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## St. George Maine Town Ordinances

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# **ADDRESSING ORDINANCE**

**for the**

## **TOWN OF ST.GEORGE, ME**

### **Section 1. Purpose**

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue, and emergency medical services personnel in the Town of St.George.

### **Section 2. Authority**

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

### **Section 3. Administration**

This ordinance shall be administered by the Addressing Committee, which is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 4 and 5. The Records Officer shall be responsible for maintaining the following official records of this ordinance:

- a. A St.George map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

An administrative appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Addressing Committee. 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.

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.

### **Section 4. Naming System**

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. "Property" refers to any property on which a structure has been erected or could be placed. A road name assigned by the Town of St.George shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

- a. No two roads shall be given the same name.
- b. No two roads shall have similar-sounding names.
- c. Each road shall have the same name throughout its entire designated length.

## Section 5. Numbering System

Numbers shall be assigned every fifty (50) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin.

The following criteria shall govern the numbering system:

- a. All number origins shall begin from the designated center of St. George or that end of the road closest to the designated center. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of the said structure.
- c. Every structure with more than one principle use or occupancy shall have a separate unit number for each use or occupancy; i.e., 222 Main Street, Apt #1 or 222 Main Street, Unit #2.

## Section 6. Compliance

All owners of structures shall, by the date stipulated in Section 8, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

- a. Number on the Street or Residence. Where the residence or structure is within fifty (50) feet of, and visible from, the edge of the road right-of-way, the assigned number shall be displayed on the residence or structure on the side most visible from the road right-of-way.
- b. Number at the Street Line. Where the residence or structure is over fifty (50) feet from the wall, edge of the road right-of-way, the assigned number shall be displayed on a post, fence, the mail box, or on some structure at the property line next to the walk or access drive to the residence or structure.
- c. Size and Color of Number. Number shall be displayed in a color contrasting to its background and a size with a minimum height of four inches (4").
- d. Interior Location. All residents and other occupants are encouraged to post the assigned number and road name next to their telephone for emergency reference.

- e. Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the assigned number in conformance with this ordinance.

**Section 7. New Construction and Subdivisions**

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

- a. New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Town of St. George. This shall be done at the time of the issuance of the building permit.
- b. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. The proposed road names and lot numbers shall be in conformance with the Addressing Committee's criteria for road names and lot numbers. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every fifty (50) feet to aid in assignment of numbers to structures subsequently constructed.

**Section 8. Effective Date**

This ordinance shall become effective as of March 10, 1998. It shall be the duty of the Addressing Committee to notify in writing each property owner and the Post Office of a new address at least thirty (30) days before the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within thirty (30) days following notification. On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.

