

1999

Town of Lubec Ordinances

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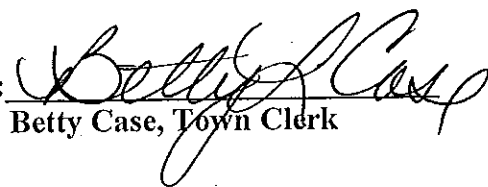
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Town of Lubec
Incorporated 1811

LUBEC HARBOR ORDINANCE

AMENDED: Annual Town Meeting August 5, 2008

Attested:


Betty Case, Town Clerk

Enacted by the Town of Lubec December 13, 1999

Article 1- Preamble

1.0 General

1.1 Authority

This ordinance is adopted under the authority granted in Titles 12, 17, 30-A and 38 MRSA, as amended.

1.2 Short Title

This ordinance shall be known as the Lubec Harbor Ordinance and may be cited as such.

1.3 Purpose

The purpose of this ordinance is to provide for the just and orderly operation and regulation of marine activities on and within the harbors, shores, waterways and tidal water of the Town of Lubec, Maine, in order to ensure safety to persons and property, to promote availability and use of a valuable public resource. As a part of the framework the Harbor Board operates the Commercial Pier as an enterprise on behalf of the people of Lubec; deriving operating funds from the fees collected, and taxation.

1.4 Jurisdiction

The provisions of this ordinance shall govern marine activities in the rivers, great ponds, harbors, shores, waterways, and tidal waters of the Town of Lubec.

1.5 Rules of Construction

Captions and heading within this ordinance are an integral part of the ordinance and are intended to be utilized in determining the meaning and applicability of the sections they identify.

Article 2 – Harbor, Waterways, Channel and Coastline Limits

2.0 Purpose

The purpose of this article is to define the limits and boundaries of the harbors, channels, waterways and shorelines of the Town of Lubec.

2.1 Lubec Channel, Lubec Narrows, and Lubec Coastal Waters (hereinafter Lubec Waters)

The Lubec Channel and the Lubec Narrows run between Quoddy Roads on the south and Friar Roads to the north. The southwesterly entrance is past the West Quoddy head Light through Quoddy Roads, the Middle Grounds to the Lubec Channel and the Lubec Narrows. A Fairway bell buoy marks the entrance to Quoddy Roads, and the approach to the Lubec Channel. The channel is marked with three red, numbered buoys (#2, #4, #6 and #6A), three numbered green can buoys (#1, #3, and #5) and the Lubec Channel Light, which also has an audible foghorn. The landside waters to the west of a line centered on the channel buoys are considered within Lubec waters.

The Lubec Harbor is defined as all waters adjacent to and included in Johnson's bay, which extends from the Lubec Narrows west and northwest to Rodger's Island, to include adjacent inlets and coves.

The coastal waters and shorelines run from Bailey's Mistake, traveling north and west, until the southernmost point on Straight Bay is reached; these are considered Lubec waters. All coves and islands that attend the coast, Dudley Island, and Pope's Folly Island are included in Lubec waters.

Article 3 – Lubec Harbor Board of Trustees and Harbormaster

3.1 Lubec Harbor Board of Trustees

3.1.1 Appointment

The Lubec Harbor Board of Trustees (hereinafter "Trustees") shall be elected by the Town and shall consist of five voting members. Four members shall be elected by popular election and one seat will be filled by a current selectman. Trustees shall provide reports to the Town on an annual basis and shall provide information regarding the operation of the harbor to the Board of Selectmen as necessary. Members shall be elected for two-years terms and shall be citizens of the Town of Lubec. If a candidate can not be found for any of the elected seats, or a seat becomes vacant that seat shall be filled by appointment of the Board of Selectmen within 30 days of the election. Trustees so appointed shall serve only until the next regular annual election.

3.1.2 Duties and Responsibilities

The trustees work directly for the people of Lubec. As such they are directly responsible to the town for the following:

- a. To review the qualifications of persons seeking employment as harbormaster and to make recommendations the Board of Selectmen as to filling said position.
- b. To propose and supervise the collection of rates, fees and schedules, and prepare the annual harbor operations budget for Town meeting approval.
- c. To monitor harbor activity, harbor related contracts, recommend obligation and expenditure of funds related to harbor issues, and conduct such other business as is necessary to discharge their oversight of the harbor.
- d. They are:
 1. To oversee care and management of the harbors and their facilities.
 2. To establish policy for municipal harbor facilities.
 3. To create and implement rules and regulations for use of the harbors.
 4. To make recommendations on the construction of piers, wharves, breakwaters and moorings, within the harbor waters to the Board of Selectmen.
 5. To develop short and long range harbor plans.

3.1.3 Meetings

The Chairman may call for meeting of the Trustees

3.1.4 Forfeiture of Office

A trustee shall immediately forfeit his office if he fails to attend three consecutive regular meetings without a good excuse.

3.1.5 Quorum

A simple majority of the members of the Trustees shall constitute a quorum.

3.1.6 Vote

The Trustees decisions will be made by vote of a majority of the members present and voting.

3.1.7 Chairman and Officers

A Chairman, vice Chairman, and secretary shall be elected by its members. The secretary shall keep a record of all proceedings.

3.1.8 Reports

The Trustees shall make the following reports:

- A. The Trustees shall make a complete financial and operational report to the Town at the close of each fiscal year for inclusion in the annual Town report.
- B. The Secretary shall provide the Board of Selectmen a courtesy copy of the minutes of the meetings.
- C. Financial information of the harbor board is available from the Town Treasurer.

3.2 Harbormaster**3.2.1 Appointment**

The Harbormaster shall be selected and nominated by the Lubec Harbor Board of Trustees and officially appointed by the Board of Selectmen.

3.2.2 Duties and Responsibilities

Certain duties and responsibilities of this office are prescribed by Titles 12, 17, and 38 MRSA and by the Town of Lubec's Personnel Policy. The harbormaster shall administer and enforce the provisions of this ordinance within the limits granted by the provisions of all rules, regulations, ordinances and other laws, which are lawfully promulgated that are within his responsibility.

The Harbormaster shall be overseer of the Town's waterfront facilities to include but not limited to, mooring, floats, docks, ramps, channels, breakwaters, and adjacent municipal property, excluding parking lots.

The Harbormaster shall have the power to issue summonses, however shall not have the authority to make arrests or carry firearms.

The duties of the Harbormaster shall include:

- a. Promote safe and orderly use of the harbor.
- b. Regulate placement of moorings according to the approved mooring plan.
- c. Provide copies of all rules, regulations, ordinances and other laws which pertain to the harbors, their use and to vessels within the Town of Lubec and to make copies available to those persons using its harbors as needed
- d. Inspect moorings, docks, floats, piers, and wharves, from time to time as his judgment may dictate, in the geographic areas covered by this ordinance and give notice to the owner of such structures which have fallen into a state of disrepair or which may create a dangerous condition or may interfere with safe passage.

3.3 Deputy Harbormaster

The Deputy harbormaster shall be appointed by the Board of Selectmen pursuant to the recommendation of the Harbor Board. A Deputy harbormaster shall have the same powers, authority, duties and immunities of the Harbormaster to enforce all harbor regulations.

Article 4 – General Provisions

4.1 Purpose

The purpose of this article is to set forth provisions for the safe and orderly operation of the harbors, to ensure safety to persons and property, and to minimize conflicts between the various harbor users.

4.2 Boat Owner or Operator

Any person using moorings, piers, slips, boat launches, walkways, hoists or other public facilities within the geographic limits covered by this ordinance shall assume all risks of damage or loss to his property.

4.3 Operations of Vessels

4.3.1 Speed of vessels

It shall be unlawful for any person to operate any boat or vessel in the harbors of the Town of Lubec in such a manner as to cause a wash, or a wake of waves that disturb or damage any wharf, float, anchored or moored boat, or a speed that endangers any person or property or is contrary to the provisions of Title 38, MRSA, as amended.

4.3.2 Inspected Vessels

Whenever a vessel arrives in the Town of Lubec Harbors having on board any person afflicted with a contagious disease or suspected of being afflicted with such disease, the master, commander, or pilot thereof, and the Health Officer of the Town of Lubec shall comply with the provisions of Title 38, Section 283, MRSA as amended.

4.3.3 Abandonment

No person shall abandon any boat vessel, hulk, cradle, raft or any other possible obstruction within the geographic limits covered by this ordinance. Any property, as herein above described, which shall have been left unattended for a period of thirty (30) days, shall be deemed to have been abandoned. The Harbormaster will post notice when possible, on the vessel directing the owner to contact the harbormaster. Said notice will also order the owner to remove the vessel within fifteen (15) days. If the owner fails to contact the Harbormaster, or remove the vessel within the aforementioned fifteen (15) days, he will be considered in violation of this ordinance.

4.3.4 Sunk or Swamped Vessels

No vessel, boat, hulks or other watercraft swamped, sunk or in danger of being sunk shall be left unattended in Lubec waters for more than 48 hours. Any such vessel that represents an immediate danger to docks, slips mooring or other vessels, or represents a possible hazard to navigation shall be deemed abandoned. If possible, the Harbormaster will post notice on the vessel directing the owner to immediately contact the Harbormaster. Said notice will also order the owner to remove the vessel within twenty four (24) hours. If the owner fails to contact the harbormaster, or remove the vessel within the aforementioned twenty four (24) hours, he will be considered in violation of this ordinance. If the Harbormaster is unable to post notice on the vessel or determine the owner, or has not been contacted within the aforementioned twenty four (24) hours, the Harbormaster shall immediately undertake removal or destruction of the offending vessel at the cost of the owner.

4.3.5 Commercial Fishing

No person shall drag, trawl or otherwise cause to be towed any submerged apparatus within 100 yards of the Lubec commercial pier, and shall maintain adequate distance from all mooring in order to prevent accidental damage to moorings, boats and piers.

