

2017

# Town of Robbinston Maine Ordinances

Robbinston, Me.

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**FLOODPLAIN MANAGEMENT ORDINANCE**  
**FOR THE**  
**TOWN OF ROBBINSTON, MAINE**

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ENACTED: 7-10-2017  
Date

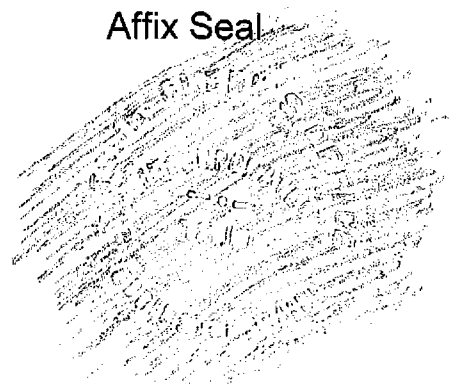
EFFECTIVE: 7-10-2017  
Date

CERTIFIED BY: Martha Brickett  
Signature

CERTIFIED BY: MARTHA BRICKETT  
Print Name

TOWN CLERK  
Title

Affix Seal



**FLOODPLAIN MANAGEMENT ORDINANCE**

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## **ARTICLE I – PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Robbinston, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Robbinston, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Robbinston, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Robbinston has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Robbinston having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Robbinston, Maine.

The areas of special flood hazard, Zones AE and VE for the Town of Robbinston, Washington County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Washington County, Maine,” dated July 18, 2017 with accompanying “Flood Insurance Rate Map” dated July 18, 2017 with panels: 955E, 957E, 960E, 965E, 966E, 967E, 968E, 969E, 976E, 978E, 980E, 986E and 987E derived from the county wide digital Flood Insurance Rate Map entitled “Digital Flood Insurance Rate Map, Washington County, Maine,” are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Robbinston, Maine.

## **ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined in Zones AE and VE from data contained in the "Flood Insurance Study - Washington County, Maine," as described in Article I;
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
  - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
  - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;

4. a certified statement that bridges will meet the standards of Article VI.M.;
  5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee to be set by the Planning Board shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or the Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize the base flood and floodway data contained in the "Flood Insurance Study - Washington County, Maine," as described in Article I, in the review of all Flood Hazard Development Permit applications;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
  1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

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

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

**ARTICLE VI - DEVELOPMENT STANDARDS**

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  2. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;



- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone VE shall meet the requirements of Article VI.P.

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

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (3) All components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone VE shall meet the requirements of Article VI.P.

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

1. Zone AE shall either:

- a. be on the site for fewer than 180 consecutive days,

- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

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

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zone AE shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;
2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
3. be located outside the floodway;
4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

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

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zone AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zone AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

a. be engineered and certified by a registered professional engineer or architect; or,

b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE and VE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2. a registered professional engineer shall certify that:

- a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

**N. Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones AE and VE shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

**O. Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and VE, in and over water and seaward of the mean high tide if the following requirements are met:

- 1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
- 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

**P. Coastal Floodplains** -

- 1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
- 2. New construction or substantial improvement of any structure located within Zone VE shall:
  - a. be elevated on posts or columns such that:
    - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;

- (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
  - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
- b. have the space below the lowest floor:
- (1) free of obstructions; or,
  - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
  - (3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
- c. require a registered professional engineer or architect to:
- (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,
  - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zone VE is prohibited.
4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
- a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

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

**ARTICLE VII - CONDITIONAL USE REVIEW**

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

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

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

**B. Expansion of Conditional Uses**

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

#### **ARTICLE VIII - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to Code Enforcement Officer:
  1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
  2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  1. review the required certificate(s) and the applicant's written notification; and,
  2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

#### **ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE X - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Robbinston may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
  2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - c. that the granting of a variance will not alter the essential character of the locality; and,



- d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
- 1. other criteria of Article X and Article VI.K. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
- 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
  - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
- 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - 2. such construction below the base flood level increases risks to life and property; and,
  - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
- 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

**ARTICLE XI - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XII - VALIDITY AND SEVERABILITY**

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

## **ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

## **ARTICLE XIV - DEFINITIONS**

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - means a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

**Adjacent Grade** - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

**Base Flood** - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement** - area of a building that includes a floor that is subgrade (below ground level) on all sides.

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

**Building** - see **Structure**.

**Certificate of Compliance** - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

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

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

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

**Development** – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

**Digital Flood Insurance Rate Map (FIRM)** – see **Flood Insurance Rate Map**

**Elevated Building** - a non-basement building that is:

- a. built, in the case of a building in Zone AE, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

**Elevation Certificate** - an official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

### **Flood or Flooding**

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or

by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

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

**Floodplain or Floodprone Area** - land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

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

**Freeboard** - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior, or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

**Manufactured Home** - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

**New Construction** - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)**- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** –

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or

modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

## **ARTICLE XV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (e) Rev. 01/17  
Prepared by DACF/SB



# **Town of Robbinston**

## **Land Use and Development Code**

**Amended: March 1995**



Town  
Hall

LAND USE AND DEVELOPMENT CODE

*Robert D. Merrill*

Part I: ZONING ORDINANCE

Section 1. Authority: This Part I is enacted pursuant to Article VIII-A of the Constitution of the State of Maine, (Municipal Home Rule); Revised Statutes, 1964, Title 30, Section 4962, as amended (Zoning Ordinances); and R. S., 1964, Title 12, Sections 4811-4814, (Mandatory Zoning and Subdivision Control).

Section 2. Purpose: The purpose of this ordinance is to regulate and guide future land use, based on such factors as present land use, the types and quality of soils and water bodies, and the ability of the town and other public agencies to provide necessary facilities and services.

Section 3. Application: This ordinance applies throughout the Town. Uses of land existing or for which approval has been requested, at the time these regulations came into effect, and which are otherwise lawful, are not affected. If such used are discontinued for more than 12 consecutive months or are substantially destroyed or expanded, they may not be re-established except in accordance with the provisions of this Ordinance.

Section 4. Land Use Permit:

A. No person may establish, expand substantially, re-establish or rebuild a land use not in existence on the date this Code came into effect without first having obtained a land use permit granted by the Planning Board. The granting of a land use permit by the Planning Board does not relieve the person from the obligation to obtain other permits that may be needed under other State and local laws.)

A substantial expansion shall include, without being limited to; an increase of more than 50% in:

- i) the volume of sanitary waste;
- ii) the total floor area of a building; or
- iii) the total value of structures and other improvements.

B. The applicant shall apply for a permit in writing to the Planning Board including:

- i) a map or other means of showing the size, location, topography and soil characteristics of the property;

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ii) the nature and extent of all alterations of the land, construction or other use or development proposed (whether or not to be carried out immediately); and

(iii) steps to be taken in regard to erosion control, conservation of shoreland trees and vegetation, preservation of points of public access to public bodies of water and the protection of the natural beauty or present appearance of shoreland areas.

## Section 5. Land Use Districts:

### A. Protection Districts

Purpose: To achieve the most appropriate uses in area comprising significant natural, recreation, economic, historical or visual resources of the town and to restrict, at this time, the use of areas which are severely limited for development by reason of soil type, slope, location with respect to public roads, inadequate water supply, or deficiencies in other resources and public services and facilities.

Designation: The following areas are located within Protection Districts: All land areas within 250 feet of any natural pond or lake with a water surface of 10 acres or more, artificially increased pond or lake with a water surface of 30 acres or more, (any part of) a stream or river capable of floating watercraft, and any salt water body. Such distance shall be measured along a line following the surface of land.

B. Uses permitted within Protection Districts: The Planning Board shall issue permits for the following uses if it finds that such uses will not unduly burden or otherwise harm or destroy the resources or area so used:

I) Public, primitive and wilderness recreational uses;

II) resource protection and management practices carried out by a duly authorized state or local agency with the prior approval of the Planning Board;

III) agricultural practices of the home garden or small commercial farm type on tracts of five acres or less but excluding dairying, livestock and poultry raising except for home use or limited sale:

IV) residential uses and related commercial activities:

V) home-related retail, professional, service and

aquacultural harvesting and marine product landing, processing and distribution, provided that no such establishment employs more than three persons not residing in the home to which such use is related.

VI) other uses may be permitted as a conditional use, in the manner provided for in Section 12.

#### B. Management Districts

Purpose: To protect and conserve those areas suited for the large scale (alt: commercial) production of agricultural, aquacultural, and forest products and to limit development of areas otherwise suited for varied use, in accordance with the ability of the town and others to provide public facilities and services.

The following areas are included within Management Districts:

All land inland of areas included in a Resource Protection District but excluding any land within 500 feet of the center of all public roads maintained year round.

#### Uses Permitted Within Management Districts:

The following, and only the following uses, are permitted as a matter of right in Management Districts:

I) all uses permitted in Protection Districts:

II) forest management and commercial harvesting, but not processing, of forest products, forest nurseries, and tree farms;

III) agricultural management and commercial harvesting but not processing, of agricultural products, including but not limited to: dairying, livestock and poultry raising; bee keeping; grazing and pasturage; stable and paddocks; fruits and vegetables, berries and cereal grain raising; and, horticultural and ornamental plant raising;

IV) aquacultural management and commercial harvesting of aquacultural products including but not limited to mussels, oysters and marine worms but excluding the landing and processing of other marine products unless permitted as a conditional use.

V) dwellings, provided that the applicant for a land use permit shall agree in writing, binding also on any successors in interest, to assume responsibility for the provision of roads and road maintenance, snow removal, school transportation, fire protection and other services and facilities which the Planning Board might reasonably require to protect the health and safety of the occupants of such areas and of the town:

VI) erection of accessory structures or buildings and carrying out of accessory uses as may be necessary for the conduct of uses permitted within Management Districts.

VII) other uses may be permitted as a conditional use, in the manner provided for in Section 12.

