to emulate a permanent family-like environment.

**Day Care Center (or Nursery School)** - a facility licensed by the State of Maine for the care or instruction of more than three pre-school aged children, exclusive of children who may be living in the home which is serving as the day care or nursery school facility.

**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.

**Deputy Code Enforcement Officer** - the official appointed to assist the Code Enforcement Officer in the performance of his or her duties and duly certified to act on behalf of the Code Enforcement Officer. (**See: Code Enforcement Officer**)

**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.

**Dwelling** - a building used as the living quarters for one or more families that is equipped with a heating system, plumbing, and kitchen. The term includes manufactured housing as defined by Title 3D-A, Section 4358, Maine Revised Statutes Annotated, as amended.

**Dwelling, Attached** - a single-family dwelling which has two or more fire separation walls, or one fire separation wall in the case of a dwelling unit at the end of a group of attached dwellings;

which has no dwelling unit above or below it; and which has no common hallway with any other dwelling unit.

**Dwelling, Two-Family** - a building used for residential occupancy by two families living independently of each other.

**Dwelling Unit, Residential** - 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.

**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. Excluding, however, occupants of a club, fraternity house, lodge, residential club or rooming house

**Financial Service** - services including, but not limited to banking, other credit agencies, security and commodity brokers and service, insurance, real estate and investment offices.

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

**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:

- Of ten 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
- 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.

**Frontage, Road** - the linear distance between the sidelines of a lot, measured along whatever right of way serves as legal access to the lot. For the purpose of this Ordinance, the following ways shall constitute legal access to a lot along which frontage may be measured:

- A way accepted by or established as belonging to the Town of Owls Head, Knox County, or the State of Maine, provided access is not specifically prohibited.
- A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan.
- A private or public way which has not been approved by a governmental subdivision but which has been established in a deed recorded in the Registry of Deeds or otherwise legally established by adverse possession or adverse use.
- In the case of a lot situated on a curve of a way or on a corner of two ways, the measurement of frontage may include the entire length of the property line along such way or ways.

**Frontage, Shore** - the straight-line distance between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

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

primarily provide general public access to coastal or inland waters. Recreational boat storage buildings or structures are not considered to be 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 (Trees)** - 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 (Height of Building:)** - 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.

**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.

**Hotel: (See Motel)**

**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 nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

**Industry** - an occupation, activity or business conducted for profit, particularly involving the manufacturing, processing and storage of goods or products intended for sale to the public.

**Industrial Structure** - a structure primarily used for the manufacturing, processing and/or storage of goods.

**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.

**Junk Yard** - a yard, field, or other area used as a place of storage for the following items, excluding items which are being stored out of doors for household use within a reasonable period of time:

- Three or more unserviceable, discarded, worn-out or junked motor vehicles as defined by state law, not including temporary storage, as defined by state law, by an establishment or place of business engaged primarily in doing auto body repair work for the purpose of rendering a motor vehicle serviceable.
- Discarded, worn-out, or junked plumbing, heating supplies, household appliances, furniture, and construction equipment.
- Junked lumber.
- Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber and plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

**Land-Locked Lot** - a lot bounded on all sides by adjoining lots and without legal access.

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

**Lot** - a contiguous parcel of land in single or joint ownership described on a deed, plot plan, or similar legal document.

**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.

**Lot or Ground Coverage** - the percentage of lot area covered or occupied by principal and accessory structures

**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.

**Medical Dispensaries/Clinics/Pharmacies** - dispensing of prescription drugs such as but not limited to medical marijuana, methadone, prescription pills or medications from a business, pharmacy, or other type of office and shall not be allowed as a Home Occupation.

**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.

**Mobile Home** - a detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels, or on a flat-bed or other trailer, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, such as locating on jacks or other foundation, or connection to utilities. For the purpose of this Ordinance, a mobile home shall be treated as a single-family dwelling and be subject to all land use regulations applicable thereto.

**Motel** - a building or group of buildings designed, intended or used primarily for providing temporary living accommodations which may include provisions for living space, and bathing facilities.