**Section 9. Enforcement**

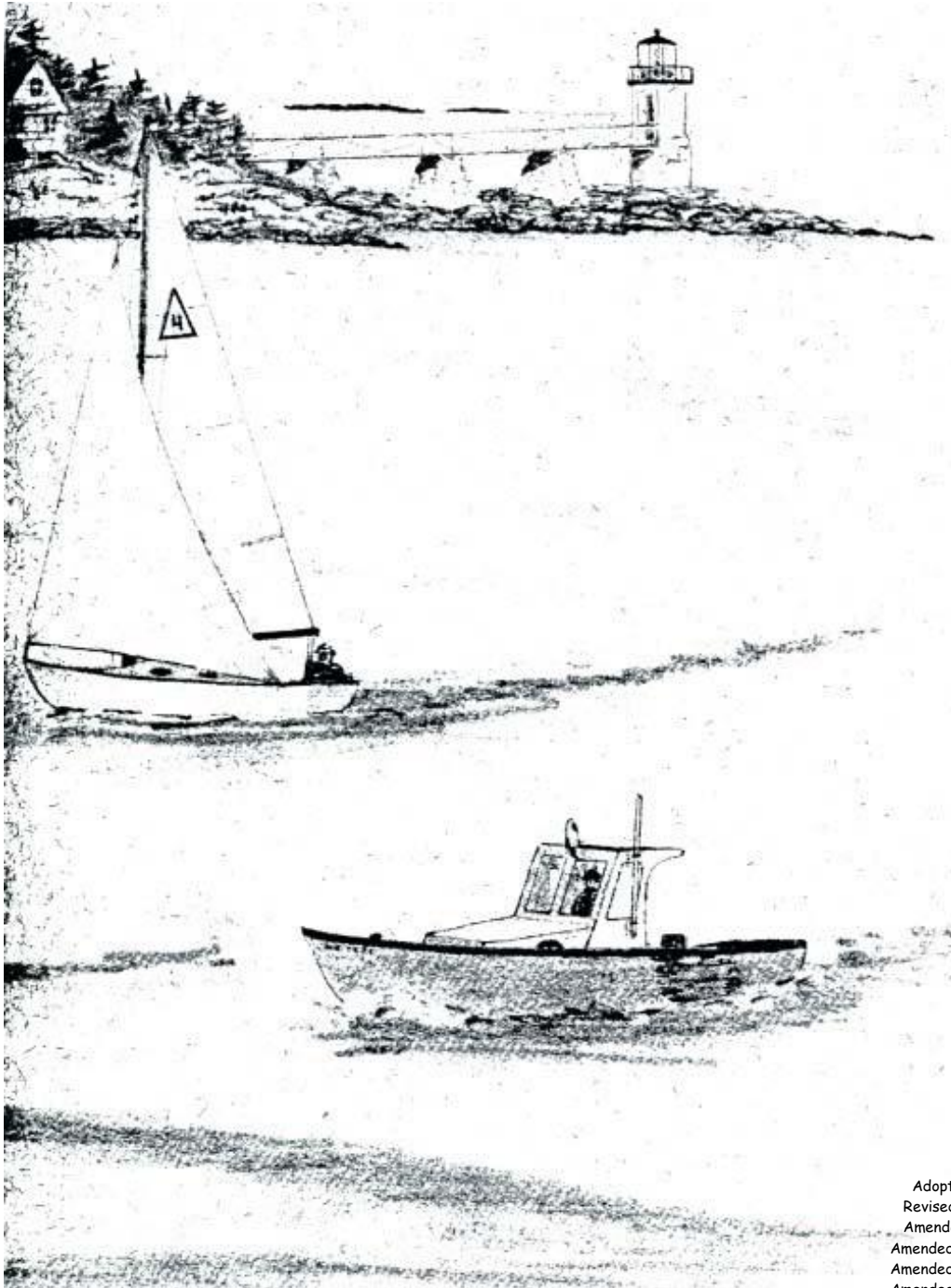
It shall be the responsibility of the Code Enforcement Officer of the Town of St. George to enforce the provisions of this ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

As it is in the best interest of the property owner/tenant to provide for the identification of their property for the appropriate emergency vehicles to respond to that address, liability and responsibility for such failure rests with the property owner who is in violation of any provision(s) of this ordinance.

# Saint George

## Coastal Waters Management Ordinance

(Harbor and Waterfront Management Ordinance)



Adopted June 5, 2000  
Revised March 11, 2002  
Amended May 20, 2003  
Amended March 14, 2005  
Amended March 13, 2006  
Amended March 12, 2007  
Amended March 11, 2008  
Amended March 9, 2009  
Amended March 8, 2010  
Amended March 14, 2011  
Amended May 14, 2012

A true copy

Attest \_\_\_\_\_ John M. Falla, Town Clerk

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## **INTENT OF THIS DOCUMENT**

The waters of Saint George are an extremely valuable but limited resource. This resource is subject to increased demands from both recreational and commercial maritime activities.

The purpose of this ordinance is to monitor and control these maritime activities, to better promote order in the harbors, and ensure safety for the general public.

This ordinance is designed to be consistent with the Saint George Comprehensive Plan along with state and federal mandates.

## **SECTION 101. APPLICABILITY**

This ordinance applies to all areas of the tidal waterfront and all waters within the Town of Saint George. The provisions of this Ordinance shall also apply to the facilities and boat-launching ramps at the town-owned public landings.

## **SECTION 102. ENFORCEMENT**

It shall be the duty of the Harbor Master to enforce the provisions of this Ordinance, by causing the person or persons offending any of the provisions of the ordinance, rules or regulations, to be prosecuted, and be subject to the penalty or penalties incurred. Any person affected directly or indirectly by a decision, order, rule, or by any act or failure to act by the Harbor Master or his or her deputies, may appeal such decision in accordance with the procedures set forth herein.