C. General Districts:

Purpose: To encourage such other residential, recreational, commercial, industrial development and land uses which are consistent with the health safety and general welfare of the inhabitants of the town and which may be suitable for and compatible with such areas and to discourage inconsistent, unsuitable and incompatible development and land use.

The following areas are included with General Districts:

I) all land areas within the town which lie within five hundred feet of the center of a public road and which are not included in a Protection District.

Uses Permitted within General Districts:

The following uses are permitted as a matter of right in a General District:

I) all uses permitted in a Protection or a Management District;

II) other land use may be permitted as conditional uses, in a manner provided for in Section 12.

6. Auto Graveyards; Junkyards:

A. No automobile graveyard or junkyard shall be established, operated, or maintained, or permitted by the owner of any land to be established, without first obtaining a non-transferable permit from the Selectmen of the Town in accordance with R.S., 1964, Title 30 Sections 2451--2460, as amended. Navigable waters shall be considered as public roads and shall be subject to the most restrictive provisions provided in said sections of Title 30.

B. Any places where one or more old, discarded worn out or junked motor vehicles as defined in R.S., 1964, Title 29, Section 1, Sub-section 7, or parts thereof, as amended are gathered together, kept or deposited or allowed to accumulate, in such manner or in such location or situation either within or without

the limits of any highway or navigable water, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

7. Signs and Outdoor Lighting:

A. Off premises signs: billboards and signs relating to goods and services not rendered on the premises or to a place of residence are prohibited. Provided that, the Planning board may identify one or more locations for the erection of a standard upon which, and subject to their approval, unlighted signs of uniform or harmonious size, design or lettering may be attached. Notwithstanding this provision, temporary signs relating to a civic function or an event of general interest may be displayed for a period not to exceed fifteen days.

B. On premises signs: Not more than 2 signs, totaling not more than six square feet, relating to goods or services rendered on the premises or identifying a place of residence, or for the sale, rental, or lease of the premises may be erected either by attachment of a building or free standing. No such sign shall be displayed at a height exceeding ten feet.

C. Signs shall be illuminated only by external, non-flashing white or yellow lights. Such lights shall be shielded and of such intensity as to preclude either danger of marine or vehicular traffic or annoyance of the occupants of surrounding property. Neon signs and lighting and plastic or signs of similar material and lighted from within are prohibited.

D. No person shall place or maintain upon or in view of any public way or navigable water any light so that its beams or rays are directed at any portion of said public way or navigable water when the light is of such brilliance or so positioned as to blind, dazzle or otherwise impair the vision of the operator of any motor vehicle or boat upon such public way or navigable water.

8. Mobile Homes:

The health, safety and welfare of the people of Robbinston depends upon the ability of the Town to plan its development. It is in the interest of the people of Robbinston to maintain the rural character of their Town while at the same time providing for the Town's orderly growth and development in a manner consistent with the ability of the Town and other public agencies to provide necessary facilities and services. For these reasons, mobile homes shall be located on lots of the same size as those required for conventional homes and no person shall be granted a permit for establishment of a mobile home park in any district.



"Mobile Home" shall mean a structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning and electrical systems contained therein.

"Mobile home park" means any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two or more mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes.

9. Off-Road Parking and Loading: In the construction or establishment of all new buildings and land uses, there shall be provided parking and loading space on the property adequate for the safety and convenience of the users of such property and the public. When any existing buildings or uses are enlarged or otherwise substantially altered, provisions shall then be made for sufficient off-road parking and loading.

10. Entrances and Exits for Motor Vehicles: All new structures and land uses shall provide safe, convenient entrance and exit from the property. The Planning Board shall determine whether the entrance and exit may be combined or shall be separated, as well as the number and location of each. Their determination shall be based on the number and frequency of vehicular movement to and from the property, as well as the size and condition of the adjacent public way, traffic volume, and visibility.

All driveways and roads shall have a setback of 10 feet from property lines, unless otherwise approved by the planning board.

11. Natural Resource Extraction:

A. Drilling for or excavating natural resources on land or under water is subject to state law, in addition, burrow pits for sand, fill for gravel less than five acres in size and not regulated by State Highway Commission and the drilling for or excavating of natural resources on sites five acres in size or less shall be subject to the following regulations.

B. No person shall drill for or excavate natural resources, including but not limited to sand, gravel, fill, minerals, ores, fossil fuels or patten sites of five acres or less without a permit. Any person intending to conduct such activities shall apply in writing to the Planning Board. Such application shall include a statement of the Proposed activities and a description of the measures to be taken.

I) To avoid undue erosion of land and siltation or sedimentation of surface waters;

II) To avoid interference with existing or natural drainageways;

III) To prevent lateral movement or other subsidence of public ways or public or private property adjacent of the area;

VI) To screen the site from view from any public way and adjacent property;

V) to provide for the entrance and exit of vehicles to and from the site;

VI) To provide for the avoidance of spillage in or drainage on the public way at such entrance/exit.

VII) To prevent disturbance to adjacent and nearby property owners by reason of dust, smoke or noise; and,

VIII) To return the land to as near its natural state as is practicable by grading, filling, draining and/or planting.

C. In reviewing such applications, the Planning Board, after consultation with the Soil and Water Conservation District Staff, may attach such conditions in accordance with the foregoing as it deems necessary or reasonable. In no event shall any person:

I) Excavate below the grade level of an adjacent public road within one hundred fifty feet of the center line of such way, unless the slope of such areas is maintained thirty degrees, or less:

II) Excavate below the grade level of adjacent private or public property within one hundred feet of the property line, unless permission of the owner of such adjacent property is given in writing and filed at the Office of the Town Clerk. In the case of Town owned property, the Planning Board shall give or withhold permission in accordance with the advice of the Soil and Water Conservation District staff.

## 12. Conditional Uses:

Application to establish, as Conditional Uses, land uses other than those permitted as a matter of right in the land use district in which the land is located shall be subject to review as follows:

A. The applicant shall apply in writing to the Planning Board on the form provided or shall furnish at least the following information:

i. a map or other means of showing the size, location, topography and soil characteristics of the property; and

ii. the nature and extent of all alterations of the land, construction or other use or development proposed, whether or not to be carried out immediately.

B. The applicant shall prove that the proposal is in compliance with the following impact standards which shall be the minimum requirements for approval of the permit.

i. Water: There is sufficient water available for the reasonably foreseeable needs of the proposed building or buildings.

ii. Water Pollution: The proposal will not result in undue water pollution, considering: the elevation of the land above sea level and its relation to the flood plains, the nature of soils and subsoils and, if necessary, their ability to adequately support waste disposal and/or any other State of Maine, Department of Environmental Protection approved licensed discharge; the slope of the land and its effect on effluent; the aquifers and aquifer recharge areas; and the availability of streams for disposal of surface run-off.

iii. Sewage Disposal: There will be adequate provision for sewage disposal. For buildings requiring septic systems, a report by a licensed Soils Evaluator must be submitted showing septic system design. If a closed vault, a plumbing permit is necessary.

iv. Air Pollution: The proposal will not result in undue air pollution.

v. Soil Erosion: The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water.

vi. Noise: Proposal will not result in undue noise pollution. If it is likely that the proposal will result in noise in excess of that which is normal for the area, it shall be designed and landscaped to minimize noise interference with neighboring uses. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable beyond the property lines due to intermittence, beat frequency, shrillness, or volume. The following uses and activities shall be exempt from the noise level regulations: 1) noises created by construction and temporary maintenance activities between 6:30 a.m. and 8:00 p.m., 2) the noises of safety signals, warning

devices, and emergency pressure relief valves and any other emergency activity, 3) traffic noise on public roads and railroads.

vii. Surface Water Drainage: Adequate provision is made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality or streets or roads. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize off-site discharge.

viii. Exterior Lighting: There will be no flashing lights or strong light shining beyond the lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way.

ix. Preserve and Enhance Landscape: The landscape will be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil retaining existing vegetation during construction in order to minimize the impact of the proposed use on neighboring land uses.

x. Road Access: The building will be placed on the lot which is either on a town or private road, or has deeded access. Lots in town or private roads shall have a minimum of 100 feet road frontage.

xi. Setback and Height: In residential areas, all buildings shall have frontyard set-backs of 40 feet and side-yard set-backs of 15 feet, and no building shall exceed 35 feet in height.

xii. Vehicular Access: The proposed site layout will provide for safe access and egress from public and private roads. Provision shall also be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

xiii. Parking: Off-street parking will be provided in accordance with the Planning Board's standards.

c. In determining whether the foregoing tests have been met, the Planning Board shall consider:

i. any elements of, or a completed or adopted, comprehensive plan.

ii. recommendations of the conservation commission, if any.

iii. the plans, policies and practices of regional and State agencies and commissions having jurisdiction over some or all of such matters, whether such jurisdiction is regulatory or advisory.

iv. whether or not the applicant has adequate financial and technical capacity to meet the above standards.

Section 13. Enforcement:

A. No person shall be granted any permit required by Parts II and III of this Code without first having obtained a land use permit in accordance with this Part I.

B. No person shall commence or continue any land use activity for which a permit is required by Parts II and III, without first having obtained a land use permit.

C. Any person in violation of B. above, shall take steps as may be required by the Planning Board to prevent or minimize harmful or adverse effects of such unauthorized activity to persons, the land, or a water body.

Section 14. Penalties:

Any person who commences or continues any land use activity without first obtaining a land use permit in accordance with this Part I shall be punished by a fine of not more than \$100.00 for each such activity. Each day that any such activity is carried on shall constitute a separate offense. Each day following notice from the Planning Board on which measures to minimize or prevent harmful or adverse effects are not taken or are not continued with reasonable diligence shall constitute a separate offense.

Section 15. Suits and Remedies:

A. The town through its Selectmen or Planning Board or any seven of its registered voters or taxpayers may institute proceedings to enjoin the violation of this Part I.