**Multi-Unit Residential** - a residential structure containing three (3) or more residential dwelling units.

**Native** - vegetation indigenous to the local area. **(see: Non-Native Invasive Species of Vegetation)**

**Neighborhood Store** - a retail store that occupies 2,000 sq. ft. or less of total floor space.

**Nonconforming Condition** - nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Nonconforming 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. Note: it is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Nonconforming 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.

**Nonconforming 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)) See: Shoreline, Upland Edge of a Coastal Wetland.)**

**Nursing or Convalescent Home** - a facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require, on a 24-hour basis, nursing care and related medical services.

**Parking Space** - an area not less than ten feet wide and twenty feet long, not including the access thereto, accessible from street or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto may be construed to be usable year-round. A parking space to accommodate the handicapped shall be an area not less than twelve feet wide and twenty feet long.

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

**Personal Service** - a service listed under U.S. Standard Industrial Classification Code 72, and including laundry and cleaning services, photography studios, shoe repair shops, funeral homes and similar services to the general public. Personal Service: A service including by way of example: laundry and cleaning services, photography studios, shoe repair shops, barber shops and beauty salons, and similar services to the general public.

**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.

**Professional Office** - any structure which houses the business office of a person or persons who supply a service to the public.

**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.

**Quasi-Public Facility** - a facility for a recognized public purpose, such as an auditorium, library, park, or museum including offices, and its supporting operational spaces, which is operated by a not-for-profit organization or by a public agency other than the municipality.

**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.

**Renovation** - in-place alterations or replacements such as walls, baths, and cabinetry of a structure at a material cost exceeding $5,000.00 exclusive of labor. Replacement of like material for siding, roofing, doors and windows are excluded unless structural.

**Repair** - normal maintenance of a structure such as painting, re-siding, replacement of roof shingles, and requiring no structural alterations or renovations.

**Replacement System (Septic, Wastewater)** - a system intended to replace:

- an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
- 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.

**Restaurant** - a place for the serving of prepared food and beverages to the public

**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.

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

**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.

**School, Commercial** - a place or institution for teaching and learning, which place, or institution is established for commercial or profit-making purposes, including, by way of example only, schools for dance, music, gymnastics, photography, driving, or business. A commercial riding facility shall not be considered a commercial school. For Commercial riding facility see definition of Agriculture Use See Section 7.2 of the Owls Head Zoning Ordinance.

**School, Public and Private** - a place or institution for teaching and learning" which place or institution teaches courses of study sufficient to qualify attendance there as being in compliance with state compulsory education requirements. A public school, as differentiated from a private school, is operated by a municipal corporation or school administrative district or, for the purposes of this Ordinance, by a recognized religious organization

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

**Septage Waste Disposal, (See Subsurface Sewage Disposal System)** -

- Septage Waste Facility: An establishment, the principal function of which is the storage, processing, disposal and/or handling of septage waste.
- Processing: The change in volume, change in the chemical or physical characteristics, or any other change in the nature of the material being processed.
- Septage Waste: The matter, refuse, effluent, sludge or any other materials from septic tanks, cesspools or other similar facilities.

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

- 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.
- 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 (Shore)** - 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))

**Setback - Rear (Back)** - the distance between the rear line of the lot, extending the full width of the lot, and the nearest part of any principal or accessory structure. Back or rear setback and back or rear yard are synonymous

**Setback – Front** - the distance between the street right of way or easement line extending the width of the frontage, and the nearest part of any principal or accessory structure, in the case of a land-locked lot, accessible by a right of way, this distance shall be measured from the structure to the abutting property line. Front setback and front yard are synonymous.

**Setback – Side** - the distance between the side property line and the nearest part of any principal or accessory structure. Any lot line not a back lot line or a front lot line shall be deemed a side lot line. Side setback and side yard are synonymous.

**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. **(see: Normal High-Water Line (Tidal Waters), Upland edge of a wetland)**

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

**Sign** - structure, device, letter, word, model, banner, insignia, flag, or other representation which is used as or is in the nature of an advertisement, announcement, or direction. The area of a sign is the area on one side of the smallest simple geometric shape such as a square, rectangle, triangle, circle, etc., encompassing all lettering, wording, design, symbols, together with any background which is not the same color as the building. An inconspicuous support such as a slim post is not part of sign area.