## **SECTION 103. OBEDIENCE TO ORDERS**

No person shall fail to observe any lawful order of the Harbor Master with reference to the navigation and disposal of his watercraft within the limits of the harbors. Any person who shall obstruct or hinder the Harbor Master in the lawful performance of his duties or fail to obey a lawful order of the Harbor Master shall be guilty of a Class E crime as allowed by MRSA Title 38 Section 13, and subject to a penalty of a maximum of six (6) months imprisonment and/or a five hundred dollar (\$500) fine to be recovered on complaint by the Harbor Master before the District Court.

## **SECTION 104. PENALTIES**

1. Except as provided in sec. 103, a violation of this ordinance may be prosecuted and relief, fees, fines, and penalties granted and assessed pursuant to the provisions of MRSA Title 30-A Section 4452.
2. All violations of any of the sections of this Ordinance shall be considered upon complaint to the District Court and any and all fines and penalties therefrom, excepting costs of the court, shall revert to and for the use of the Town of Saint George.

## **SECTION 105. DEFINITIONS**

The following definitions apply to the enforcement and application of this ordinance and associated regulations within the Town of Saint George.

### **Anchorage.**

An area where watercraft may be anchored.

### **Aquaculture.**

The culture and husbandry of sea plants or animals.

### **A.C.E. Permit (Army Corps of Engineers)**

A permit issued by the Army Corps of Engineers (ACE) that is required for all of the following:

1. Floats (regardless of use or location)
2. Rental moorings
3. Service moorings

### **Berth.**

The place where a watercraft lies when at anchor or when made fast at a dock float, moored float, mooring, pier, slip, wharf, or any other facility used for securing watercraft.

### **Commercial Watercraft.**

Watercraft that generate income through their use and operation.

### **Commercial Transaction.**

Including but not limited to the buying or selling of any product, boats for hire, boat tours, charter boat enterprises or any other commercial venture. Professional boat transporters do not fall under this category.

### **Dinghy.**

Small watercraft also referred to as skiff, tender, or punt.

### **Dock.**

For the purposes of this document dock, pier, and wharf shall all have the same meaning i.e. a permanent platform type structure contiguous to the shore line used for berthing, loading, and unloading vessels.

### **Entity.**

Any individual, business, corporation, or other organization active in Saint George.

### **Float.**

Including but not limited to any floating platform used for storage space, staging areas, transportation of goods or for berthing vessels regardless of type of construction.

### **Floating Business.**

The use or occupancy of any watercraft, raft, hull, barge, or vessel for the purpose of providing "personal services."

### **Harbor Master.**

For the purposes of this document, Harbor Master shall be defined as the appointed Harbor Master or any of his/her designees.

### **Headway.**



The minimum speed necessary to maintain steerage.

**Houseboats.**

Any commercial use of any watercraft, raft, hull, barge or vessel, designed primarily to be occupied as living quarters, and providing living, sleeping, cooking and/or sanitary facilities, whether temporarily, or permanently, regardless of means of propulsion.

**Hull.**

The main body of any watercraft.

**Mooring.**

The term mooring means all methods and equipment used to permanently secure a watercraft to a specific location on the water, other than those that are connected to the shore.

**Mooring Equipment.**

Any and all of the equipment used to permanently secure a watercraft to its permitted site.

**Mooring Permit.**

A permit issued on an annual basis by the Harbor Master to an applicant, authorizing the applicant to utilize a specific mooring site for a specified purpose or purposes.

**Mooring Site.**

A specific geographic location which is assigned by the Harbor Master to the permit applicant.

**MRSA.** Maine Revised Statutes Annotated. (State Law)

**Non-Anchorage.**

Areas of Saint George waters where laying at anchor is not permitted.

**Personal Services.**

Services, including but not limited to the care of a person, such as retail shops, restaurants, drinking establishments, galleries, art studios and other similar services.

**Pier.**

See dock.

**Private Mooring.**

A mooring assigned to an individual for their private use to secure watercraft.

**Recreational Watercraft.**

Watercraft used primarily for recreational purposes.

**Rental Mooring.**

A mooring site assigned to an individual or business which is rented or leased to customers for a fee. An A.C.E. permit is required prior to issuance of a Town permit.

**Resident.**

For the purposes of this document a resident is defined as a person who is;

- a. the owner of record on town's tax list and/or
- b. resides in Saint George for a total of more than 183 days per year.
- c. properties held in an LLC or any other form of corporate ownership shall not qualify for resident status.