B. Upon notice by the Planning Board that measures required to be taken pursuant to this ordinance, have not been taken or have not been continued with reasonable diligence, the Selectmen shall cause said measures to be taken and shall assess and collect the reasonable costs for such measures in the same manner as in the assessment and collection of a tax on real property.

TOWN OF ROBBINSON  
LAND USE AND DEVELOPMENT CODES

PART II. SHORELAND ORDINANCE

1. AUTHORITY
2. PURPOSE
3. COVERAGE AND APPLICATION
4. DEVELOPMENT PERMIT
5. APPLICATION FOR SHORELAND ZONING PERMIT
6. LAND USE STANDARDS
7. WHARVES, PIERS, DOCKS AND FLOATS
8. TREE CUTTING AND VEGETATIVE COVER
9. AGRICULTURAL PRACTICES
10. SANITARY STANDARDS
11. SOLID WASTE DISPOSAL
12. OTHER WASTE DISPOSAL

## SHORELAND ZONING

### Part II: Shoreland Ordinance

1. Authority: The provisions of this Part II are enacted pursuant to the several constitutional and statutory provisions of the State of Maine including Title 12 Sections 4811-14.

2. Coverage and Application: The regulations contained in this Part II apply throughout the protection district established by Section 5 of Part I. When it is determined that a particular use or development is permitted as a matter of right or may be permitted as a conditional use, the establishment or re-establishment or expansion of such land use is, in addition, subject to these regulations.

3. Development permit:

A. No person may begin or continue to carry out any of the activities for which a permit is required by this ordinance until a permit is issued.

B. No permit may be issued in connection with the erection, structural alteration, expansion relocation, or conversion of a building or structure, the use of occupancy of which required the installation or expansion of sewage disposal facilities, unless the Plumbing Inspector shall have issued a permit for said installation or expansion.

4. Application for Permit to Conduct Land Use Activities:

A. Application for a permit to conduct a development activity governed by one or more provisions of this ordinance shall be made in writing to the Planning Board in accordance with Part I (Zoning Ordinance).

5. Land Use Standards

A. Soil Suitability: No permit shall be issued for a building requiring subsurface sewage disposal unless a satisfactory soil suitability report is submitted to the board.

The report shall be based upon an analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which may be required by the Plumbing inspector.

B. Minimum Lot Size: The provisions of R.S., 1964, Title 12, Sections 4801 and 4801-B, as amended, shall apply in the Town provided that after the effective date of this Code, the minimum requirements shall be 40,000 square feet per single family house lot, with 100 feet frontage on all brooks, streams, rivers, lakes and tidal waters.

The Plumbing Inspector or the Planning Board may require a larger lot size under circumstances essential to maintain the health and safety of person and the sanitary condition of a water body or the property of another.

C. Set-Back of Structures:

All buildings and structures except those requiring direct access to the water for their use or operation shall be set back at least seventy-five feet from the normal high water mark. Such distances shall be measured from the high water mark along the surface of the ground in the shortest line connection a point on the shore with the shoreward side of the site of the proposed structure.

Structures intended for human habitation may be permitted in areas subject to flooding or storm flowage within a one hundred year period or in areas designated by an authorized State or Federal agency as flood plain.

D. Erosion Prevention:

Excavating, filling, grading, lagooning, dredging, building and other development which, in the opinion of those experts referred to in A., above, would result in substantial, unavoidable erosion which would alter existing patterns of natural water flow, or which would result in substantial detriment to surface waters by reason of erosion, sedimentation, impairment of water quality or of fish and aquatic life are prohibited.

Removal of beach materials, including sand and gravel, disruption of natural vegetation or removal of sand from dunes and the removal of shoreline buffer strips protecting fragile natural zones immediately behind the shoreline are prohibited.

The following activities must be approved by the Planning Board, in writing, before being carried out within 250 feet of a natural drainageway, fresh, or tidal water body. a permit shall be granted only if such activities can be carried out without causing the results prohibited above:



I) Filling of more than 500 square feet of any area where ground water is at or near the surface a substantial part of the year;

II) Excavating, filling, or grading on all slopes of 20% or more:

III) Excavating, filling or grading of more than 1,000 square feet on slopes of 12% to 20%;

IV) Excavating, filling or grading of more than 2,000 square feet on slopes 12% or less: and,

V) Excavation, filling, grading, building, or other development where:

- a) Natural erosion cuts back cliffs and bluffs:
- b) dune erosion or migration would be stimulated:
- c) Disruption of beach or shoreline buffer would result in storm damage.

E. Natural Surface Drainageways: The alteration of natural drainageways is prohibited unless the Planning Board finds that such alterations will not adversely affect runoff, the recharging of ground water, storage of ground water, or wildlife habitat and will not create sedimentation.

F. Protection of Coastal Wetlands: The removal of fill, dredging or other alteration of any coastal wetland in the Town, or the draining or deposition of sanitary sewage into or on a coastal wetland is prohibited unless a valid permit shall have been issued.

G. Great Ponds: No person shall construct or maintain any causeway, bridge, marina, wharf, or other permanent structure or deposit fill, in, on, over, or abutting any great pond or dredge in a great pond without first having obtained the approval of the Maine Department of Environmental Protection.

H. Bulldozing of Rivers, Streams, or Brooks: No one shall bulldoze, cause to be bulldozed, fill, or dredge between the banks of a river, stream or brook capable of floating watercraft without first obtaining the approval of the Commissioner of Inland Fisheries and Game.

I. Artificial Water Bodies: The construction or dredging of an artificial, canal, ditch, lagoon, pond, lake or similar waterway which is within 250 feet of the high water mark of any body of water where the purpose is the ultimate connection with a body of water shall be approved in writing by the Planning Board prior to the announcement of such work.

openings greater than thirty feet wide in each 100 feet of shoreline.

**19. Wharves, Piers, Docks and Floats:**

1. The construction, placement, or maintenance of any pier and wharf, pier, dock or float, in, on, over or abutting tidal waters and certain lakes and rivers must be approved by the U.S. Army Corps of Engineers. The following standards shall apply in addition to those of the said Corp of Engineers:

a) The type and slope of the soils shall be suitable for such use;

b) Such structures shall be located so as not to interfere with navigation and navigational aids, developed beach areas, and other uses within the area;

c) They shall be located so as not adversely to affect fisheries habitat;

d) They shall be located as to be protected from potentially damaging prevailing or periodic climatic and oceanographic conditions;

e) Dimensions shall be consistent with existing conditions use, and the character of the area, and,

f) Individually owned non-commercial facilities must be of temporary construction or attachment capable of disconnection and seasonal remove.

2. The Planning Board, in addition to the foregoing, shall limit the number and size of structures of the extent practicable by requiring that in the subdivision of land, applicants provide for common facilities or locations for such facilities to serve the lots to be conveyed or developed.

**K: Tree Cutting and Vegetative Cover:**

A. Shoreland Vegetation: Natural vegetation shall be preserved within 250 feet of the high water mark of any surface water in accordance with the following;

I) No one shall remove more than thirty percent of the trees over four inches diameter, measured at a point not less than four and one-half feet above the ground; Any such cutting shall be accomplished in such a manner as to return a well distributed stand of tree foliage and so as not to result in clear cut areas exceeding 3,000 square feet, and,

II) In a strip extending fifty feet inland and parallel to such high water mark, no one shall clear an open or

openings greater than thirty feet wide in each 100 feet of shoreline.

B. Shore Cover: the cutting and clearing for in (I) and (II), above, shall in any event leave sufficient ground cover and root systems to prevent or control erosion and run off and shall leave sufficient foliage and other vegetation cover to screen cars, dwellings, and accessory structures as seen from the water.

C. Exceptions:

I) Cutting and clearing for construction and landscaping or land used for agricultural purposes and the cultivation of crops other than forest products, when approved by the Planning Board and a professional forester, may be conducted notwithstanding A., above, and said areas shall not be included in computing the maximum area provided for in said sub-section;

II) Cutting and clearing in connection with the removal of dead or dying trees or the removal of trees affected by fire, excessive wind, insect or disease epidemics are permitted; and,

III) Selective cutting which removes more than thirty percent of the trees specified in A., above, may be carried out in the conduct of commercial forestry if a State forester so recommends or if a private forester with the approval of the Forestry Department so recommends.

D. Woods Harvesting Practices Adjacent to Public Roads: Woods harvesting practices within one-hundred feet of the right of way limits of any numbered highway generally used by the public are regulated by R.S., Title 12, Section 519, as amended.

L. Agricultural Practices:

A. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land" published by the University of Maine and the Maine Soil & Water Conservation Commission, dated December, 1971 and as this may be amended or superseded.

B. Where soil is tilled an untilled filter strip of natural vegetation shall be retained between the tilled ground and the normal high water mark of all water bodies. The width of such strip shall vary according to the average slope of land and the normal high water mark as follows:

Average Slope of Land Between Tilled Land and Normal High Water Mark (Percent)	Width of Strip Between Tilled Land and Normal High Water Mark (Feet along Surface of the Ground)
0	50
5	70
10	90
15	110

**M. Solid Waste Disposal Areas:**

1. No boundary of any private solid waste disposal facility or area shall lie closer than three hundred feet of any brook, stream, river, lake or tidal water, nor may any such facility or area be established or maintained without a permit from the Planning Board applied for in writing and stating therein the size of the area, the estimated period during which it will be used, the kinds of material to be deposited and the methods to be used to prevent or minimize disease and pollution of the air, ground or water.

2. No animal or human excreta, treated or untreated, nor any pesticide or other toxic may be deposited in such areas.

3. The Planning Board shall issue a permit with or without conditions and requirements if, and to the extent that, such site can be operated in accordance with the information submitted. In making such determination, the Planning Board shall consult with such other officials and experts as necessary.