4.4 Obstruction of Channels, Launch Ramps, Berthing spaces and Removal of Vessels

It shall be unlawful to tie up or anchor a vessel in such a manner as to obstruct or prevent access to mooring areas, launch ramps or channels, or carelessly sink or allow to be sunk any vessel in any channel, mooring area, berthing space which shall impeded navigation of cause damage to vessels therein or prevent the use thereof. If the harbormaster receives a complaint from an owner, master or operator of any vessel that another vessel is obstructing free movement or safe anchorage, he shall investigate the situation and order such offending vessel to move to an appropriate location.

If the Harbormaster should observe a condition in which one vessel is obstructing the free movement or safe anchorage of any other vessel he may order the offending vessel to move to a designated location should space be available. If space is not available, the Harbormaster may at his discretion, order the vessel out of Lubec controlled waters.

Whoever neglects or refuses to obey the order of the Harbormaster will be considered in violation of this ordinance.

If the offending vessel has no crew on board or the master or person in charge neglects or refuses to move such vessel as directed by the Harbormaster, the Harbormaster may take steps to remove the offending vessel, in accordance with the provisions of Title 38, MRSA Section 5. Vessels so taken into custody shall be released to the owner by the Town Administrator only after satisfactory proof of ownership has been presented and all fines and expenses have been paid.

4.5 Correct of an Unsafe Berthing

If any vessel shall be found in the judgment of the Harbormaster to be anchored or moored in an unsafe or dangerous manner, or in such a manner as to create a hazard to other vessels, persons, property, or facilities, the Harbormaster may order and direct necessary measures to eliminate unsafe or potentially dangerous conditions. Primary responsibility for compliance with such orders and direction shall rest with the owner of the offending vessel or his authorized agent. In an emergency situation and in the absence of the owner or other responsible individual, the Harbormaster may board said vessel and cause the improper situation to be corrected. The owner of the offending vessel shall be held responsible and liable for any costs incurred by the Town of Lubec in effecting such correction.

4.6 Non Seaworthy Vessels

Except with the express written permission of the Harbormaster, no badly deteriorated or unseaworthy vessel, which is likely to sink or to cause damage to docks, slips, moorings, or other vessel, or to represent a hazard to navigation, shall be allowed to anchor, operate or moor in Lubec waters. Any vessel, boat, hulk or other watercraft either swamped, sunk or in danger of being sunk that is left unattended in Lubec waters for more than 48 hours shall be deemed abandoned and shall be dealt with as prescribed in 4.3.4 above.

4.7 Tampering With or boarding Vessels without Permission

Unless specifically provided for in this ordinance, it shall be a violation of this ordinance for any person to willfully board, break-in, enter, damage, move, or tamper with any vessel or part thereof, that is located within Lubec waters, unless authorized by the master, operator or owner of such vessel.

4.8 Noise

Between the hours of dark to dawn, it shall constitute a nuisance to operate motors and/or other appliances such as bilge pumps, television sets, stereos, radios or electric tools in an unreasonably loud manner so as to disturb neighboring vessels and/or their occupants. Repeated

notification by the Harbor master that a vessel or person is in violation of this ordinance will require the removal of the appliance or tool from the vessel. At the discretion of the Harbormaster, the removal of the offending vessel from Lubec waters may be required Repeat offense will be considered in violation of this ordinance as subject to the penalties specified in Section 8.

4.9 Shelling of Shellfish

Shelling of shellfish on the Town owned moorings is prohibited.

4.10 Fishing

Hook and Line fishing from the commercial pier/wharf is prohibited. Fishing in a reckless manner and the use of harpoons or spears from any boat, wharf, float or pier within Lubec waters is prohibited

4.11 Water-skiing or Personal Watercraft

Water-skiing shall not be permitted within 100 yards of the commercial pier. Personal watercraft when being operated in proximity of the commercial pier, mooring fields, and public boat ramps will adhere to a No Wake Zone standard of safe operation. Violation of these standards can result in action being taken by the Harbormaster.

Article 5 - Wharves, Docks, Piers, Floats and Ramps

5.1 Purpose

The purpose of this article is to set forth provision for the safe and orderly operation of town owned wharves, docks, piers, and floats in order to ensure safety to persons and property and minimize conflicts between harbor users.

5.2 Removal of Debris and Oil

Persons shall not deposit or leave rubbish, trash or debris on any wharves, docks, piers, ramps and/or floats owned and operated by the Town of Lubec. Oil shall not be left on or around the Town Pier or associated facilities under any circumstances. If a boat captain uses the Town Pier to do maintenance on their craft, they are to remove any and all debris, rubbish, and oil at the time they do these repairs. Anyone in violation of this ordinance will be subject to severe fine, jail, and loss of Town pier privileges.

5.3 Snow Removal

Snow removal at the Commercial Pier will be performed by the Town of Lubec, Public Works Department. This will be performed as time becomes available to their crew after normal snow removal duties have been taken care of.

5.4 Vessel Safety and Condition

Water craft berthed at any Town owned pier or float shall be maintained in a safe, serviceable and presentable condition at all times.

5.5 Concessions and Permits

Concessions of all kinds, including water craft operated on a commercial basis, shall be allowed at Town owned wharves, docks, piers, or floats only with the express written approval of the Trustees and then only on the terms deemed to be in the best interest of the Town and the operation of the harbor.

Permits to operate a concession shall be issued on an annual basis and be renewable only at the discretion of the Trustees. Concessions failing to maintain good order and acceptable general appearance, and failing to conduct operations within the guidelines of generally accepted business practice shall be banned from all Lubec wharves, docks, piers, or floats.

5.6 Boat Cradles and Trailers

All boat cradles and trailers shall be removed from public harbor areas and parking lots when not in actual use. Boat trailers shall not be left or caused to be left on any Town owned ramp, wharf, dock, parking lot or pier or other Town facility without the permission of the Harbormaster. Trailer parking permits for designated areas will be issued by the Harbormaster.

5.7 Signs

Private signs are not permitted on any harbor owned facility without permission of the Board of Trustees.

5.8 Repair Work

Permission of the Harbormaster shall be required before long-term work begins for any repair work on vessels at any Town owned wharves, docks, piers, or floats. Normal maintenance and minor repairs are permitted without consent of the Harbormaster if the work can be completed within 24 hours.

5.9 Ramps and Landings

Grounding of boats on the landing is prohibited.

5.10 Blockage of Ramps and Parking Areas

No person shall place or cause to be placed any object, boat for repair, trailer or vehicle in such a way as to block free and safe access to the ramp, landing or parking area by others.

5.11 Condition of Privately Owned Facilities

Any wharves, docks, piers, floats or other structures which have fallen into a state of disrepair and dangerous condition and which interfere with the keeping open of channels for the passage of vessels in said harbor or waters or suitable portions of said waters for anchorage shall be deemed a nuisance. The Harbormaster shall give the owner of said offending facility written notice of the offense; the notice shall also order the owner to abate the nuisance within a reasonable period of time, the termination of such time to be clearly stated in the notice. In the event the Harbormaster is unable to give notice to the owner it shall be given to the occupant.

If the said owner or occupant refuses or fails to comply with the terms of the notice, he will be considered in violation of this ordinance. Each day the offending condition continues shall be considered a new and separate violation of the ordinance and subject to civil action and fine.

5.12 Storage of Tackle and Equipment

Owners and operators of vessels berthed in Lubec waters shall not store in the open or leave unattended any dragging gear, machinery, vessel equipment or tools on any Town owned wharves, docks, piers, or floats. Any such equipment left unattended for more than 48 hours shall be deemed abandoned. If possible, the Harbormaster will post notice on the vessel directing the owner to immediately correct the condition. If the owner is unable to do so they must contact the Harbormaster within twenty four hours. If the owner fails to contact the Harbormaster, or remove the equipment within the aforementioned twenty four (24) hours, he will be considered in violation of this ordinance. If the Harbormaster is unable to post notice or determine the owner, or has not been contacted within the aforementioned twenty four (24) hours, the Harbormaster shall immediately undertake removal or destruction of the offending equipment at the cost of the owner.

Article 6 – Moorings

6.1 Purpose

The purpose of this article is to set forth the provisions for the safe and orderly placement, use, type, fees, and administration of all moorings and mooring spaces within Lubec waters to ensure safety to persons and property of harbor users.

6.2 Responsible Authority

The Harbormaster shall have authority over all moorings and mooring locations, whether privately owned or Town owned, in accordance with the provisions of this ordinance, the laws of the State of Maine and applicable federal regulations.

6.3 Placement of Moorings

No person shall place a mooring or mooring buoy in the waters designated in Article 11 except with the express permission and written approval of the Harbormaster and trustees. The Harbormaster shall specify the minimum size, type and scope of the mooring and the maximum size and type of boat moored thereon whether initial placement or relocation of the mooring. The Harbormaster shall approve or be otherwise satisfied that each mooring is in safe condition prior to its placement in the harbor. Moorings shall conform to the approved mooring plan.

6.4 Designation of Mooring Spaces

The Harbormaster shall designate mooring spaces and shall maintain a mooring and traffic plan of the anchorage areas indicating location of moorings and size of boats. A copy of the Mooring Plan will be kept in the Town office. The

Harbormaster shall assign the location for each mooring and ensure the mooring location is in accordance with the Mooring Plan as approved by the Trustees.

6.5 Mooring Registration and Permit

All moorings shall be registered with the Harbormaster. Failure to obtain a permit from the Harbormaster shall result in a notice to remove the mooring.

If the owner of an unregistered or unsafe mooring cannot be located, identified or refuses to remove his mooring, or replace it with one of a different character, when so directed, the Harbormaster shall cause the entire mooring to be removed and shall collect from the owner any expense incurred.