Applicants must be able to verify these criteria.

**Riparian Owner.**

For the purposes of this document riparian owner shall be defined as a person who has deeded rights to waterfront property.

**Service Mooring.**

A mooring assigned to a business or individual conducting business within the Town of Saint George that is; used for mooring watercraft which are owned by the business, mooring watercraft which are serviced by the business, or used as a maneuvering device for leaving or entering a berth. An A.C.E. permit is required prior to issuance of a Town permit.

**Storm Mooring.**

A mooring used when seeking shelter for emergencies or inclement weather.

**Structure.**

Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind whether permanent or temporary.

**Transient Watercraft.**

Watercraft, the operator or owner of which seeks a temporary place to berth.

**Vessel.**

The term vessel shall mean any watercraft used or capable of being used for transportation.

**Watercraft.**

The term watercraft shall mean any and all floating apparatus such as; vessels, skiffs, boats, rafts, floats, airplanes, lobster crates, etc. without distinction as to method of propulsion.

**Wharf.**

See dock.

**Winter Mooring Marker.**

Marker made of wood or plastic to be used in areas where ice could cause damage or loss of approved mooring buoys. Mooring permit numbers must be carved in or affixed to this marker.

**SECTION 106. MUNICIPAL FACILITIES**

The Town of Saint George shall operate and/or administratively control the following facilities in and around the waters of Saint George.

**A. Tenants Harbor Public Landing**

This facility exists to serve the short-term docking needs of watercraft moored in Tenants Harbor and transient watercraft visiting Saint George. It shall be available with floats installed from approximately May 15<sup>th</sup> to October 15<sup>th</sup> each calendar year. This facility also has a boat launch ramp that serves that portion of the boating public for launching and retrieving their watercraft.

**B. Port Clyde Public Landing**

This facility exists to serve the short-term docking needs of watercraft moored in Port Clyde and transient watercraft visiting Saint George. It shall be available with floats installed from approximately May 15<sup>th</sup> to October 15<sup>th</sup> each calendar year. This facility also has a boat launch ramp that services

that portion of the boating public for launching and retrieving their watercraft.

### **C. St. George Mooring Sites/Fee Schedule**

Mooring sites may be assigned by the Harbor Master upon application and payment of applicable fees to all persons and businesses for the placement of a mooring. Saint George waters shall be open to all for access as required by the U.S. Government and the State of Maine. Usage fees are:

Resident Recreational	\$20.00	Non-Resident Recreational	\$100.00
Resident Commercial	\$15.00	Non-Resident Commercial	\$ 75.00
Rental	\$75.00		
Service	\$20.00		

### **D. Other Municipal Waterfront Properties**

Waterfront sites owned by the Town of Saint George shall fall under these jurisdictions.

## **SECTION 107. MOORING AREAS**

The mooring areas within the Town of Saint George are described as follows:

### Tenants Harbor

Northern Island from inside of the red can to the northwest point of the island, new mooring field southeast of Haskell Point to the house on Mouse Island, and the area southeast of States Point Road across to Atwoods.

### Port Clyde

Skip Bracy's dock to Blubber Butt to the Northwest point of Hupper Island and from Marshall Point Association dock to Bachelder's dock on Hupper Island.

## **SECTION 108. PROHIBITED ACTIVITIES IN ANCHORAGE AND MOORING AREAS.**

1. No person shall be allowed to anchor watercraft within a closed mooring field. Closed mooring fields are those where waiting lists have been established.
2. No person shall moor or permit to be moored any watercraft owned or occupied by him/her which is being used primarily for residence purposes within the town's boundaries without the permission of the Harbor Master. This prohibition does not pertain to transient watercraft on rental moorings.
3. Structures on floats are prohibited. This prohibition does not affect floats that are connected to wharves by traditional means, to floats used to raise, move, or maintain moorings, or to floats used in conjunction with commercial fishing operations.
4. It shall be unlawful to set any fishing gear or other fixed gear including but not limited to, lobster/crab/shrimp traps, within the confines of the marked channel in Tenants Harbor. Gear found to be

within the confines of this marked channel shall be moved or removed by the appropriate State or Federal agency or their designee. (Department of Marine Resources, Marine Patrol Officers).