**N. Other Waste Disposal:**

1. The disposal of pesticides and pesticide containers shall be made in accordance with regulations promulgated by the State Pesticides Control Board or its successor.

2. Animal waste and manure shall be deposited and/or treated according to regulation now or hereafter promulgated by the State of Maine or in accordance with any plan or program which may hereafter be adopted by the Planning Board should such necessity arise.

3. Oil, or materials containing significant quantities of oil shall not be intentionally placed or deposited directly into or on banks of any river or stream permanent or temporary, lake, pond, or tidal waters or on the ice thereof where such material may fall or otherwise find its way into said watercourse or tidal waters, or shall such material be intentionally placed or

deposited directly in pits, wells or on ground surfaces in such a manner that oil will percolate, seep or otherwise find access into ground waters or into wells used for the production of water, which intentional acts are prohibited by R.S., 1964, Title 17, Section 2794, as amended.

4. No person shall place, deposit or discharge, directly or indirectly into the inland waters or tidal waters of the Town, or on the ice thereof, or on the banks thereof in such a manner that the same may fall or be washed into such waters, any of the following, except as otherwise provided by law:

a) Any slabs, edging, sawdust, shavings, chips, bark or other forest products refuse;

b) Any scrap metal, junk, paper, garbage, septic tank sludge, rubbish, old automobiles or similar refuse.

O. Enforcement:

1. No person may obtain a permit required by this Part II without first having obtained a land use permit as provided or the Part I and a subdivision approval as provided in Part III. Provided, that in reviewing an application for a permit pursuant of this Part II, the Planning Board may certify that no other such permit is required by the provisions of said Parts I and III.

2. No person shall commence or continue any land use activity for which a permit is required by this Part II or by Parts I and III, without first having obtained a permit thereof. Any person who violates this provision shall, in addition to any penalty or court enjoined action, take all steps as may be required by the Planning Board to prevent or minimize harmful or adverse effects to persons, the land, or a water body.

P. Penalties: Any person who commences or continues any land use activity without first having obtained a permit for such activity in accordance with this Part II shall be punished by a fine of not more than \$100 (one hundred dollars) for each such activity. Each day that any such activity is carried on shall constitute a separate offence. Each day, following notice by the Planning Board, that measures to minimize or prevent harmful or adverse effects are not begun or continued with reasonable diligence shall constitute a separate offense.

Q. Suits: the Town through its Selectmen or Planning Board or any seven of its voters or taxpayers may institute proceedings to enjoin the violation of this Part II.

TOWN OF ROBBINSTON  
LAND USE AND DEVELOPMENT CODES

PART III. SUBDIVISION ORDINANCE

1. Authority

Title 30, Section 4956(2)B of the Maine Revised Statutes Annotated requires that the Planning Board review each subdivision in the Town, and provides for the adoption of regulations governing subdivisions.

2. General Procedure

Any person proposing to subdivide land in the Town shall submit a subdivision application to the Board.

A person who is uncertain as to whether or not these regulations apply to a particular proposed subdivision should meet with the Board and obtain a ruling from them.

3. Preliminary Plan Requirements

A. General

If it is determined that the proposed development is a subdivision, a preliminary plan must be submitted to the Planning Board. A preliminary plan is less than a final plan and less costly to prepare.

Before taking action on a preliminary plan, the Board shall view the site or delegate one or more of its members to do so, shall consider the proposed subdivision in the light of the long-range development objectives of the Town, and may hold an informal discussion with the subdivider or his agents and all parties whose interests may be affected by the proposed subdivision.

The Board shall take action on the preliminary plan within 60 days after the date of the application and shall notify the applicant of that action, in writing, within 5 days.

Approval of a preliminary plan does not constitute a final acceptance of the subdivision but is an expression of general concurrence with the proposed layout. Such approval shall be considered to be

conditioned on the incorporation of such revisions or modifications to the preliminary plan as the Board may request. The Board may disapprove the initial application in its entirety, but shall state its reasons for doing so in its records.

Proposed revisions of the preliminary plan, other than those specifically requested by the Board, shall be submitted to the Board for their consideration and approval or disapproval. If the Board finds that the proposed revisions substantially change the character of the proposed subdivision, the Board shall require re-submission of the subdivision preliminary plan. If the Board finds the proposed revision does not substantially alter the character of the proposed subdivision, the Board may approve the proposed revision and consider it as part of the approved preliminary plan. The Board shall take action on any revision submitted to it within 30 days.

#### B. Specific

All preliminary subdivision plan submissions shall be clearly identified with the name of the proposed subdivision, name of the owner and subdivider, an arrow indicating north, scale, and area of the proposed subdivision to nearest tenth of an acre. The materials indicated below are the general requirements for submissions. However, in cases in which special problems are involved, the Board may require submission of additional material or greater detail than specified here. All plans shall conform to the design requirements in Section 5. Improvements that may be required shall be subject to the provisions of Section 6.

1. Key Map: At a scale of approximately one inch equals four hundred feet, showing the location of the proposed subdivision in relation to existing roads and identifying all owners of land abutting the proposed subdivision. If the owner of the proposed subdivision owns other land abutting the proposed subdivision, a general street plan for the unsubmitted part shall be shown on the Key Map.
2. Preliminary Plan: At a scale of one inch equals 100 or less feet, showing: proposed lot lines with approximate area of each lot in square feet and lot numbers, street

location and names, water courses, location of monuments, land intended to be offered to the Town, planting and other features that will assist the Board in evaluating the general layout of the proposed subdivision.

3. Existing Conditions: At the same scale as the preliminary plan, showing contour lines at 20 foot intervals for slopes averaging 10% or greater and at 5 foot intervals for land of lesser slope; and also showing existing lot lines, rock formations, wooded areas, streams or natural drainage courses, or other natural scenic features of the land.
4. Street Profiles: Showing the proposed centerline profile of all proposed streets and existing grade of the land at a horizontal scale of one inch equals fifty feet and vertical scale of one inch equals five feet.
5. Utility Plan: At the same scale as the preliminary plan showing the proposed location of water and sewer lines, storm drains, manholes, catch basins and special structures-if private water supply and/or sewage disposal is not intended.
6. Deed Restrictions: A statement indicating the general intent of any deed restriction or protective covenants intended to apply to the land being subdivided.

#### 4. Final Plan Requirements

##### A. General

The subdivider, within six months after approval of the preliminary layout, may submit a final subdivision plan to the Board. The subdivider shall incorporate all the necessary revisions and modifications to the preliminary plan into the final plan in accordance with the conditions of approval of the preliminary plan.

Any application that does not comply with submission specifications, or for which the Board rules that additional information is necessary to make a sound judgment shall be considered an incomplete application. The Board may rule that the application is incomplete at the next meeting following the date of initial



submission or within 15 days, whichever is longer, and shall notify the applicant within 5 days of such ruling.

**B. Specific**

1. The following maps, certified by a registered engineer as to the accuracy of details shown thereon, shall be submitted.

a. Final Plan (four copies one of which is reproducible): At a scale of one inch equals 100 feet or less, showing proposed property lines and the area of each lot, with accurate dimensions, street lines and names, location of monuments, topography, and the location of any land to be offered to the Town.

b. Utility Plan (three copies): At the same scale as the final plan locating utilities with accurate dimensions and accompanied by centerline profiles of any utilities.

c. Street Profiles (three copies): Showing the centerline profile of all streets within the subdivision.

2. In addition, the following information must be submitted:

a. Deed Restrictions (one copy): Exact wording of any deed restrictions or protective covenants relating to land within the subdivision.

b. Any offers of cession of land to be offered to the Town for public use.

**5. Design Requirements**

**A. General**

The layout of the proposed subdivision shall conform to all applicable local and state requirements controlling land development. Roads shall be constructed to town standards.

## B. Specific

### 1. Street Layout

- a. All streets shall have a right-of-way of 50 feet and a paved width of 22 feet centered on the right-of-way.
- b. Dead end streets will not be allowed. Cul-de-sacs will be permitted but of no greater length than 500 feet and must have a turn-round with a right-of-way radius of at least 45 feet and a paved radius of 35 feet.
- c. Streets shall be arranged to provide for extensions or connection to future streets necessary to develop abutting land in future subdivisions.
- d. The grade of all streets must be at least 1% but less than 9%.
- e. Street Intersections shall be as nearly as possible at right angles.

### 2. Lot Design

- a. All lots shall have at least 50 feet frontage on an existing or proposed street.
- b. Whenever possible, side lots lines shall be at right angles to street lines.
- c. Lots other than corner lots with frontage on two streets will not be allowed.

3. Public Recreation Land: In any subdivision containing 10 acres or more, whether undertaken at once or in several successive stages, at least 5% of the total area shall be offered to the Town for public purposes.

4. Landscaping and Planting: Landscaping and preservation of natural and scenic features

will be encouraged wherever possible to enhance the environment of the subdivision and the Town.

#### 6. Improvement Requirements

- A. In the notice of approval of the preliminary plan, the Board shall specify those required improvements for which the subdivider shall be responsible as a condition of subdivision plan approval. Such improvements shall include monuments, street construction, water, sewer, and other utility mains, piping, construction of other facilities, and may include; land set aside for a street widening or neighborhood playground, curbs, street signs, sidewalks, and landscaping or planting. All improvements shall be to state or Town standards.
- B. Before final subdivision plan is approved by the Board, the subdivider must either complete all required improvements in accordance with these regulations or submit a performance bond in an amount and form specified by the Board. The performance bond shall be based on the estimated cost of completing the required improvements.

#### 7. Plan Processing

##### A. Plan Review Criteria

State law requires the Planning Board to consider the following criteria when evaluating a subdivision.

1. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluent; the availability of streams for disposal of effluent; and the applicable state and local health and water resource regulations.
2. Has sufficient water available for the reasonably foreseeable needs of the subdivision (from individual wells or other sources).
3. Will not cause unreasonable burden on an existing water supply, if one is to be utilized.