Before removing a mooring or a buoy, the Harbormaster shall notify the master or owner, allowing two (2) weeks for a response. Notification, if owner can be determined, will be by registered mail at his last known address. Notification will include the fact that the mooring will be removed and a violation to be assessed. If no response is received, the Harbormaster may take the action provided for in this section.

All moorings shall be assigned a number. The number shall be prominently displayed on the mooring in contrasting color, with letters two (2) inches minimum height. The Harbormaster shall assign the number and it shall be the owner's responsibility to apply and maintain the number.

6.6 Registration Not Transferable

Mooring registrations are not transferable, except to the members of the owner's immediate family and only if they are also residents of Lubec.

6.7 Private Rental

The owner of any mooring, located in any area designated a Federal Project by the U.S. Army Corps of Engineers, shall not rent such mooring. A vessel owned by another, with the permission of the mooring owner, may be secured to the mooring provided no charge is made therefore and the approval of the Harbormaster is obtained.

Privately owned moorings not located in areas designated Federal Projects may be rented

6.8 Town Owned Rental Moorings

The Town may own, operate and maintain rental moorings. If the Town establishes a system of rental moorings, they will be operated in two classes. Class 1, consisting of at least 80% of available Town owned rental moorings shall be classified as transient and shall not be occupied by the same boat for more than seven (7) successive nights unless the period is extended by the Harbormaster. Class 2, consisting of not more than 20% of the available Town owned rental moorings may be rented for an extended period of time.

6.9 Fees

The Board of Trustees with the recommendation of the Harbormaster shall review fee schedules annually and set applicable mooring fees. A fee of \$100.00 shall be submitted with each new mooring application. This fee will be returned if the application is refused. If approved the mooring permit must be renewed at the completion of every four years. At that time, a renewal fee of \$100.00 will be submitted with the application.

Article 7 – Regulations

7.1 Purpose

Each of the areas, within the Lubec waters, is unique and requires individual treatment for its most efficient and satisfactory operation. Accordingly, within the intent and scope of this ordinance rules and regulations may be promulgated, as hereinafter set forth, by the Harbormaster in each of those areas upon approval by the Board of Trustees.

7.2 Procedures for Regulations

The Harbormaster in consultation with the Trustees shall promulgate rules and regulations governing the use of docks, piers, slips, floats, moorings and marine activity within the waters of Lubec. These shall be approved by the select board and where appropriate submitted at the annual Town meeting for voter approval.

7.3 Violations

Violations of the harbor regulations shall be considered a violation of this ordinance and carry such penalty as may be provided for therein.

7.4 Display of Regulations

Harbor rules and regulations shall be displayed in an appropriate location readily visible to the public.

Article 8 - Legal Status Provisions

8.1.1 Enforcement

It shall be the duty of the Harbormaster or his designees to enforce the provisions of this ordinance. If the Harbormaster or his designees shall find that any provisions of this ordinance, or any rule or regulation promulgated pursuant to its authority, is being violated, he shall notify the person responsible for such violation, either verbally or in writing, indicating the nature of the violation and ordering the necessary action to correct it. A copy of written notices shall be maintained as a permanent record.

8.1.2 Prosecution

Violations of this ordinance shall be punished and prosecuted pursuant to Title 30-A MRSA, Section 4452, as amended.

8.2 Appeals

8.2.1

Any and all persons aggrieved directly or indirectly by a decision, order, rule, act, or the failure to act of the Harbormaster may appeal said decision, order, rule, act, or failure to act. Such appeal must be in writing directed to the Board of Trustees and filed within 10 days of said decision, order, rule, act, or failure to act. The appeal must state with specificity the decision, order, rule, or act and state the reasons for appeal. The Board of Trustees shall convene a meeting and reviews said appeal and thereafter render a decision. If the board agrees with the aggrieving party that the action taken was improper they are to take action that would correct said aggrieved parties situation.

8.2.2

An appeal from the decision of the Board of Trustees may be taken to the standing Town of Lubec board of appeals by the aggrieved party. That board upon hearing the appeal, may affirm, modify or set aside a decision depending on its understanding of facts as they apply to the intent and specific provisions of this ordinance.

8.3 Severability

Should any section or part of a section or any provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

8.4 Conflict with Other Laws

This ordinance is subordinate to all Federal or State statues that deal with the same subjects. Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the provision imposing the greater restriction shall control.

8.5 Repeal of Prior Ordinances

All prior Lubec Harbor Ordinances are repealed.

8.6 Amendment

Any amendment to this ordinance shall be adopted by the legislative body after due hearings and consideration.

8.7 Effective Date

This ordinance shall become effective upon adoption by the legislative body and shall remain in effect until amended or repealed by the legislative body.

Article 9 - Definitions**9.1 Construction of Language**

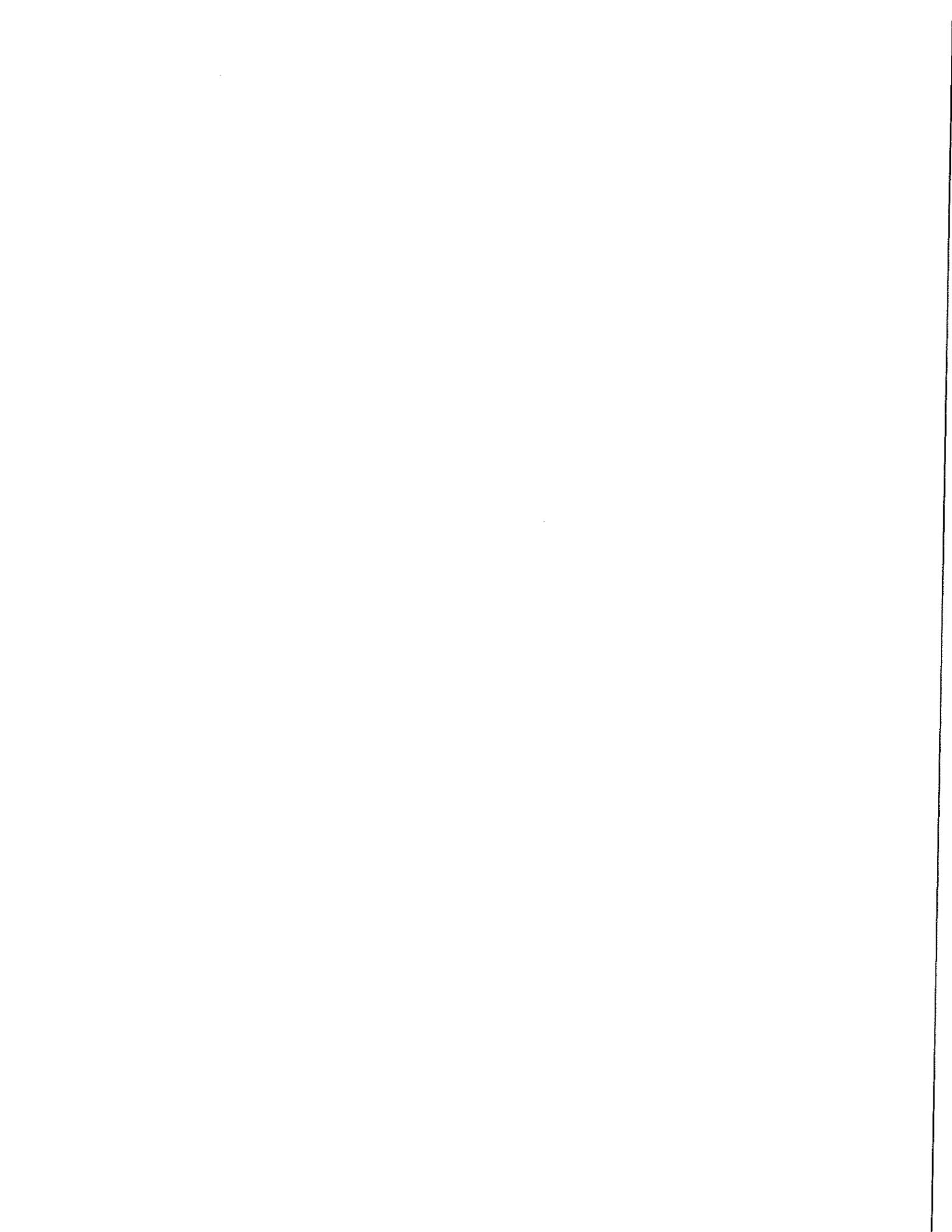
In the interpretation and enforcement of this ordinance all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this ordinance and any map, illustration of table, the text shall control.

9.2 Definitions

In this ordinance the following terms shall have the following meanings:

1. Anchorage - An area of the harbor set aside for permanent moorings or for the temporary anchoring of boats and vessels.
2. Auxiliary - A vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or by its motor, or both.
3. Berth - A place where a boat lies when at anchor or at a wharf.
4. Boat - A vessel for transport by water constructed to provide buoyancy by excluding water and shaped to give stability and permit propulsion.
5. Breakwater - A permanent solid structure or a floating system of wave attenuators or combinations thereof extends from the shoreline into the waters for the principal purposes of breaking and reducing the force of waves.
6. Bulkhead - A permanent solid structure or wall built along the shore to retain and protect the upland from wave action and sea erosion.
7. Channel - Areas of the harbor kept open for navigation or other purposes by rule or regulation of the town of Lubec, the Department of the Army, Corps of Engineers, or other regulatory or Legislative body.
8. Commercial Vessel - Any vessel used or engaged for any type of commercial venture, including but not limited to fishing or the carrying of cargo and/or passengers for hire, push-boats, tugs and barges.
9. Dock - The slip or waterway extending between two piers, a projecting wharf or a cut into the land intended for the reception of vessels.
10. Float - A floating structure which is anchored, moored or secured at or near the shore, used for landing, transfer of passengers or goods, or other purposes.