5. Notwithstanding any other provision of these rules to the contrary, floating businesses and houseboats are prohibited from mooring or anchoring in St. George waters, except at marinas which provide and require the following:
  - a. A permanent float, dock or slip from which the floating business or houseboat may be directly boarded from land.
  - b. Connection to a public water supply by means of an individual anti-backflow valve.
  - c. Connection to a public sewage system.
  - d. A year round, all weather supply of electricity.
  - e. Compliance with any and all applicable Land Use Codes.
6. It shall be unlawful to place a mooring within Saint George waters without a permit from the Town of Saint George.
7. It shall be unlawful for any person or watercraft to violate the terms and conditions of any permit issued pursuant to this ordinance.
8. It shall be unlawful for any watercraft to use any mooring permitted by the Town of Saint George without express approval of the permit holder and the Harbor Master in emergency situations. An emergency situation is one that is temporary in nature and allows the watercraft owner to make repairs or to make arrangements with a repair facility. Notification of uses of a mooring for an emergency must be made to the Harbor Master.
9. It shall be unlawful for any person or watercraft to use any mooring not permitted by the Town of Saint George.

## **SECTION 109. MOORING PERMITS**

1. Permits are issued on an annual basis.
2. Annual fees for approved moorings must be paid before January 31<sup>st</sup> of each year. Failure to make payment before May 1<sup>st</sup> of that year will result in the doubling of the mooring fee and notification by mail requiring payment plus penalties within thirty (30) days of that notification. Fees not paid before June 1<sup>st</sup> of that year may result in loss of mooring privileges and/or gear and notification by certified mail.
3. Mooring permit applications for new moorings will be accepted throughout the year.
4. Neither mooring permits nor mooring sites are automatically transferred upon sale of the mooring tackle.
5. Neither mooring permits nor mooring sites are transferable upon

the sale of real estate.

6. Mooring permit applications must be complete when submitted.
7. Any mooring intended for use as a rental or service mooring must have an A.C.E. permit before being permitted by the Town. Failure to submit these documents may be cause for rejection of the Town permit. A mooring permitted as a private mooring or service mooring shall not be used as a rental mooring.
8. Aquaculture sites: vessel moorings located within aquaculture lease sites must have Town mooring permits.
9. Mooring site location, mooring type and size, depth of water at Mean Low Water, and watercraft size to be provided by the applicant. This information shall be provided on the mooring application. All information to be reviewed and authorized by the Harbor Master before the permit is issued.
10. The Harbor Master shall maintain waiting lists for mooring areas in which no additional watercraft can be safely moored, showing priority of each applicant in accordance with Section 113.
11. The Harbor Master shall maintain documentation of each mooring area showing the location of all permitted moorings.
12. Any applicant rejected by the Harbor Master shall be notified in writing within thirty (30) days of receipt of completed application as to the reason for the rejection. The Harbor Master decision may be appealed to the Board of Appeals. The applicant shall have thirty (30) days in which to file an appeal.
13. For purposes of increasing the efficiency of a mooring area, for the safety of watercraft or for other harbor management improvements the Harbor Master may direct that any mooring site be vacated and that the mooring tackle be moved at the owner's expense to a new location. The Harbor Master's decision may be appealed to the Board of Appeals. The applicant shall have thirty (30) days in which to file an appeal.
14. Mooring site assignees may change watercraft on their assigned mooring site only with the permission of the Harbor Master. In general they will be limited to the same approximate size and type of watercraft unless, in the judgment of the Harbor Master, a change can be made without adversely affecting the adjoining mooring space assignees or the safety of the watercraft and mooring area around them.
15. Non compliance with any of the provisions in this section of the ordinance regarding mooring permits may result in; the rejection of mooring permit applications, revocation of a current permit, removal of mooring tackle from Saint George waters at the owner's expense, forfeiture of the

mooring tackle and/or a fee of no less than one hundred dollars (\$100.00) per mooring for the services of the Harbor Master in enforcing compliance. The Harbor Master decision may be appealed to the Board of Appeals. The applicant shall have thirty (30) days in which to file an appeal.

16. Application forms for permits may be obtained from the Harbor Master, at the Town Office, and downloaded from the website.
17. Assignment of these mooring privileges does not confer any right, title or interest in submerged lands or inter tidal lands owned by the State.
18. Rental and service moorings must have A.C.E. permits as well as Saint George permits.