4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
6. Will provide for adequate sewage waste disposal (by individual septic tanks or other means).
7. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.
8. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
9. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any.
10. The subdivider has adequate financial and technical capacity to meet the above state standards.
11. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river to tidal waters will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

In granting approval of a subdivision, the Planning Board may attach whatever terms and conditions they see fit to guarantee conformance with items 1 through 11 above.

#### Section 8: Enforcement, Variances, Amendments

A. Enforcement - (Excerpt from Maine RSA Title 30, Section 4956(4):

4. Enforcement. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and recorded in the proper registry of deeds, nor shall

such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to the following: A granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision plat or plan shall be recorded by any register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such occurrence. The Attorney General, the municipality, the planning board of any municipality or the appropriate municipal officers may institute proceedings to enjoin the violations of this section and if a violation is found by the court, the municipality, municipal planning board or the appropriate municipal officers may be allowed attorney fees.

- B. Variances: These regulations shall be considered the minimum requirements for the protection of the public health, safety and welfare of the Town. Any action taken by the Board under the terms of these regulations shall give primary consideration to the welfare of the entire community. However, if the subdivider or his agent clearly demonstrates that, because of peculiar conditions pertaining to his land, the literal enforcement on one or more of these regulations is impracticable or will exact undue hardship, the Board may permit such variances as may be reasonable and not contrary to the welfare and safety of the community.
- C. Amendments: These regulations may be amended, changed, altered, added to, or rescinded from time to time whenever this action is deemed necessary or advisable by the Board; but only following a public hearing on the proposed change.

**Section 9: Fees:**

a. The application for subdivision approval shall be accompanied by the following fee(s):

1. Application Fee: \$25.00
2. Review Fee, \$20.00 per lot, living unit or multiplex development.
3. Review Escrow Account, \$100.00 per lot (or living unit for multiplex developments) deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developers application as it deems necessary.

Part IV: Administration

1. Authority: Part IV is enacted pursuant, among others, to the following constitutional and statutory provisions: Article VIII-A, of the Constitution of the State of Maine, (Municipal Home Rule); Title 32, Section 3351, as amended, (Municipal Plumbing Ordinances); and Title 30, Sections 2411 and 4963, as amended, (Planning-Zoning-Development).

2. Purpose: This Part IV provides for the duties and responsibilities of local official not set forth in other laws or ordinances and necessary for the administration of this Code.

3. Definitions:

A. For the administration of this code, the use of all words in the singular shall include the plural where such meaning would give greater force and effect of the purposed, objectives and provisions of this code.

B. Following are definitions of certain words and terms used in this code.

I) "Accessory structure" includes any building or structure required for the safe and adequate conduct of a permitted land use.

II) "Building permit" the written decision, opinion, or notice signed by majority of the planning board or other necessary officials granting approval to conduct any activity subject to the provisions of Part II of this Code or related laws and ordinances, including any requirements imposed as a condition of approval.

III) "Home-related" means carried out in the home or in adjacent or adjoining structures or property all owned by the same person.

IV) "Land use" includes any activity; building or construction measure or land alteration; and, any building or other structure, whether on, under or above the surface of the ground and whether or not some or most of any of the foregoing shall extend below the mean or average high water. The term shall include both temporary and permanent land use.

V) "Land use permit" the written decision, opinion, or notice signed by a majority of the planning board stating either

that the proposed land use is permitted as a matter of right or has been permitted as a conditional use, subject of certain conditions stated therein, if any.

VI) "Official" any individual, officer, board, department, agency or office whether elected or appointed and the personnel of any of the foregoing.

VII) "Person" includes one or more persons, a partnership, corporation, trust or other legal entity, its employees, agents, or contractors or person acting under its request or direction.

VIII) "Public road" includes any road, street or way which has been accepted by the town or laid out by the State of Maine or the county commissioners or which has become a public way by continued use and which is maintained year round.

IX) "Subdivision approval" the written decision, opinion or notice signed by a majority of the planning board on the plat or plan of said subdivision and any accompanying statement or conditions imposed as a condition of approval.

C. All other words shall have the meaning given them by stature, the science, profession, or trade relating most nearly thereto, or in the absence of either, by ordinary usage.

#### 4. Officials and Duties:

A. Planning Board. In addition to any other responsibilities which might be imposed in other parts of this Code by any other law or ordinance, the Planning Board shall:

I) Make any inspection necessary to carry out its responsibilities;

II) Provide consultation to other local, regional and State officials when requested and on its own initiative make recommendations to such officials regarding any matter within the purposes or provisions of this code;

III) Obtain technical assistance and advice from public agencies, firms and individuals. Where a fee or other cash expenditure not provided for in its approved budget unless the applicant whose permit request necessitates such technical assistance shall agree in writing to pay for such services;

IV) Establish and maintain a working relationship with State and federal agencies and officials of other municipalities and districts as necessary or appropriate to the administration and enforcement of this Code, and in particular, the Department of Environmental Protection; the Division of Health Engineering in



the Department of Health and Welfare; the Department of Sea and Shore Fisheries; and, the Department of Inland Fisheries and Game;

V) Devise or adopt forms and other materials to make more efficient and uniform the administration of this Code;

VI) Establish and make public the rules for holding and conducting public hearings within the provisions set forth in this Part IV;

VII) Record in writing or by other permanent means a summary of its deliberations regarding any permit required by this Code to be issued by the Planning Board and set forth as fully as is practicable its reasons for granting or denying an approval requested of it or in connection with which its consultation has been requested or its recommendation given;

VIII) Require, as it deems necessary for the protection of buyers, lessees, other grantees or the public, that in advertisements or other offers to convey, the subdivider, grantor, or agent inform said grantees or the public that the subdivision or lot is subject to this code and any specific terms and conditions imposed in the granting of any permit or approval under this Code; and,

IX) Submit a written report in detail to the Selectmen annually, before the first day of January, regarding its responsibilities under this Code and including an evaluation of the effectiveness of this Code and recommending any amendments to it.

**B. Code Enforcement Officer:**

I) Establishment: There is hereby created the position of town code enforcement officer.

II) Appointment: The Selectmen, within 30 days of the enactment of this Code and within 30 days of a vacancy, shall appoint one or more persons to serve a term of one year unless removed for cause by the Selectmen or unless a majority of the planning board so request.

III) Compensation: The code enforcement officer shall be compensated by appropriation or transfer of funds in the town budget. If the governing body fails or neglects to appropriate such funds, then such appropriation shall be considered to have been made and compensation shall be paid at an hourly rate in accordance with scales prevailing in the area for comparable responsibilities and skill.

IV) Inter-local agreement: The selectmen, upon the recommendation of the planning board, shall enter into a contract for the performance of the duties of a code enforcement officer with the regional planning commission, the board of county commissioners or any other inter-local agency capable of performing such services.

V) Duties and responsibilities: The code enforcement officer shall be responsible to the planning board in the performance of his duties. He shall review all applications required to be submitted under this Code and related laws and ordinances and shall make his findings and recommendations to the planning board who shall insure or deny such applications. He shall conduct such inspections, research and hearings as they may request. He shall notify the planning board of any apparent violations of this Code or orders or conditions of the planning board. He shall advise the planning board of the enactment, amendment, repeal, or promulgation of applicable state laws and regulations and interpretation related thereto.

C. Plumbing Inspector: In addition to any other responsibilities which might be imposed in other parts of this Code or by any other law or ordinance, the plumbing inspector shall;

I) Prepare a program for carrying out a comprehensive survey of sanitary waste disposal facilities existing in the Town, including the type, location, present condition and property owner of record. Such survey shall be carried out in consultation with the Planning Board and municipal officers. The Plumbing Inspector shall from time to time make recommendations of such officials regarding the repair or replacement of improper sanitary waste disposal systems; and,

II) Annually, before the first day of January, make a full report in detail to the Planning Board of all his activities during the preceding year regarding his administration of the State Plumbing Code, the provisions of this code and related laws or ordinances.

D. Board of Appeals:

I) Establishment. There is hereby established the Board of Appeals.

II) Organization. the Board shall consist of five members each to serve a term of three years, excepting in the case of the first appointees as provided below.

and related laws and ordinances and shall be in addition to provisions of a similar or related nature set forth in such other parts, laws or ordinances. Where any provisions conflict, that which requires the greater public notice and participation shall apply.

B. Application Forms. Within six months after the effective date of this Code, the Board or official responsible for the review of a particular application shall specify in writing the information required, or shall adopt forms, for making such applications.

C. Place of Notice. Within thirty days after the effective date of this Code, the Selectmen shall designate one or more places convenient to the public within the Town in or on which shall be posted copies of notices and reports required by this Code and related laws and ordinances, provided that such reports may instead be filed with the Town Clerk for public review. Each such notice or report shall remain posted or available for inspection for a period of not less than sixty days. the date of posting shall be written thereon.

D. Notice of application. Whenever a Board or official shall receive a written application for a permit required by this Code, or related laws and ordinances, a request to reconsider any decision, or when the Board of Appeals receives notice that an appeal is being taken; it shall post notice of the receipt thereof as provided above. Said notice shall clearly set forth the name and address of the applicant, the size and location of the land affected, the number of lots proposed of be created, and the land use or land use activity for which a permit has been requested.

E. Sufficiency of Application. An applicant may submit plans and other information for preliminary review by the appropriate board or official, but no decision may be made until the applicant has submitted information which the Board or official deems complete and sufficient for final review and decision.

F. Notice of Sufficiency. The Board or official may notify the applicant when it deems the information submitted to be adequate for review and decision. It may also request further information, including the applicant's approval for it to obtain technical assistance, payable by the applicant. Such assistance shall be obtained at the lowest cost practicable but need not be obtained through public bidding. The Board or official shall make all reasonable efforts to obtain such assistance from public agencies at minimum cost.