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11. Harbor - An area or areas as defined in Article 11.
 12. Harbormaster- An official nominated by the Board of Trustees, appointed by the Selectmen and employed by the Town of Lubec to enforce the provisions of this ordinance and certain duties and responsibilities as prescribed by Title 38, MRSA.
 13. Landing - A place for landing or discharging persons or things from a vessel.
 14. Mooring -An appliance used by a vessel for anchoring purposes, providing a permanent, adequate means of securing a vessel to the bottom in an anchorage, and which cannot be carried aboard such vessel, when such vessel is underway, as regular equipment.
 15. Pier - A platform type structure contiguous with the shoreline and built there from over the water, supported by wooden, concrete or stone piles and used for the berthing, loading and unloading of vessels.
 16. Resident - Any person who registers his boat in the Town of Lubec is considered a resident for the purposes of this ordinance.
 17. Seaworthy Vessel - A vessel in a fit state for travel or movement without extraordinary efforts or assistance provided to affect such travel or movement.
 19. Stray Vessel - An abandoned vessel, a vessel the owner of which is unknown, or a vessel adrift without a competent person in command.
 20. To Anchor - To secure a vessel to the bottom by dropping an anchor or anchors or other ground tackle.
 21. Vessel - Vessel shall include boats of all sizes propelled by machinery , hand, or sail, scows, dredges, shellfish cars, and craft of any kind whose purpose is to float, and/or transport persons or goods on the water.
 22. Wharf - A structure of timber, masonry, cement, earth or other material, built on the shore either parallel or perpendicular to the shoreline, so that vessels may tie to and discharge persons or goods.
 23. Commercial Fisherman -An individual whose trade or occupation is fishing with intent to earn an income doing so.
 24. Dinghy - A dinghy shall mean any powered or un-powered punt, skiff, tender or the like less than fourteen feet in length.

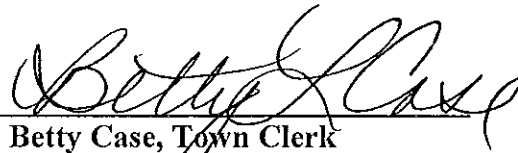


2001
TOWN OF LUBEC

SHELLFISH CONSERVATION ORDINANCE

AMENDED: Annual Town Meeting August 5, 2008

Attested:


Betty Case, Town Clerk

AMENDED: Annual Town Meeting August 5, 2002

**ENACTED ANNUAL TOWN MEETING
EFFECTIVE DATE: JULY 30, 2001**

Section 1. – Authority

This Ordinance is enacted in accordance with 12 MRSA, Section 6671.

Section 2. – Purpose

To establish a shellfish conservation program for the Town of Lubec, which will insure the protection and optimum utilization of shellfish resources within its limits. The goals will be achieved by means which may include:

- a. Licensing
- b. Limiting the number of shellfish harvesters
- c. Restricting the time and area digging is permitted
- d. Limiting the minimum size of clams taken
- e. Limiting the amount of clams taken

Section 3. – Shellfish Conservation Committee

The Shellfish Conservation Program for the Town of Lubec will be administered by the Shellfish Conservation Committee consisting of Five (5) members to be appointed by the Selectmen for terms of one (1) year.

The Committee's responsibilities include:

- a. Annually establishing, in conjunction with the Department of Marine Resources, herein referred to as DMR, the number of shellfish digging licenses to be issued.
- b. Submitting to the Board of Selectmen, proposals for the expenditure of funds for the purpose of shellfish conservation.
- c. Keeping this Ordinance under review and making recommendations for its amendments.
- d. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the DMR.
- e. Recommending conservation closures and openings to the Board of Selectmen, in conjunction with the Area Biologist of the DMR.
- f. Submitting an annual report to the municipality and DMR covering the above topics and all other committee activities.
- g. All committee members shall attend meetings as called by the Shellfish Committee; three (3) unexcused absences from meetings will result in the committee member being replaced.

Section 4. – Definitions

- A. **Resident:** The term “resident” refers to a person who has been domiciled in this municipality for at least three (3) months prior to the time his/her claim of such residence is made.
- B. **Non-Resident:** The word “non-resident” means anyone not qualified as a resident under this Ordinance.
- C. **Shellfish, Clams and Intertidal Shellfish Resources:** When used in context of this Ordinance, the words “shellfish”, “clams”, “intertidal shellfish resources” mean soft shell clams (*Mya arenaria*).
- D. **Municipality:** Refers to Town of Lubec, Maine.

Section 5. – Licensing

It is unlawful for any person to dig or take shellfish from the shores or flats of this Municipality without having a current license issued by the Town of Lubec, as provided in this Ordinance.

A. Designation, Scope And Qualifications:

1. **Resident Commercial Shellfish License –** This License is available to residents of the Town of Lubec and entitles the holder to dig and take any amount of shellfish from the shores of this Municipality and reciprocating municipalities, if any.
2. **Non-resident Commercial Shellfish License –** This License is available to non-residents of the Town of Lubec and entitles the holder to dig and take any amount of shellfish from the shores, flats of this Municipality.
3. **Resident Recreational Shellfish License –** This License is available to residents and real estate tax payers of this Municipality and entitle the holder to dig and take, not more than one (1) peck of shellfish in any one day for the use of him/herself and his/her immediate family. Said License will remain valid for a period of one (1) week from date of issue. No one with a State of Maine Commercial Clam License may purchase a recreational License.
4. **Non-resident Recreational Shellfish License –** This License is available to any person not a resident of the Town of Lubec and entitle the holder to dig and take no more than one (1) peck of shellfish in any one day for the use of him/herself and his/her immediate family. Said License will remain valid for a period of one (1) week from date of issue.
5. **The Shellfish Warden and the Deputy Shellfish Warden are authorized to sell Recreational Licenses. The Town Clerk has an audit process of licenses issued to the wardens for sale by them.**
6. **Resident Annual Recreational Shellfish License –** This License is available to residents and real estate tax payers of this Municipality and entitle the holder to dig and take not more than one (1) peck of shellfish in

any one day for the use of him/herself and his/her immediate family. Said License will expire June 30th each year.

7. Non-resident Annual Recreational Shellfish License – This License is available to any person not a resident of the Town of Lubec and entitles the holder to dig and take no more than one (1) peck of shellfish in any one day for the use of him/herself and his/her immediate family. Said License will expire June 30th each year.
8. Resident Student Commercial Shellfish License: This license is available to residents of this Municipality who has not yet attained his or her 21st birthday as of June 10th of the year of application. The student applicant shall be enrolled fulltime in a primary or secondary school or educational program. The student must remain enrolled, or had graduated, for the period of issuance. This license entitles the student to dig and take any amount of shellfish to sell from the shores and flats of this municipality.
9. Non-resident Student Commercial License: This license is available to non-residents of the Town of Lubec who has not yet attained his or her 21st birthday as of June 10th of the year of application. The applicant shall be enrolled fulltime in a primary, secondary or educational program. The student must remain enrolled, or had graduated, for the period of issuance. This license entitles the student to dig and take any amount of shellfish from the shores, flats of this Municipality.

NOTE: ALL LICENSES MUST BE SIGNED BY THE LICENSEE TO BE VALID.

B. Application Procedure:

1. Any person may apply to the Town clerk for the licenses required by this Ordinance on forms supplies by the Municipality.
2. Contents Of Application – The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature whatever other pertinent information that maybe required by the Municipality.
3. Misrepresentation – Any person who gives false information on a license application will cause said license to become invalid and void.
4. An application for a student shellfish license shall also be in the form of an affidavit, which shall include:
 - (a) Proof that the applicant has not yet attained his or her 21st as of June 10th of the license year.
 - (b) Proof of residency.
 - (c) Proof of enrollment in a school or state approved educational program.

C. Limitation Of Diggers:

1. Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending on estimates of the resource capabilities and management requirements, consistent with good resource utilization. The following procedures will be followed to exercise control:
2. Prior to June 1st, the Town Shellfish Conservation Committee, with the approval of the commissioner of DMR, will establish the number of commercial and non-commercial licenses to be permitted following the requirement of 12 MRSA, Section 6671 (3).
3. The Shellfish Conservation Committee will notify the Town Clerk in writing, prior to June 10th, of the number of licenses to be issued. No reservation will be accepted by telephone.
4. Notice of the number of licenses to issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected not less than ten (10) days prior to the period of issuance; and shall be posted in the municipal offices until the period concludes. The Town clerk shall issue licenses to Residents and Non-residents as allocated, from the beginning July 1st to the last Friday in September, after which licenses shall be sold without regard to residency on a first-come, first-served basis or by lottery.
5. Annual licenses will be sold at a ratio of 5 -1 Resident to Non-resident throughout the year. In order to maintain a 5-1 ratio of resident to non-resident, the following procedure will be maintained:
 - a. The Town Clerk will prepare a form to list the names and phone numbers of license purchasers, along with a sequentially listed number and indicative of residency status. The license numbers would begin with R1 and continue through R5; the next numbers would be N1, followed by R6 through R10. The next set of six would begin with N2 followed by R11 through R15. Each successive set of six repeats the previous, i.e., N3, R16-R 20, N4, R21-R25, etc. Since a number of resident licenses need to be sold before a non-resident license becomes available, more non-residents may apply for licenses than are available, particularly during the initial sales. A second form needs to be prepared by the Town Clerk and it should contain information on non-residents who apply for a license sequentially. As non-resident licenses become available, as indicated on the first form, the information is transferred from the second to the first and applicant is notified, and given a time period of forty eight hours (48) hours or two (2) working days to redeem said license. If the

applicant does not pick up the license within that time period, then their name is removed from the lists.