### **SECTION 110. ASSIGNMENT OF MOORING RIGHTS AND LOCATIONS**

#### 1. Assignment.

The Harbor Master shall assign mooring sites for approved mooring permits based on site requirements as dictated by planned usage (i.e. watercraft size or requested approximate location) and assignment priority of applicant on an annual basis. In assigning mooring sites the Harbor Master shall maintain non-mooring areas and access to piers, wharves, and docks, and not create a hazard to navigation.

#### 2. Qualifications.

- a. A maximum of one permit per vessel may be allowed to private applicants.
- b. A maximum of five (5) service or rental mooring sites may be allowed per business establishment provided they are A.C.E. permitted.
- c. Variances to these limits (i.e. storm moorings) as required to meet the business and/or personal needs of residents and property owners may be granted after review and approval of the request(s) by the Harbor Master.

#### 3. Special Considerations.

- a. A mooring used primarily for commercial fishing purposes may be transferred within that family provided the use remains the same. A request to the Harbor Master for this kind of reassignment will be given consideration and granted by the Harbor Master when appropriate.
- b. Upon request the yearly mooring fee for one (1) private mooring belonging to a resident commercial fisherman 70 years or older may be waived.

### **SECTION 111. MOORING SITE ASSIGNMENT PRIORITIES (WAITING LIST)**

The waters within the Town of Saint George shall be managed with equal

and open access to all persons and entities. Mooring sites in each mooring area shall be assigned by the Harbor Master on a first come, first served basis, subject to the application requirements and conditions. Assignment priorities may exist when providing access to all, as prescribed by current state and federal regulations. These priority assignments are:

- First,** to riparian owners is granted the right to one mooring site in waters as reasonably close to their property as is safe for the watercraft applied for by the property owner. Simple shoreline ownership does not necessarily meet the requirements for having a mooring;
- Second,** to commercial fishing watercraft owned by residents of Saint George;
- Third,** to recreational vessels and other commercial vessels owned by residents of Saint George;
- Fourth,** to resident entities or persons seeking to establish service or rental moorings;
- Fifth,** to non resident commercial vessel owners
- Sixth,** to recreational watercraft owned by non-residents;
- Seventh,** to watercraft owners seeking multiple mooring sites or seeking to move their existing mooring to a new site; and
- Eighth,** to non residents entities or persons seeking to establish rental/service moorings.

Any entity listed on a waiting list who does not receive a permit after two (2) years must reapply.

## **SECTION 112. MOORING TACKLE STANDARDS AND REQUIREMENTS**

1. All moorings must be of sufficient size and weight, with chain and/or rope in sound condition to properly secure the moored watercraft and the buoy attached to the mooring line shall be of sufficient size and buoyancy to remain afloat when not attached to the watercraft. Each mooring buoy shall be marked with the number of its assigned permit, and with the watercraft or mooring owner's name or initials.
2. Mooring requirements as to pennant length, chain size, and block weight vary depending on the size and weight of the watercraft and the location of the mooring, therefore: all existing moorings and all new moorings to be set in the future shall be of sufficient size and configuration to hold the vessel for which they are to be used. All moorings shall be approved by the Harbor Master. Boat and/or mooring owners may be held liable for any and all damage caused by faulty, inadequate, or improperly maintained moorings, chains and associated lines, bitts, etc.
3. Private/Service/Rental Mooring markers shall have the mooring permit number prominently displayed on the mooring ball. It is recommended that mooring balls be white with a blue stripe and also display the appropriate word e.g. PRIVATE/RENTAL.

4. When appropriate a winter mooring marker may be used.
5. The retrieval of mooring tackle that has failed and lies on the bottom is the sole responsibility of the mooring tackle owner. The Harbor Master must be notified of mooring system failure as soon as possible.
6. No mooring permits will be issued for mooring systems that have failed.
7. Failed mooring systems must be repaired/replaced within sixty (60) days of notification by the Harbor Master. Failure to do so shall result in the immediate revocation of the mooring permit and removal of the mooring and associated gear at the owner's expense, or in the Town taking possession of the mooring and gear.
8. When a mooring permit is revoked (for any reason other than No. 7 above) the mooring owner shall have sixty (60) days to remove the mooring and associated gear after notification by the Harbor Master. Failure to do so shall result in the removal of the mooring and gear at the owner's expense, or in the Town taking possession of the mooring and gear.
9. Any person or entity not complying with any of the provisions of this section of the ordinance may, after notification, be subject to the rejection of mooring permit applications, and/or revocation of a current permit.
10. Any float that is not attached to a wharf by traditional means is required to have a radar reflector on it. Reflective tape is also recommended.