III) Appointments. The Selectmen shall within sixty days of the effective date of this Code appoint said five members and shall thereafter within thirty days appoint members to succeed a member whose term has expired or who is dismissed, resigns, or otherwise causes his position to become vacant. In appointing the original members, the Selectmen shall appoint two members to serve terms of one year; two members to serve terms of two years; and one member to serve a term of three years. Thereafter each appointment shall be for a term of three years or for the expiration of an unfilled term, as the case may be.

VI) Officers. The Board shall elect annually a chairman and secretary from its membership.

V) Conflict of Duty or Interest. A selectman may not serve as a member. Any question of whether a particular issuer involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

VI) Dismissal. A member of the board may be dismissed for cause by the Selectmen before the expiration of his term.

VII) Procedure:

a. The chairman shall call meetings of the Board as required. The chairman shall also call meetings of the Board when requested to do so by a majority of the members or by the Selectmen. A quorum of the Board necessary to conduct an official bared meeting shall consist of three members. The chairman shall preside at all meetings of the Board and be official spokesman of the Board.

b. The secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records to be maintained or prepared by the secretary are deemed public, shall be filed in the Town Clerk's Office and may be inspected at reasonable times.

VIII. Jurisdiction. The Board of Appeals shall hear any appeal by any person affected directly or indirectly, by any decision, order, rule, or failure to act of any town official pursuant of the provisions of this Code and related laws.

5. Notice, Review and Appeal:

A. General. These provisions shall govern the review of applications for permits under Parts I, II and III of this code

G. Public Review. Within sixty days of the date on; which it notified the applicant that it has sufficient information, the Board or official shall set a date for public review of the application or appeal.

H. Notice of Public Review. At least fifteen days prior to such date, the Board or official shall notify the applicant in writing of the date, time and place and shall notify the residents of the Town by posting notices as set forth above.

I. Procedure at Public Review. The procedure at any public review shall be informal, provided that the board or official may specify in the notice of such meeting or at the opening thereof, that certain rules of procedure shall be in effect regarding a particular application or appeal.

J. Request for Procedure at Public Review. Any seven citizens or taxpayers may request that a particular procedure be followed. If the Board or official finds such procedure to be reasonable, or if the majority of the citizens and taxpayers in attendance so vote; such procedure shall be in effect for the public review of such application or appeal, provided that such procedure is otherwise lawful and not unduly restrictive of the public's right to participate in all matters under this Code.

K. Testimony. The applicant and any voter or taxpayer may testify and may be represented by legal counsel or expert witness. The official conducting such hearing shall determine whether a witness is sufficiently expert to testify in the capacity.

L. Cloture. At such time as a Board or official deems appropriate, the oral presentation of testimony on such application or appeal shall be declared closed, except that written statements may be submitted within the five days following such meeting. Thereafter the record shall be closed excepting as a Board or official deems necessary to make its decision.

M. Rebuttal. Every applicant, citizen, taxpayer, expert witness or legal counsel may submit rebuttal evidence and conduct such cross-examination as may be required for a full and true disclosure of the facts.

N. Decisions. Within the next thirty days, the Board or official shall decide upon such application or appeal. If it determines that insufficient evidence has been submitted, it may so notify the applicant, requesting in particular the information required or it shall deny the application.

O. Notice of Decision. Notice of a decision granting, denying or granting subject to ~~terms and conditions~~ as provided in Parts I, II, and III of this Code shall be attached to any other notice relating to the application in question and copy thereof mailed to the applicant.

P. Failure to Decide: If, after said thirty days, no decision has been issued by the Board or official, this shall constitute a denial of the application. Provided that within fifteen days thereafter it shall set forth its reasons in writing for failing to reach a decision or for denial.

Q. Request for Reconsideration: Within fifteen days of the posting of such decision or the setting forth of such reason, the applicant or any seven taxpayers or voters may request a reconsideration of such decision. The Board or official shall decide whether to reconsider its decision and shall notify the applicant, or other persons so requesting, of its decision. It shall post notice to that effect and the procedure shall be as in the case of an original application or appeal.

R. Appeal: Within fifteen days of the decision of the board or official to reconsider its decision, the applicant, any seven taxpayers or voters, may appeal to the board of Appeals either the decision on the application or the decision on the request to reconsider.

S. Record: The transcript of testimony, if any,, and exhibits, together with all papers and requests filed in a public review shall constitute the record. All decisions of a board or official shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all materials issues of fact, law or discretion presented and the appropriate order, approval or denial thereof.

6. Appeals: Board of Appeals: The Board of Appeals shall hear appeals as provided in 5 R above subject to the following provisions:

I) The Board may interpret provisions of the ordinance in question;

II) The Board may not reconsider the findings of facts made by the official in granting, denying or granting subject to terms and conditions the application, order or decision appealed from; and,

III) The Board may order additional information to be submitted or testimony given.

B. Superior court. An appeal may be taken by any person, whether or not said person was a participant in earlier proceedings, provided that such person can show a substantial direct or indirect interest in subject matter of the appeal. Appeals to the Superior Court shall be made in accordance with Rule 80-B. The hearing before Superior Court shall be a trial de novo without a jury.

7. Amendments: This Code and the parts and sections thereof, may be amended in the manner provided for by law. Any amendment proposed shall be reviewed by the Planning Board which shall obtain consultation as it seems appropriate or necessary.

8. Separability: In the event that any one or more provisions of this Code shall be declared unenforceable as a matter of law, all other parts, provisions and regulations shall be separable and enforceable.

9. Penalties: Any person who commences any land use activity without first obtaining a land use permit shall be punished by a fine of not more than \$100.00 for each activity. Each day following notice from the Planning board on which measures to minimize or prevent harmful or adverse effects are not taken or are not continued with reasonable diligence shall constitute a separate offense.

10. Enforcement: Any person in violation of this ordinance shall, upon receipt of notice from the Planning Board, take steps as may be required by the Board to prevent or minimize harmful or adverse effects of such unauthorized activity to persons, the land, or a body of water.

11. Suits and Remedies:

A. The Town through its Selectmen or Planning Board or any seven of its registered voters or taxpayers may institute proceedings to enjoin the violation of this ordinance.

B. Upon notice by the Planning board that measures required to be taken pursuant to 10 above, have not been taken or have not been continued with reasonable diligence, the Selectmen shall cause said measures to be taken and shall assess and collect the reasonable costs for such measures in the same manner as in the assessment and collection of a tax on real property.





12. Uniformity of Administration and Enforcement: All provisions and requirements of this code, related laws and ordinances shall be administered and enforced as uniformly and as fully as practicable. The failure to do so, other than failure arising from willful refusal or neglect on the part of any official, shall not constitute grounds for stopping such administration and enforcement in a particular case. Such officials are hereby granted reasonable discretion to administer and enforce these provisions, including the selection of priorities, imposition of terms and conditions and waiver of submission requirements.

13. Effective Date of Code: This Code shall be in full force and effective within thirty (30) days of its enactment by regular or a special town meeting.



TOWN  
OF  
ROBBINSTON

SHORELAND ZONING  
ORDINANCE

ROBBINSTON SHORELAND ZONING ORDINANCE

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ROBBINSTON

SHORELAND ZONING ORDINANCE

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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 freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve 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 water; 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 normal high-water line of any lake, river, or saltwater body;

within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and

within 100 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 beyond the normal high-water line of a water body or within a wetland.

**SECTION 4. EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ORDINANCE**

This Ordinance, which was adopted by the municipal legislative body at the Robbinston Special Town Meeting conducted on October 21, 1991, shall not be effective unless approved by the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Department for approval.

If the Department fails to act on this Ordinance within forty-five (45) days of its receipt of the Ordinance, it shall be automatically approved. Upon approval of this Ordinance, the shoreland zoning requirements previously adopted in the Robbinston Land Use and Development Code, Section 5 (A)(B) and Part II in it's entirety, at the regular annual town meeting in March, 1988 are hereby repealed.

(continued next page)

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

**SECTION 5. AVAILABILITY**

A certified copy of this Ordinance shall be filed with the Planning Board and shall be housed in the Town Building 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 courts 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 a provision of the Ordinance or any other Ordinance, regulation or statute, 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 Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Department. If the Department fails to act on any amendment within forth-five (45) days of it's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five day period shall be governed by the terms of the amendment, if such amendment is approved by the Department.

This Ordinance was amended on the following dates:

\_\_\_\_/\_\_\_\_/\_\_\_\_      \_\_\_\_/\_\_\_\_/\_\_\_\_      \_\_\_\_/\_\_\_\_/\_\_\_\_  
\_\_\_\_/\_\_\_\_/\_\_\_\_      \_\_\_\_/\_\_\_\_/\_\_\_\_      \_\_\_\_/\_\_\_\_/\_\_\_\_

**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 Map which is made a part of this Ordinance:

1. Resource Protection (RP)
2. Limited Residential (LR)
3. Commercial Fisheries/Maritime Activities (CFMA)
4. Stream Protection (SP)

**B. Scale of Map**

The Official Shoreland Zoning Map shall be drawn at a scale of one inch equals two thousand feet (1"=2000'). District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

**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 at the Town Building.

**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 Commissioner of the Department 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 centerline 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 erected, constructed, expanded, moved, or altered and no new lot shall be created except in the 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 shall be allowed to continue, subject to the requirements set forth in this section.

B. General

1. Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which 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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INFORMATIONAL NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses, and non-conforming lots.

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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 January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 39% or more, during the lifetime of the structure.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided; that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2. Relocation, below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.
- c. No structure which is less than the required setback from the 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.  
(continued next page)

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

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

3. **Reconstruction or Replacement:** Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed 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 one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph 2 above, the 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 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 permitted in Section 12(C)(1)(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 one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in 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 size and 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 single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

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 (RP):

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.