6. Open License Sales: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year;
 - a. Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to Commissioner of Marine Resources,
 - b. For each commercial license category, the Town Clerk shall issue one license to nonresidents when five licenses are issued to residents.
- D. License Expiration Date: Each license issued under authority of this Ordinance expires at midnight on June 30th, in each year.
- E. Reciprocal Harvesting Privileges: Licenses from any other municipality cooperating with the Town of Lubec on a joint shellfish management program may harvest shellfish according to the terms of the Shellfish Ordinance of the Town of Lubec.
- F. Waiver of Resident and Non-Resident Recreational Fee: Resident and non-residents 65 years or older. See Terms for Recreational Ratio.
- G. Suspension: Any shellfish licensee having three (3) convictions or violation of this Ordinance shall have his/her license automatically suspended for a period of thirty (30) days.
 1. A licensee whose shellfish license has been suspended pursuant to this Ordinance may re-apply for a license only after the suspension period has expired.
 2. The suspension shall be effective from the date of mailing of Notice of Suspension by the Town clerk to the Licensee.
 3. Any Licensee, whose shellfish license has automatically been suspended pursuant to this Section, shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the Town Clerk within seven (7) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Board of Selectmen by filing a written

Request for Appeal with the Town clerk within seven (7) days of the decision of the Shellfish Conservation Committee.

H. License Requirements

1. Commercial License - In order for an applicant to be eligible for a commercial license, the applicant must have completed a minimum of six (6) hours of conservation work prior to the period of issuance. The Shellfish Conservation Committee shall approve conservation work and at the time the work is being performed, a committee member and/or the town shellfish warden must be present. At least three (3) of the six hours must be work done to the flats for the purpose of seeding. No more than two (2) hours from attending meeting and no more than two (2) hours of beach clean up will be counted toward the six (6) hours. No person may perform conservation work as a surrogate for the applicant. Licenses must be purchased by the applicant.
2. Student Commercial License - In order for an applicant to be eligible for a student commercial license, the applicant must have completed a minimum of six (6) hours of conservation work prior to the period of issuance. The Shellfish Conservation Committee shall approve conservation work and at the time the work is being performed, a committee member and/or the town shellfish warden must be present. At least three (3) of the six hours must be work done to the flats for the purpose of seeding. No more than two (2) hours from attending meeting and no more than two (2) hours of beach clean-up will be counted toward the six (6) hours. No person may perform conservation work as a surrogate for the applicant. Licenses must be issued only to the applicant.

Section 6. - Shellfish Seeding Projects:

The Shellfish Conservation Committee may approve a Shellfish seeding project in partnership with an agency such as the University of Maine to aid in the growth of seed clams in Lubec. All participants other than those from the sponsoring agency must have a State of Maine Commercial License and a Residential Commercial License from the Town of Lubec.

Section 7. Depuration Harvesting

- A. Depuration is the harvesting of shellfish from an area closed to regular harvesting. This must be done by a wholesale seafood license holder with the consent of the Lubec Shellfish Committee and the Board of Selectmen.
- B. All depuration harvesting must be negotiated and approved by the Shellfish Warden and/or Deputy Warden and the Town Administrator. The Shellfish Warden and/or Deputy Warden have the responsibility of contacting the Shellfish committee and notifying the clambers of the depuration harvest. The Town administrator will notify the Board of Selectmen.

C. The Town of Lubec will receive payment from the license holder holding the depuration certificate for every bushel dug. This payment is as stated in Title 12 M.R.S.A. 6856 (8).

D. To dig during a depuration harvest the clammer must have a State of Maine Commercial Shellfish License and a Town of Lubec Commercial License.

Section 8. – Opening and Closing of Flats:

The Municipal Officers, upon the approval of the Commissioner of DMR, may open and close areas for Shellfish Harvest. Upon recommendation of the Shellfish Conservation Committee, and concurrence with the DMR Area Biologist that the status of the shellfish resources and other factors bearing on sound management indicate that an area should be opened or closed, the Municipal Officers shall call a Public Hearing on ten (10) days notice published in a newspaper having general circulation in the Town, stating the time, place and subject matter of the hearing; and shall send a copy of the Notice to DMR. The decisions of the Municipal Officers make after the hearing shall be based on a finding of fact.

Section 9. – Minimum Legal Size of Soft Shell Clams

It is unlawful for any person to possess soft shell clams within the Town of Lubec, Washington County, which are less than two (2) inches in the longest diameter except as provided by Subsection B of this Sections.

A. Definitions:

1. Lot – The word “Lot”, as used in this Ordinance, means the total number of soft shell clams in any bulk pile. When soft shell clams are in a box, barrel or other container, the contents of said container will constitute a separate lot.
2. Possess – For the purposes of this Section, “Possess” means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.

B. Tolerance:

1. Any person may possess soft shell clams that are less than two (2) inches if the clams under 2” comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one peck, or more than four pecks, taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

C. Penalty:

Whoever violates any provision of this Section shall be punished as provided by 12 MRSA, Section 6671 (10).

Section 10. – Penalty

A person who violates this Ordinance shall be punished as provided by 12 MRSA, Section 6671 (10).

Section 11. – Effective Date

This Ordinance, which has been approved by the Commissioner of DMR, shall become effective after its adoption by the Town, provided a Certified Copy of the Ordinance is filed with the Commissioner within twenty (20) days of its adoption.

Section 12. – Period of the Ordinance

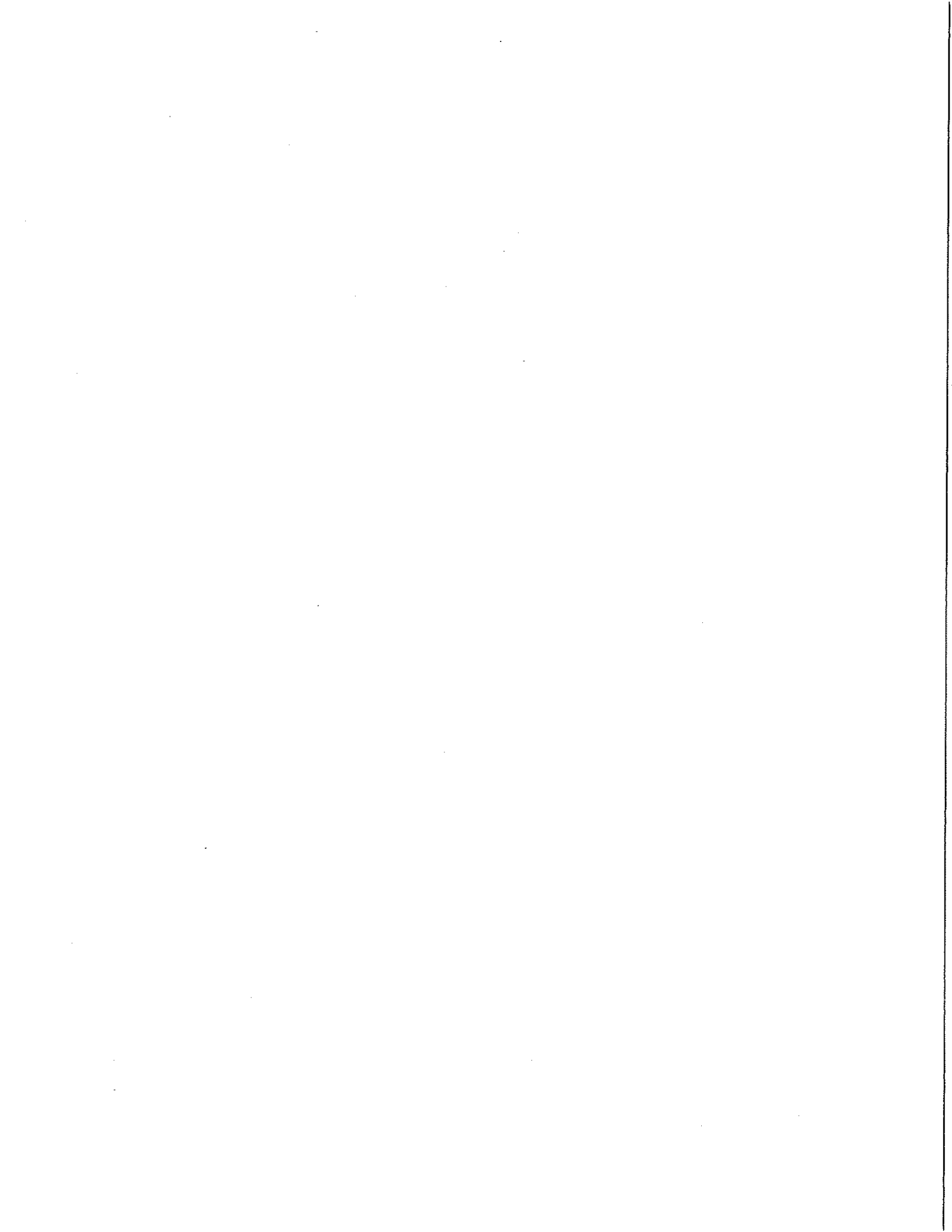
This Ordinance or amendment to this ordinance remains in effect until repealed by the municipality or rescinded by the commissioner. A certified copy of the ordinance or amendment to the ordinance must be filed with the commissioner within twenty (20) days of its adoption. If a copy of the ordinance or an amendment to the ordinance is not filed within twenty (20) days, the ordinance reverts to the ordinance previously in effect until the new ordinance or amendment is filed.

Section 13.- Separability

If any Section, Subsection, Sentence or Part of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

Section 14. – Repeal

Any Ordinance regulating the harvesting or conservation of shellfish in the Town of Lubec and any provisions of any other Town Ordinance, which is inconsistent with this Ordinance, is, hereby repealed.