- **Sign - Double-Faced** - when a sign has two (2) faces, the area of all faces shall be included in determining the total area.
- **Sign – Illuminated** - a sign which has characters, letters, figure, designs, or outlines illuminated by electric lighting or luminous tubes as part of the sign, and not the so-called neon tube, or whose illumination is derived entirely from an external artificial source
- **Sign - Off-Premises** - a sign which is not located upon the same real property that the business, facility, or point of interest which it serves is located.
- **Sign - On-Building** - a sign which is attached to the building wall, and which extends not more than six inches from the face of such wall.
- **Sign - On-Premises** - a sign which is located upon the same real property that the business, facility or point of interest which it serves is located.

- **Sign – Temporary** - a sign of a temporary nature, erected less than 90 days, within any 12-month period, exemplified by the following: political signs, charitable signs, fund raising signs, construction signs, carnival signs, garage sales, lawn sales, rummage sales, and all signs advertising sales of personal property, and for rent signs. Any exterior sign displayed by an ongoing business on the business premises on which the written or printed message changes while the structure of the sign remains unchanged shall not be considered as a temporary sign. For example, chalkboards and signs with removable lettering shall not be considered temporary signs if in place for 90 days or more within any 12-month period.

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

**Small Wind Energy Systems** - a small wind-powered electricity generation system that produces a maximum of ten kilowatts (10KW) of peak AC or DC regulated electric power.

**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 form downstream of the water body or wetland as an outlet, that channel is also a stream.

**Street** - a public or private way which affords the principal means of access to abutting properties.

**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 wastewater disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; and wells or water wells as defined in Title 32, section 4700-E, subsection 8.

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

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

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

**Tidal Waters** - all waters affected by tidal action during the highest annual tide. (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 Section 15 (P), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

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

**Tradesman's Shop** - the shop of a self-employed craftsman or person in a skilled trade, considered a home occupation.

**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 accommodation to overnight guests for a fee.

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

| **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)).

**Variance** - a variance is a relaxation of the terms of this Ordinance by decision of the Board of Appeals. It can be granted only where such variance will not be contrary to the public interest and only where a literal enforcement of the Ordinance will result in undue hardship. In general, the amount of variance granted should be only sufficient to relieve the undue hardship. Establishment or expansion of a use otherwise prohibited by this Ordinance shall not be allowed by variance. (It should be noted that legally it is difficult for the town to grant variances.)

**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.

**Waterbody** - 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, though, 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.

**Wetland – Coastal (see Coastal Wetland)**

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

**Yard Sale** - an outdoor market selling antiques, used household goods, curios, and the like. Yard sales shall not extend for more than 2 consecutive days.

## ARTICLE VIII. CERTIFICATION OF ADOPTION

We hereby attest that this is a true copy of the ZONING ORDINANCE of the Town of Owls Head, Maine, duly adopted at a Special Town Meeting held on Oct. 9, 1990 and amended at Town Meetings held on:

Amended - Oct. 27, 1993
Amended - Aug. 28, 1995
Amended - Aug. 21, 1996
Amended - Aug. 30, 1999
Amended - Aug. 31, 2000
Amended - Aug. 26, 2002
Amended - Sept. 7, 2004
Amended - April 7, 2008
Amended - June 1, 2009
Amended - May 17,2010
Amended - December 19, 2011
Amended - August 20, 2012
Amended - March 4, 2013
Amended - August 25, 2014
Amended - November 17,2014

Amended - August 28, 2017
Amended - August 28, 2023
Amended - August 11, 2025
Amended- July 20, 2026

Approved by the Town of Owls Head by Town Wide Vote on July 20, 2026

Select Board _____ Michael Keating

_____ Pam Holland

_____ Russell Krauss

Attested To _____ Dated: AUG 11 2026
(Eleanor Stone -Town Clerk)