Specifically, the Resource Protection District includes areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with lakes and rivers as delineated on the Official Shoreland Zoning Map.

The Resource Protection District also includes the following areas which may not be delineated on the Official Shoreland Zoning Map:

1. Floodplains along rivers and flood plains along artificially formed water bodies along rivers, defined by the 100 year flood plain 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 flood plain soils. 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.
2. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
3. Areas of two (2) or more contiguous areas 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 normal spring high water.
4. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

The Resource Protection District need not include those areas which are currently developed and areas which meet the criteria for the Commercial Fisheries/Maritime Activities District.

The Resource Protection District does not include areas designated as the Stream Protection District.

## B. Limited Residential District (RD):

The Limited Residential District includes those areas suitable for residential and recreational development. It includes those areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Commercial Fisheries/Maritime Activities. Cottage industries and other light or low intensity businesses or uses may be allowed in this District with a permit from the Planning Board. Large or high intensity commercial and industrial uses are prohibited.

Specifically, the Limited Residential District includes all areas within 250 feet, horizontal distance, of the normal high water line of any salt water body, or lake or river as defined in Section 17 of this Ordinance, and as delineated on the Official Shoreland Zoning Map.

## C. Commercial Fisheries/Maritime Activities District (CFMA)

Specifically, the CFMA District is as delineated on the Official Shoreland Zoning Map: beginning approximately at the center of the right-of-way (ROW) as shown on the map and extending south +/-200 feet and extending north +/-425 feet for a total distance of +/-625 feet.

Generally, the continued development of the Commercial Fisheries/Maritime Activities District would include areas where the existing predominant pattern of development is consistent with the allowed use for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

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

## D. Stream Protection District (SP)

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, as defined in Section 17 of this Ordinance and as delineated on the Official Shoreland Zoning Map.

Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

The Stream Protection District does not include those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a lake, river or saltwater body, or within two-hundred and fifty (250) feet, horizontal distance of the upland edge of a freshwater or coastal wetland.

**SECTION 14. TABLE OF LAND USES**

All land use activities, as indicated in Table 1. Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map and the criteria specified in Section 13.

Key to Table 1:

- Yes** - Allowed (no permit required but the use must comply with all applicable land use standards.)
- No** - Prohibited
- PB** - Requires a permit issued by the Planning Board
- CEO** - Requires a permit issued by the Code Enforcement Officer
- LPI** - Requires a permit issued by the Local Plumbing Inspector

Abbreviations:

- SP - Stream Protection
- RP - Resource Protection
- LR - Limited Residential
- CFMA - Commercial Fisheries / Maritime Activities

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The following informational notes are applicable to the Land Use Table on the following page and to the future development of the CFMA District :

**NOTE:** The term "functionally water-dependent use" as defined, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by water or use water for cooling, to traditional commercial fishing enterprises, and public shorefront parks. Towns are encouraged to define the functionally water-dependent uses which are to be permitted and which are prohibited in each CFMA District, based on considerations of prevailing existing uses, desired future uses, available support facilities, site suitability and compatibility with adjacent uses. A town can narrow the range of permitted uses by precluding certain functionally water-dependent uses, or by adopting conditional uses for certain functionally water-dependent uses that it determines would only be compatible with its plan for the waterfront under certain conditions.

**NOTE:** Recreational water-dependent uses such as marinas and excursion vessels may in some towns displace or threaten to displace traditional commercial fisheries and maritime activities. Therefore a town may wish to preclude or further limit these types of uses in this district in order to protect berthing space and onshore staging areas for commercial fishing enterprises.

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LAND USES

DISTRICTS  
SP    RP    LB    CEMA

	SP	RP	LB	CEMA
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes
4. Timber harvesting	yes	CEO <sup>1</sup>	yes	yes
5. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO <sup>1</sup>	yes	yes
6. Fire prevention activities	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes
9. Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
10. Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes
14. Aquaculture	PB	PB	PB	yes
15. Principal structures and uses				
A. One and two family residential	PB <sup>4</sup>	no	CEO	no
B. Multi-unit residential	no	no	PB	no
C. Commercial	no	no <sup>5</sup>	no	PB <sup>6</sup>
D. Industrial	no	no	no	PB <sup>6</sup>
E. Governmental and Institutional	no	no	no	PB <sup>6</sup>
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	CEO	PB <sup>6</sup>
16. Structures accessory to allowed uses	PB <sup>4</sup>	PB	CEO	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary	CEO	CEO	CEO	CEO
b. Permanent	PB	PB	PB	PB <sup>6</sup>
18. Conversions of seasonal residences to year-round residences	LPI	no	LPI	no
19. Home occupations	PB	no	PB	yes
20. Private sewage disposal systems for allowed uses	LPI	no	LPI	LPI
21. Essential services	PB <sup>4</sup>	PB <sup>4</sup>	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO <sup>5</sup>
24. Individual, private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	no	no	PB	no
26. Road and driveway construction	PB	no <sup>7</sup>	PB	PB <sup>6</sup>
27. Parking facilities	no	no <sup>7</sup>	PB	PB <sup>6</sup>
28. Marinas	PB	no	PB	PB
29. Filling and earthmoving of < 10 cubic yards	CEO	CEO	yes	yes
30. Filling and earthmoving of > 10 cubic yards	PB	PB	CEO	CEO
31. Signs	yes	yes	yes	yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB

<sup>1</sup>In RP not permitted within 75 feet of the normal high-water line of lakes, except to remove safety hazards.

<sup>2</sup>Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup>In RP not permitted in areas so designated because of wildlife value.

<sup>4</sup>Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>5</sup>Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).<sup>\*</sup>

<sup>6</sup>See further restrictions in Section 15(L)(2) on page

<sup>7</sup>Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.

<sup>\*</sup>Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.

<sup>8</sup>Light commercial uses only (i.e. wreath making, Bed and Breakfast Inns, etc.)

THE FOLLOWING IS FOR INFORMATIONAL PURPOSES ONLY:

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

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

**SECTION 15. LAND USE STANDARDS**

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

1.	<u>Minimum Lot Area</u> <u>(sq. ft.)</u>	<u>Minimum Shore</u> <u>Frontage(ft.)</u>
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**Residential per dwelling unit**

a. Within the Shoreland Zone Adjacent to Tidal Areas	40,000	150
b. Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200

**Governmental, Institutional, or Commercial per  
principal structure**

a. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas Zoned as CFMA	40,000	200
b. Within the Shoreland Zone Adjacent to Tidal Areas Zoned as CFMA	NONE	NONE
c. Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300

**Public and Private Recreational Facilities**

a. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200
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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 not 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 or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.



**B. Principal and Accessory Structures**

1. All new principal and accessory structures shall be set back at the following distances as measured horizontally from the normal high-water line of water bodies:  
  
100 (one-hundred ) feet: a salt water body or a river or a lake or a stream; and  
75 (seventy-five) feet: other water bodies, tributary streams and the upland edge of a wetland; and  
25 (twenty-five) feet : General Development District; and  
0 (zero) feet : Commercial Fisheries/  
Maritime Activities District (CFMA).

**In addition:**

- a. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
  - b. The Planning Board may increase the required setback of a proposed structure, as a condition of permit approval, if necessary to accomplish the purposes of this Ordinance. Instances where greater setback may be appropriate include, but are not limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. All new principal and accessory structures shall have a **front-yard set-back of 40 feet** and a **side-yard set-back of 15 feet**. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
  3. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
  4. The total 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 thereof, located within the shoreland zone, including land previously developed, except in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.

5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided:

that the structure is limited to a maximum of four (4) feet in width;

that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Dept. of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-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 Beyond the Normal High-Water Line of a Water Body or Within a 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 natural beach areas.
3. The facility shall be located so as to minimize adverse effects of fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
6. No existing structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
7. Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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THE FOLLOWING NOTE IS FOR INFORMATIONAL PURPOSES ONLY:

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Dept. of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C.

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#### 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 setback at the following minimum distances as measured horizontally from the normal high-water line:
  - 100 (one-hundred) feet: a salt water body or a river or a lake or a stream; and
  - 75 (seventy-five) feet: a tributary stream, or the upland edge of a wetland.

#### E. Individual Private Campsites

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

1. One campsite per lot existing on the effective date of this Ordinance, or forty-thousand (40,000) 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 setback at the following minimum distances as measured horizontally from the normal high-water line:
  - 100 (one-hundred) feet: a salt water body or a river or lake or a stream,
  - 75 (seventy-five) feet: a tributary streams, or the upland edge of a wetland.
3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
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.
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. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone:

- a. Auto washing facilities
- b. Auto or other vehicle service and/or repair operations, including body shops
- c. Chemical and bacteriological laboratories
- d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
- e. Commercial painting, wood preserving, and furniture stripping
- f. Dry cleaning establishments
- g. Electronic circuit assembly
- h. Laundromats
- i. Metal plating, finishing, or polishing
- j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- k. Photographic processing
- l. Printing

This subsection is not intended to prohibit or prevent the normal and routine operations of any marine or boat building facility or other water dependant uses.

## G. Parking Areas

1. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located (See Subsection (B)(1) on page 12 for setbacks), except that in the Commercial Fisheries/Maritime Activities District parking areas shall be setback at least twenty-five (25) feet from the normal high-water line or the upland edge of a wetland.

The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial Fisheries/Maritime Activities District may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no 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, and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - b. Internal travel aisles: Approximately twenty (20) feet wide.

## H. Roads and Driveways

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

1. Roads and driveways shall be setback at the following minimum distances as measured horizontally from the normal high-water line:

100 (one-hundred ) feet: a salt water body or a river or a lake or a stream; and

75 (seventy-five) feet: other water bodies, tributary streams and the upland edge of a wetland

unless no reasonable alternative exists as determined by the Planning Board.

If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include but not be 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 the upland edge of a wetland.