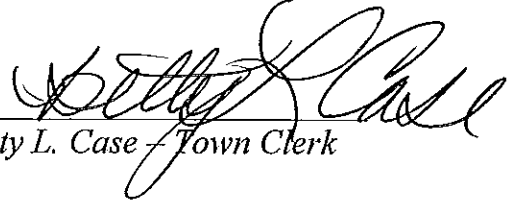


**Shoreland Zoning
Ordinance**

for the

TOWN OF LUBEC

Attested:


Betty L. Case - Town Clerk

Enacted: 30 December 1991

Last Revision: August 4, 2009

Lubec SZ ordinances 2009 on CEO

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SECTION 1. PURPOSES

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

SECTION 2. AUTHORITY

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

SECTION 3. APPLICABILITY

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending below the normal high-water line of a water body or within a wetland.

SECTION 4. EFFECTIVE DATE

A. Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was adopted by the municipal legislative body on December 30, 1991, shall not be effective unless approved by the Board of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to, the Commissioner of the Department of Environmental Protection for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of its receipt of the Ordinance, it shall be deemed approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance or Ordinance Amendment, is approved by the Commissioner.

B. Sections 15(O) and 15(O-1).

Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5) at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

NOTE: The statutory date established under 38 M.R.S.A. section 438-B(5) is the effective date of state-wide timber harvesting standards. The date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-B(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

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Shoreland Zoning Ordinance
Rev. 2009

SECTION 5. AVAILABILITY

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

SECTION 6. SEVERABILITY

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

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

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

SECTION 8. AMENDMENTS

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

SECTION 9. DISTRICTS AND ZONING MAP

A. *Official Shoreland Zoning Map* - The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Maps which are made a part of this Ordinance:

1. Resource Protection (RP)
2. Stream Protection (SP)
3. Limited Residential (LR)
4. Limited Commercial (LC)
5. General Development (GD)
6. Waterfront Development (WD)

B. *Scale of Map*

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

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C. *Certification of Official Shoreland Zoning Map*

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

D. *Changes to the Official Shoreland Zoning Map*

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Board of Environmental Protection,

SECTION 10. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the Shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

SECTION 11. LAND USE REQUIREMENTS

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

SECTION 12. NON-CONFORMANCE

A. *Purpose*

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

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B. *General*

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

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

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NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. Non-conforming Structures

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.

Further Limitations:

a. After December 30, 1991, if any portion of a structure is less than the required setback from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream, or the upland edge of a wetland, the replacement structure may not be expanded if the original structure existing on December 30, 1991 had been expanded by 30% in floor area and volume since that date.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with section 12(C)(1)(a) above, and that the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

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

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

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In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site's soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream, or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

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In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

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

In determining whether the building reconstruction or replacement meets the setback to greatest practical extent the Planning Board or its designee shall consider in addition to the criteria in Section 12(C)(2) above, physical condition and type of foundation present, if any.

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

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

D. Non-conforming Uses

- 1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C) (l) (a) above.
- 2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

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3. **Change of Use:** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12 (C) (4) above.

E. Non-conforming Lots

1. **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width, and shore frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
2. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

SECTION 13. ESTABLISHMENT OF DISTRICTS

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland zone, exclusive of the Stream Protection District, except those areas which are currently developed and areas which meet the criteria for the Limited-Commercial, Waterfront-Development, or General Development need not be included within the Resource Protection District.

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Shoreland Zoning Ordinance
Rev. 2009

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

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

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

(2) This district shall also include 100 year flood-plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

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

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

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

The Resource Protection District includes the following:

(Note: *Lot and Map references are to Tax Maps of the Town of Lubec for 1991.*)

a. CARRYING PLACE COVE AND WEST QUODDY HEAD:

All of that area south of the road leading to West Quoddy Head between the road leading to Carrying Place Cove from the south Lubec Road, or an extension thereof, to the sea and West Quoddy Head Light.

Also all of that area north of the road leading to West Quoddy Head between the West Quoddy Head Light and the easterly line of land of Lot 38, Map 3. Exclude that area starting at the intersection of the northerly boundary of Lot 16, Map 3, and the upland edge of the coastal wetland on Carrying Place Cove, then proceeding in a southerly direction, then in an easterly direction along Carrying Place Cove, then in a southwesterly direction along the Atlantic Ocean to the intersection at the east side of Carrying Place Cove Road, then in a northerly direction along the east side of said road to the intersection of the northern boundary of Lot 17, Map 3, then in an easterly direction to the intersection of the westerly boundary of Lot 17, Map 3, then northerly to the aforementioned northern boundary of Lot 16, Map 3, then easterly to the point of beginning.

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- b. MARSTON'S DIKE & THE CARRYING PLACE: SOUTH LUBEC, (THE BAR):
All of that area north and east of the road leading to West Quoddy Head beginning at the west line of land of Lot 31, Map 3, thence westerly and then northerly to the southerly line of Lot 14, Map 24. From the southern line Lot 14, Map 24, to the southern line of Lot 20, Map 23, and 75 feet back from the upland edge of the coastal wetland shall be Resource Protection District. Land lying north of that area and south of the road leading to West Quoddy Head shall be Limited Residential and Recreation district. From the southerly line of Lot 20, Map 23, to the southerly side of the so-called Bar Road, leading to Marston's Dike, including all that area comprising the "Bar" so-called, and 25 feet back from the upland edge of the coastal wetland to be Resource Protection District. Land lying north of that area and south of the road leading to West Quoddy Head to be in the General Development District.
- c. CROW BROOK - SOUTH LUBEC:
An area comprising all land 250 feet north and 250 feet south measured from mid-stream of Crow Brook, beginning at a point midstream in Crow Brook 2,000 feet, west of the bridge (midstream measurement) and extending easterly to the sea.
- d. MYERS MARSH - SOUTH LUBEC:
An area comprising all land east of the road leading to South Lubec beginning at the northern line of land of Lot 6, Map 21 and extending northeasterly and easterly to the westerly line of Lot 11, Map 20.
- e. THE SEA SHORE - LUBEC:
An area 250 feet in depth measured from the shoreline beginning at a point 500 feet west of the center of Water Street, south at the sea shore and extending along the shore westerly to the westerly line of Lot 4, Map 17. excluding that area east of Water Street and north of Commercial Street beginning at Main Street Extension, thence northerly and westerly to the eastern line Lot 12, Map 15; the latter area to be zoned General Development.
- f. SPRING BROOK - NORTH LUBEC:
An area comprising all land 250 feet north and 250 feet south measured from mid stream of Spring Brook beginning at a point midstream in Spring Brook 1,500 feet westerly of the bridge, midstream measurement, and extending easterly to the sea.
- g. MILL CREEK - NORTH LUBEC:
All that area comprising all land 250 feet north and 250 feet south measured from midstream of Mill Creek beginning at a point 750 feet westerly of bridge, midstream measurement, and extending easterly to the bridge.
- h. PIKE'S SHORE - NORTH LUBEC:
All that area 250 in depth as measured from the shoreline extending from the southerly to northerly boundary of land of Lot 42, Map 14.

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i. MCCURDY BROOK MARSH - WEST LUBEC:

All that area within the Shoreland zone comprising the tidal marsh east of Crow Neck Road, West Lubec, between the east boundary of land of Lot 11, Map 37 and the northern boundary of Lot 10, Map 37.

j. MORANG COVE - WEST LUBEC:

All of that area 250 feet in depth as measured from the shoreline along that portion of Morang Cove, beginning at a point where the westerly line of Lot 21, Map 10, extends to the shore of Morang Cove, thence easterly, southerly and westerly along said shore to a point of the opposite shore directly south from the point of beginning.

- k. All the islands in the waters of the Municipality excepting Rogers Island in Johnson's Bay and Long Island in South Bay.

B. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, *horizontal distance*, of the normal high-water line of a stream, exclusive of those areas within two hundred and fifty (250) feet, *horizontal distance*, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated Shoreland area are located within two-hundred and fifty (250) feet, *horizontal distance*, of the above wetlands, that land area shall be regulated under the terms of the Shoreland district associated with that wetland.

C. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial, Waterfront Development, or General Development District.

D. Limited Commercial District

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the Waterfront Development or General Development District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

(1) The Limited Commercial District shall be comprised of the lands within the Shoreland zone running along Seward's Neck and Johnson's Bay, beginning at the current Resource Protection/General Development district line near the northern tip of north Lubec and extending along the shores of Johnson's Bay up to the sewer pumping station, situated on County road just east of South Lubec road.

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E. General Development District

The General Development District includes the following types of existing, intensively developed areas:

1. Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

- (a). Areas devoted to manufacturing, fabricating or other industrial activities;
- (b). Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
- (c). Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

2. Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

Portions of the General Development District may also include residential development. *However*, no area shall be designated as a General Development District based solely on residential use.

3. The General Development District shall include:

- (a). All of that area 250 feet in depth as measured from the shoreline beginning at a point 500 feet west of Water Street, south at the seashore and extending easterly to the Lubec Narrows, thence northerly along Lubec Narrows to the extension of Main Street east at the Lubec Narrows.
- (b). Lubec Marina - All of that area within the Shoreland zone east of Water Street and North of Commercial Street beginning at Main Street Extension, thence northerly and westerly to the eastern line of land known as Johnson's Bay Marine, formerly American Can Co., also known as the former Eastern Steamship wharf and warehouse.

F. Waterfront Development District

Allows for dense residential development with reduced water frontage, lot area and lot width requirements. This district will require each newly-created lot to possess a minimum of seventy (70) feet of water frontage and include at least seven thousand (7,000) square feet of lot area. Additionally, there is a thirty five (35) foot height restriction for structures and maximum lot coverage is not to exceed fifty (50) percent. The required setback from the shoreline is twenty five (25) feet.