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

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road 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 subsection Q.
5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

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6. In order to prevent road surface drainage from directly entering water bodies and tributary streams, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
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 in the road or ditches gains sufficient volume or head to erode the road 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 at intervals no greater than indicated in the following table:

<u>Road Grade (Percent)</u>	<u>Spacing (Feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-25	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
  - c. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.
  - 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 shall be maintained on a regular basis to assure effective functioning.

#### I. Signs

The following provisions shall govern the use of signs in the shoreland zone:

1. Signs and bill boards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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The Planning Board may, for good cause clearly demonstrated by the applicant, waive the dimensional criteria of paragraph 1, above, to allow an increase in the square foot area of each sign. In making this decision, the Planning Board may limit the number of signs per premises to one. In no instance shall more than two signs per premises be permitted.

2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.
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 permitted 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 permitted without restriction.
6. No sign shall extend higher than twenty (20) feet above the ground.
7. Signs, other than emergency warning signs, may be illuminated only by shielded, non-flashing lights.

#### J. 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.

#### K. Septic Waste Disposal

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

#### L. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services is not permitted 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 permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

## M. Mineral Exploration

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

Mineral extraction may be permitted under the following conditions:

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 paragraph 4. below.
2. Unless authorized pursuant to the Natural Resources Protection Act (NRPA), Title 38 MRSA, Section 480-C no part of any extraction operation, including drainage and runoff features shall be permitted within the following distances as measured horizontally from the normal high-water line:

100 (one-hundred ) feet: a salt water body or a river or a lake or a stream; and

75 (seventy-five) feet: other water bodies, tributary streams and the upland edge of a wetland.

Extraction operations shall not be permitted within seventy-five (75) feet of any property line; without written permission of the owner of such adjacent property.

3. Developers of new gravel pits shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the shoreland zone, they shall be setback as far as practical from the normal high-water line and no less than one-hundred (100) feet and screened from the river by existing vegetation.
4. 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.

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THE FOLLOWING IS FOR INFORMATIONAL PURPOSES ONLY:

The State of Maine Solid Waste Laws, Title 38, M.R.S.A., Section 1310 and Chapter 404 of the D.E.P.'s regulations may contain other applicable provisions regarding disposal of such materials.

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- b. The final graded slope shall be two to one (2:1) 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.
5. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

**N. Agriculture**

- 1. All spreading or disposal of manure shall be accomplished in conformance with the Maine guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.
- 2. Manure shall not be stored or stockpiled within the following distances as measured horizontally from the normal high-water line:
  - 100 (one-hundred ) feet: a salt water body or a river or a lake or a stream; and
  - 75 (seventy-five) feet: other water bodies, tributary streams and the upland edge of a wetland.

Within five (5) years of the effective date of this Ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge or effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the five (5) year period.

- 3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- 4. There shall be no new tilling of soil within the following distances as measured horizontally from the normal high-water line:
  - 100 (one-hundred) feet: a lake; and
  - 75 (seventy-five) feet: a salt water body or a river or a stream; and
  - 25 (twenty-five) feet: a tributary stream or wetland.

Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

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5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within the following distances as measured horizontally from the normal high-water line:
- 100 (one-hundred) feet: a lake; and
  - 75 (seventy-five) feet: a salt water body or a river or a stream; and
  - 25 (twenty-five) feet: a tributary stream or a wetland.

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 Soil and Water Conservation Plan.

#### O. Timber Harvesting

1. Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for Resource Protection abutting a lake there shall be no timber harvesting, except to remove safety hazards.
2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:
  - a. 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 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
    - i. There shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained within the following distances as measured horizontally from the normal high-water line:
      - 100 (one-hundred)) feet: a salt water body or a river or a lake or a stream; and
      - 75 (seventy-five) feet: a tributary stream or the upland edge of a wetland.
    - ii. At distances greater than the following, as measured horizontally from the normal high-water line, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy:
      - > 100 (one-hundred)) feet: a salt water body or a river or a lake or a stream; and
      - > 75 (seventy-five) feet: a tributary stream or the upland edge of a wetland.

Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

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- b. 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 shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when:
  - i. Surface waters are frozen; and
  - ii. The activity will not result in any disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- e. 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.
- f. 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.

P. Clearing of Vegetation for Development

1. Within a shoreland area zoned for Resource Protection abutting a lake, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending the following distances as measured horizontally from the normal high-water line:

100 (one-hundred) feet: a salt water body or a river or a lake or a stream; and

75 (seventy-five) feet: a 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 as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation", adjacent to a lake or a stream flowing to a lake, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system:

<u>Diameter of Tree at 4 1/2 feet</u> <u>Above Ground Level (inches)</u>	<u>Points</u>
2 - 4 in.	1
>4 - 12 in.	2
>12 in.	4

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THE FOLLOWING IS FOR INFORMATIONAL PURPOSES ONLY:

As an example, adjacent to a river, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}$$

Thus, the 25-foot by 25-foot contains trees worth 21 points. Trees totaling 9 points (21 - 12 = 9) may be removed from the plot provided that no cleared openings are created.

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

- c. In order to protect water quality and wildlife habitat, adjacent to lakes, and streams which flow to lakes, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a, above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- 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 paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- 3. At distances greater than the following as measured horizontally from the normal high-water line:
  - > 100 (one-hundred) feet: a salt water body or a river or a lake or a stream; and
  - > 75 (seventy-five) feet: a tributary stream or the upland edge of a wetland,

except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Commercial Fisheries/Maritime Activities District.

- 4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
- 5. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

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

## R. Soils

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

## S. 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.

## T. 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 was created in March, 1968 in accordance with the provisions of State Law.

3. Planning Board:

A Planning Board was created on March, 1968 in accordance with the provisions of State law.

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued non-conforming use.

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 the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
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 would require the installation of a subsurface sewage disposal system.



#### D. Procedure for Administering Permits

Within 35 days of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 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, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

After the submission of a complete application to the 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 of 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 water;
6. Will protect archaeological and historic resources as designated in the comprehensive plan.
7. Will not adversely affect existing commercial fishing or maritime activities in a CFMA district;
8. Will avoid problems associated with flood plain development and use; and
9. 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 any State law which the municipality is responsible for enforcing.

#### E. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

**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. 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 appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.
- b. **Variance Appeals:** To authorize variances upon appeal, within the limitations set forth in this Ordinance.

**2. Variance Appeals**

Variances may be permitted 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;
- (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;

(continued next page)

(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. 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.
- e. A copy of all variances granted by the Board of Appeals shall be submitted to the Dept. of Environmental Protection within fourteen (14) days of the decision.

### **3. 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. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
- (i) A concise written statement indicating what relief is requested and why it should be granted.
- (ii) 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 being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (4) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

#### **b. Decision by Board of Appeals**

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

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- (2) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
- (3) The person filing the appeal shall have the burden of proof.
- (4) The Board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (5) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

#### **4. Appeal to Superior Court**

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 thirty (30) days from the date of any decision of the Board of Appeals.

#### **5. Reconsideration**

The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

### **H. ENFORCEMENT**

#### **1. Nuisances**

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

#### **2. Code Enforcement Officer**

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

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- b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis (every two years), a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control 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 selectmen, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, wither 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 Robbinston. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

### **4. Fines**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

## SECTION 17. DEFINITIONS

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

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

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

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

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

**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.

**Coastal wetland** - all tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," as 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.

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

**Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two lots 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 weeks or 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 a 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.

**Foundation** - the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

**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 10 acres; and
2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**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, salt and fresh 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, 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 marine or tidal waters.

**Height of a structure** - the vertical distance between the mean original grade 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.

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

**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 gravel pads, parking areas, fire places, or tent platforms.

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

**Lake** - 1) Roque Lake; Rand Lake; Goulding Lake; Western Lake; Eastern Lake; Moneymaker Lake; "Big" Penknife Lake; "Little" Penknife Lake; those portions of Howard Lake, Shattuck Lake and Boyden Lake located within the boundaries of the town of Robbinston.

2) Any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

3) Impoundments of rivers that are defined as great ponds classified GPA, pursuant to Title 38, Article 4-A, Section 465-A.

**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, boat and tackle shops and marine fuel service facilities.



**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.

**Minimum lot width** - the closest distance between the side lot lines of a lot.

**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.

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

**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 permitted 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** - 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. In the case of wetlands adjacent to rivers, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

**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 beyond 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 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 flood plain 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.

**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. The term shall include mobile homes, but not recreational vehicles.

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

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

**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.

**Salt marsh** - areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widegon grass, eelgrass, and Sago pondweed.

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

**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 installation of utility poles is located entirely upon the premises of the customer requesting the service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet in length.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by installation of telephone wires to existing utility poles, or
  - b. the extension requiring 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 to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore frontage** - the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any river or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy five (75) feet of the normal high-water of a stream. {43}

**Stream** - Eastern Stream; Western Stream; Campbell Brook, flowing into and from Rand Lake; #16 stream, flowing between Goulding Lake and Western Lake; #1 stream, flowing from Shattuck Lake; Bean Brook; Penknife Brook, Mandy's Brook, Mill Brook; and the stream's numbered on the Official Shoreland Zoning Map as follows: 2; 12; 13; 14; 15; 17; 18; 19; 19A; 20.

**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. The term includes structures temporarily or permanently located, such as decks 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** - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. Section 414, any surface wastewater disposal system licensed under 38 M.R.S.A. Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, subchapter 1.

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

**Timber harvesting** - the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

**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 a tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland edge** - the boundary between upland and wetland.

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

**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 river, stream or tidal area.

**Water Crossing** - any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. 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.

**Wetland** - a freshwater or coastal wetland.

**Wetlands associated with lakes and rivers** - wetlands contiguous with or adjacent to a lake or river, and which during normal high water, are connected by surface water to the lake or river. Also included are wetlands which are separated from the river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high-water line of the lake or river. Wetlands associated with a river are considered to be part of that lake or river.