This zone shall include the following portion of Town: -----

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a). All land area within the Shoreland zone beginning at the western boundary of the old Booth's factory (*Lubec tax map 15 lot #307*) and extending easterly on the water side of Johnson Street to the breakwater property (*lot 9A*) and then southerly on the waterside of Water Street to the southern boundary of Lubec tax map 15 lot #9.

SECTION 14. TABLE OF LAND USES

All land use activities, as indicated in Table 1, *Land Uses in the Shoreland Zone*, shall conform to all of the applicable land use standards in Section 15.

The district designation for a particular site shall be determined from the Official Shoreland Zoning Map and text contained within this ordinance.

Key to Land Uses Table:

- Yes - A permit is not required however must comply with applicable land use standards.
- No - Prohibited
- PB - Allowed with permit issued by the Planning Board
- CEO - Allowed with permit issued by the Code Enforcement Officer
- LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

- | | |
|--------------------------|-----------------------------|
| RP - Resource Protection | GD - General Development |
| LR - Limited Residential | SP - Stream Protection |
| LC - Limited Commercial | WD - Waterfront Development |

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Table 1 LAND USES IN THE SHORELAND ZONE

| Land Uses | SP | RP | LR | LC | GD | WD |
|---|--------|---------|---------|--------|--------|--------------------------|
| 1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking | Yes | Yes | yes | yes | Yes | Yes |
| 2. Motorized vehicular traffic on existing roads and trails | yes | Yes | Yes | Yes | Yes | yes |
| 3. Forest management activities except for timber harvesting | Yes | Yes | yes | Yes | Yes | yes |
| 4. Timber harvesting | Yes | CEO | yes | Yes | Yes | yes |
| 5. Clearing or removal of vegetation for activities other than timber harvesting | CEO | CEO | yes | Yes | Yes | Yes |
| 6. Fire prevention activities | Yes | Yes | yes | Yes | Yes | yes |
| 7. Wildlife management practices | Yes | Yes | yes | Yes | Yes | yes |
| 8. Soil and Water conservation practices | Yes | Yes | yes | Yes | Yes | yes |
| 9. Mineral exploration | No | yes (1) | yes (1) | Yes(1) | Yes(1) | yes (1) |
| 10. Mineral extraction including sand and gravel | No | PB(2) | PB | PB | PB | PB |
| 11. Surveying and resource analysis | Yes | Yes | yes | Yes | yes | yes |
| 12. Emergency operations | Yes | Yes | yes | Yes | yes | yes |
| 13. Agriculture | Yes | PB | yes | Yes | yes | yes |
| 14. Aquaculture | PB | PB | PB | PB | yes | yes |
| 15. Principal structures and uses: | | | | | | |
| A. Single and two family residences, driveways | PB(3) | No | CEO | CEO | CEO | CEO |
| B. Multi-unit residence | no | No | PB | PB | PB | PB |
| C. Commercial | No(8) | No(8) | PB | PB | PB | PB |
| D. Industrial | no | No | no | No | PB | PB |
| E. Governmental & Institutional | no | No | PB | PB | PB | PB |
| F. Small non-residential facilities for educational, scientific or nature interpretation purposes | PB(3) | PB | CEO | CEO | CEO | CEO |
| 16. Structure accessory to allowed use | PB(3) | PB | CEO | CEO | yes | CEO |
| 17. Piers, docks, bridges or other structures extending over or below normal high water line or within a wetland | | | | | | |
| A. Temporary | CEO | CEO | CEO | CEO | CEO | CEO |
| B. Permanent | PB | PB | PB | PB | PB | PB |
| 18. Conversions of seasonal residences to year-round residences | LPI | No | LPI | LPI | LPI | LPI |
| 19. Home occupations | PB | No | PB | CEO | yes | yes |
| 20. Private sewage disposal systems for allowed use | LPI | No | LPI | LPI | LPI | LPI |
| 21. Essential services | | | | | | |
| a. Roadside distribution lines (34.5 kV and lower) | CEO(4) | CEO(4) | Yes(7) | Yes(7) | Yes(7) | Yes(7) |
| b. non-roadside distribution lines <11 poles in SZ | PB(4) | PB(4) | CEO | CEO | CEO | CEO |
| c. non-roadside distribution lines >10 poles in SZ | PB(4) | PB(4) | PB | PB | PB | PB |
| d. other essential services | PB(4) | PB(4) | PB | PB | PB | PB Deleted: 6 |

| | | | | | | |
|--|-----|-------|-----|-----|-----|-----|
| 22. Service drops, as defined, to allowed uses | yes | Yes | yes | Yes | yes | yes |
| 23. Public and private recreational areas Involving minimal structural development | PB | PB | PB | CEO | CEO | CEO |
| 24. Individual private campsites | CEO | CEO | CEO | CEO | CEO | CEO |
| 25. Campgrounds | No | no(5) | PB | PB | PB | PB |
| 26. Road construction | PB | no(6) | PB | PB | PB | PB |
| 27. Land management roads | yes | PB | yes | yes | yes | Yes |
| 28. Parking facilities | No | no(5) | PB | PB | PB | PB |
| 29. Marinas | PB | no | PB | PB | PB | PB |
| 30. Filling and earthmoving <10 cu. Yards | CEO | CEO | yes | Yes | yes | yes |
| 31. Filling find earthmoving >10 cu. Yards | PB | PB | CEO | CEO | CEO | CEO |
| 32. Signs | Yes | yes | yes | Yes | yes | yes |
| 33. Uses similar to allowed uses | CEO | CEO | CEO | CEO | CEO | CEO |
| 34. Uses similar to uses requiring CEO Permit | CEO | CEO | CEO | CEO | CEO | CEO |
| 35. Uses similar to uses requiring PB permit | PB | PB | PB | PB | PB | PB |

Notes for Land Use table above:

1. Requires permit from CEO if more than 100 sq. ft of surface, in total, is disturbed.
2. In RP not allowed in areas so designated because of wildlife value.
3. Provided that a variance from setback requirement is obtained from the Board of Appeals
4. See further restrictions in Section 15(K)
5. Except when area is zoned for Resource Protection due to floodplain criteria in which case a permit is required from the PB.
6. Except as provided in Section 15(G)(3).
7. Permit not required but must file a written "notice of intent to construct" with CEO
8. Except commercial uses otherwise listed in this table, such as campgrounds and marinas that are allowed in the respective district.

Note:

Pursuant to Title 38 MRSA Sec. 480-C, a person performing the following activity in, on, over or adjacent to a freshwater or coastal wetland, stream or brook that may result in soil or material being washed into them requires a permit from the Department of Environmental protection.

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

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SECTION 15. LAND USE STANDARDS

All land use activities within the Shoreland zone shall conform to the following provisions, if applicable.

A. Minimum Lot Standards

| | Minimum Lot Area (sq ft) | Minimum Shore Frontage (feet) |
|---|-----------------------------|----------------------------------|
| (1) A. Residential Per Dwelling Unit | | |
| (a). Within the Shoreland zone Adjacent to Tidal Areas | 30,000 | 150 |
| (b). Within the Shoreland Zone Adjacent to Non-Tidal Areas | 40,000 | 200 |
| (c). Within the Waterfront Development District | 7,000 | 70 |
| B. Governmental, Institutional, Commercial or Industrial Principal Structure | | |
| (a). Within the Shoreland Zone Adjacent to Tidal Areas | 40,000 | 200 |
| (b). Within the Shoreland Zone Adjacent to Non-tidal Areas | 60,000 | 300 |
| (c). Within the Waterfront Development District | 7,000 | 70 |
| C. Public and Private Recreational Facilities | | |
| (a). Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas | 40,000 | 200 |
| (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall <i>not</i> be included toward calculating minimum lot area. | | |
| (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971. | | |
| (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use. | | |
| (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use. | | |

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B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, except that in the Waterfront Development or General Development District the setback from the shoreline shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

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

- b. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

- c. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, Waterfront Development, and Stream Protection Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills; antennas; and similar structures having no floor area: -----

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- (3) The lowest floor elevation or openings of all buildings and structure including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland zone shall not exceed twenty (20) percent of the lot or a portion there of, located within the Shoreland zone, including land area previously developed, except in the General Development District adjacent to coastal wetlands, where lot coverage shall not exceed seventy (70) percent and in the Waterfront Development District where lot coverage shall not exceed fifty (50) percent.

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - a. The site has been previously altered and an effective vegetated buffer does not exist;
 - b. The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - d. The total height of the wall(s), in the aggregate, is/are no more than 24 inches;
 - e. Retaining walls are located outside of the 100-year floodplain on streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
 - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - g. A vegetated buffer area is established within 25 feet horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - iii. Only native species may be used to establish the buffer area;

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

v. A footpath not to exceed the standards in Section 15(P)(2) subsections (a) and (b) may traverse the buffer.

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NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection

- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 48.0-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within Wetland.

- 1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- 2. The location shall not interfere with existing developed or beach areas.
- 3. The facility shall be located so as to minimize adverse effects on fisheries.
- 4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- 5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- 6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act
- 7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district
- 8. Except in the GD District, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

D. Campgrounds

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

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites

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

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the Shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
4. The clearing of vegetation for the setting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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

F. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Waterfront Development District or the General Development District may be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream, or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities the following shall apply.
 - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b. Internal travel aisles: Approximately twenty (20) feet wide.

G. Roads and Driveways

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

1. Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

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Section 15 (G)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(G)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- 2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream, or wetland.
- 3. New roads and driveways are prohibited in a RP district except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in an RP District the road and/or driveway shall be set back as far as possible from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- 4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(P).
- 5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- 6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize canalized flow of the drainage through the buffer strip.
- 7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch.
To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

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

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

#. Signs

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential, and Limited Commercial Districts:

- 1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial (LC) District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- 2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises and do not exceed twelve (12) square feet in aggregate.
- 3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- 4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- 5. Signs relating to public safety shall be allowed without restriction.

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

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

I. Storm Water Runoff

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

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

J. Septic Waste Disposal

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

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

b) a holding tank is not allowed for a first-time residential use in the shoreland zone

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

K. Essential Services

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

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

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

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L. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail, procedures to be undertaken to fulfill the requirements of Section 15(L)(3) below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland.

Extraction operations shall not be permitted within fifty (50) feet, horizontal distance of any property line, without written permission of the owner of such adjacent property.

3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two and one half to one (2 ½:1) slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

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M. Agriculture

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001 and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209)
2. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the Shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

Note: Assistance in preparing a Conservation Plan may ~~be available through the local Soil and Water Conservation District office.~~

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4. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

N. Timber Harvesting

Timber harvesting shall conform to the following provisions:

1. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 feet-6 inches above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (a). Within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

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(b). At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal.

2. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
3. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (a). Surface waters are frozen; and
 - (b). The activity will not result in any ground disturbance.
4. All crossings of flowing water shall require a bridge culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
5. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
6. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

N-1. Timber Harvesting – Statewide Standards (Effective on date established in Section 4(B))

(1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands.

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If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

(2) **Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(N-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent to great ponds, rivers and wetlands:

- i. No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
- ii. Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

(a) Option 1 (40% volume removal), as follows:

- i. Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
- ii. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- iii. Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single
~~cleared openings greater than 14,000 square feet in the forest canopy.~~

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Where such openings exceed 10,000 square feet they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (60 square foot basal area retention), as follows:

- i. The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH:
- ii. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- iii. 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the Shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. Chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in Shoreland areas.

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(a) Equipment used in timber harvesting and related activities shall not use river, stream, or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

i. Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

ii. Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) **Land Management Roads.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(N-1)(7) of this rule.

(a) Land management roads and associated ditches, excavation, and fill must be set back at least:

- i. 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
- ii. 50 feet, horizontal distance, from the normal high-water line of streams; and,
- iii. 25 feet, horizontal distance, from the normal high-water line of tributary streams

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(b) The minimum 100 foot setback specified in Section 15(N-1)(5)(a)(i) above may be reduced to no less than 50 feet horizontal distance, and the 50 foot setback specified in Section 15(N-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(d) New land management roads are not allowed within the Shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the Shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

(e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(N-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(N-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

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(g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(N-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

(h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(N-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

(6) Crossings of water bodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

(a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15 The United States Geological Survey (USGS) Methods; specifically: Elodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

(b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(N-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(N-1).

(c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

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(d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

(e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in Shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

- i. a map showing the location of all proposed permanent crossings;
- ii. the GPS location of all proposed permanent crossings;
- iii. for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
- iv. a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

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(f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(N-1)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- i. concentrated water runoff does not enter the stream or tributary stream;
- ii. sedimentation of surface waters is reasonably avoided;
- iii. there is no substantial disturbance of the bank, or stream or tributary stream channel;
- iv. fish passage is not impeded; and,
- v. water flow is not unreasonably impeded.

Subject to Section 15(N-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- i. Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

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ii. Temporary bridge and culvert sizes may be smaller than provided in Section 15(N- 1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

iii. Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert

iv. stream and tributary stream crossings allowed under Section 15(N-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100- year flood event.

v. Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

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(h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

- i. Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Sections(N-1)(6)(i) below.
- ii. Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
- iii. Stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

- i. Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
- ii. Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
- iii. Any bridge or water crossing culvert inroads to be discontinued shall satisfy one of the following requirements:
 - 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
 - 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

~~If, despite such precautions; sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~

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(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(N-1), but in no case shall be less than shown in the following table.

| Average slope of land between Exposed mineral soil and the shoreline (percent) | Width of strip between exposed mineral soil and shoreline (feet along surface of the ground) |
|--|--|
| 0 | 25 |
| 10 | 45 |
| 20 | 65 |
| 30 | 85 |
| 40 | 105 |
| 50 | 125 |
| 60 | 145 |
| 70 | 165 |

O. Clearing or Removal of Vegetation for Activities other than Timber Harvesting

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

2. Except in areas as described in Section O(1), above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

(a). There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown.

(b). However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(c). Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(O)(2)(c) a "well-distributed stand of trees" adjacent to water bodies, tributary streams, and wetlands, is defined as maintaining a minimum rating score of 16 or more per 25-foot by 50-foot rectangular area (1250 square feet) as determined by the following rating system.

- Deleted: measured from
- Deleted: outer limits
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| Diameter of Tree at 4-1/2 feet Above Ground Level (inches) | Points |
|--|--------|
| 2 < 4 in. | 1 |
| 4 < 8 in. | 2 |
| 8 < 12 in. | 4 |
| 12 in. or greater | 8 |

Note: As an example, if a 25-foot x 50-foot plot contains four(4) trees between 2 and 4 inches in diameter, two(2) trees between 4 and 8 inches in diameter, two(2) trees between 8 and 12 inches in diameter, and one(1) tree over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (2 \times 4) + (1 \times 8) = 24 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 24 points. Trees totaling 8 points (24 total - 16 required = 8) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but not overlap a previous plot;
- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(O)(2)(c) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

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

The provisions contained in Section 15(O)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

3. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation.

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For the purposes of these standards volume may be considered to be equivalent to basal area. In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the Shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. *This provision shall not apply to the Waterfront Development District or the General Development District.*

4. Legally existing cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or woody vegetation shall be regulated under the provisions of Section 15(O).

P. Erosion and Sedimentation Control

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

- (a). Mulching and revegetation of disturbed soil.
- (b). Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- (c). Permanent stabilization structures such as retaining walls or riprap.

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2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. *In addition:*
 - (a). Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b). Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c). Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. All drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

Q. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, and presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate; the soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

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R. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream, or wetland.

S. Archaeological Sites

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

SECTION 16. ADMINISTRATION

A. Administering Bodies and Agents

1. Code Enforcement Officer

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

2. Board of Appeals

A Board of Appeals has been created in accordance with the provisions of 30-A M.R.S.A. Section 2691.

3. Planning Board

A Planning Board has been created in accordance with the provisions of Maine State law.

B. Permits Required

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

1. No permit is required for the replacement of an existing road culvert as long as:

- a. The replacement culvert is not more than 25% longer than the culvert being replaced;
- b. The replacement culvert is not longer than 75 feet; and
- c. Adequate erosion control measures are taken to prevent sedimentation of the water; and the crossing does not block fish passage in the water-course.

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

3 Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- 1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- 2. All applications shall be signed by an owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- 3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- 4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- 5. All applicants for land-use permits shall pay a fee of \$20.00.

D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 3, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing. Permit shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the provisions of Section 15, Land Use Standards.

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

E. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire. With regard to permits issued under the Town's prior Shoreland Zoning Ordinance, the permits shall continue in full force and effect according to the terms under which they were issued.

F. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous ordinance has been issued by the appropriate municipal officials.

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Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

G. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

(a). Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Planning Board in the enforcement or administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

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

2. Variance Appeals

Variances may be granted only under the following conditions:

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

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

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

(1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

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

i. That the land in question cannot yield a reasonable return unless

~~-----a variance is granted;-----~~

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

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

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

(d) Notwithstanding Section 16(G)(2)(c)(2) above,

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

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

(f). 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.

3. Administrative Appeals

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

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

4. Appeal Procedure

(a). Making an Appeal

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement related matters as described in Section 16 (G)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

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

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

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

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

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

(b). Decision by Board of Appeals

1. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

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2. The person filing the appeal shall have the burden of proof.

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

4. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

5. Appeal to Superior Court

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

6. Reconsideration

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

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

4. Enforcement

1. Nuisances

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

2. Code Enforcement Officer

~~a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance.~~

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

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

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court action, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Actions

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

4. Fines

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

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a Resource Protection district the maximum penalty is increased to \$5000.

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SECTION 17. DEFINITIONS

Terms not defined herein shall have the customary dictionary meaning. "As" used in this Ordinance, the following definitions apply:

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 a 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.

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

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

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area – the area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

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

Boat Launching Facility - a facility designed primarily for the launching and landing of water craft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

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

Campground - any area or tract of land 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.

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Coastal wetland - 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 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.

NOTE: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows

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

Cross-sectional area - the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH - the diameter of a standing tree measured 4.5 feet from ground level.

Development - a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring

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

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

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

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

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

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

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

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

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

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

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

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

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters (approx. 20 ft.) tall or taller.

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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.

Deleted: including basements

Freshwater wetland - freshwater swamps/ marshes, bogs and similar areas which are:

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

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

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters, but excluding recreational boat storage facilities.

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

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

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

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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 which
2. employs no more than two (2) persons other than family members residing in home.

Increase in nonconformity of a structure – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

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

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

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

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

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

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

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

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

Native -- indigenous to the local forests.

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

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

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

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not 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.

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.

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

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

Piers, docks, wharfs, bridges and other structures and uses extending over or 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 building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

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

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

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

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

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

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles

Replacement system - a system intended to replace:

1. an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. any existing overboard wastewater discharge.

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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 basal area - the sum of the basal area of trees remaining on a harvested site.
Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

Riprap - rocks, irregularly shaped, and at least six (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

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 salt marsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of 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.

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

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

Setback - the nearest horizontal distance from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

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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 normal high-water line of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream.

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

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

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

Stream - a free-flowing body of water from the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water flows into the Shoreland zone of another water body or wetland.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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.

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Tidal waters – all waters affected by tidal action during the highest annual tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the Shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (O), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

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

Tributary stream - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. 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 (approx. twenty (20) ft) tall or taller.

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

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

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

Water body - any great pond, river, or stream.

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

Wetland - a freshwater or coastal wetland.

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

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

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