### **SECTION 113. MOORING INSPECTIONS**

Mooring owners are responsible for inspecting their moorings annually. The Harbor Master may, at his/her discretion, cause a mooring to be hauled or may hire a diver for inspection of a mooring at any time at the mooring owner's expense if the Harbor Master has reasonable cause to believe the mooring is unsafe.

### **SECTION 114. MOORING; PENALTY FOR NEGLECTING TO REMOVE OR REPLACE**

In case of the neglect or refusal of the master or owner of any watercraft to remove or to replace a mooring by one of different character, when so directed by the Harbor Master, the Harbor Master shall cause the mooring to be removed, or shall make such change in the character thereof as required, and shall collect from the master or owner of such watercraft the sum of two hundred dollars (\$200.00) for either of such services rendered. In addition, the owner of the mooring tackle shall be liable for all expenses incurred to comply with the Harbor Master Order, as provided by MRSA



**SECTION 115. NEAR SHORE CONSTRUCTION REVIEW**

1. It shall be the duty of the Harbor Master or a designee to review/approve all wharf construction permit applications, including but not limited to private or commercial wharves, as well as proposed marinas and related near shore structures to determine whether or not the building project shall:
  - a. unreasonably interfere with the abutting property owner's ingress and egress to/from their property by navigable waters.
  - b. unreasonably interfere with or be a hazard to navigation.

**SECTION 116. ABANDONED BOATS, VESSELS, WRECKS, ETC.**

1. Abandonment Prohibited. No person shall cause to be abandoned any watercraft or related equipment or appurtenances on the shores within the waters of Saint George, whether on a mooring or at anchor. Nor shall any person abandon or cause to be abandoned any watercraft, vessel, hull, or any raft at any wharves, docks or permanent floats within the waters of Saint George. No person shall abandon any watercraft, vessel, or hull upon any shoreline, dock, pier, wharf, float, mooring or at anchor except with the express consent and approval of the owner of the dock, pier, wharf, float, mooring, shoreline or in the case of moored or anchored watercraft, the consent and approval of the Harbor Master.
2. Presumption. Any watercraft, vessel, hulk or raft left within the confines of waters of Saint George which has been unattended for a period of seven (7) days without the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of moored or anchored watercraft, the consent and approval of the Harbor Master; may be declared abandoned.
3. When, in the opinion of the Harbor Master, a vessel has been abandoned in the harbor, he may take custody and control of such vessel and remove it, store it, or otherwise dispose of it, all at the expense and sole risk of the vessel owner. Notice of such action to the vessel owner shall be given in accordance with MRSA 25ss3501 by registered mail. If ownership cannot be established, the vessel in question shall be impounded until arrangements are made to dispose of said vessel by auction.
4. Penalty. As allowed in MRSA Title 38, Section 12. Each day the violation is permitted to exist beyond the limits above described shall be considered a separate offense.
5. Impounding. If an abandoned watercraft is deemed to be a nuisance, a threat to navigation or a safety hazard, the Harbor Master may impound the watercraft at a site designated for this purpose. Impounding shall continue until such time as all procedures pursuant to MRSA Title 25,

Section 3501 have been completed or the owner of the watercraft has paid all costs involved with the impounding as well as any fines which have been assessed.

### **SECTION 117. WHARVES: OBSTRUCTION BY AND REMOVAL OF VESSELS**

1. No owner or master of any steamer, vessel, boat or watercraft of any kind shall permit or suffer his watercraft to be more than one (1) tier deep in such a manner as to obstruct the free passage of other vessels going in and coming out, at any wharf in the Town, after the master or owner of such vessel has been directed to remove the same by the Harbor Master.
2. The Harbor Master is hereby authorized, and it shall be his duty, to remove or cause to be removed any vessel or watercraft from any wharf in Saint George when so requested by the owner of the wharf; and whenever he shall deem it necessary, he shall remove or cause to be removed any vessel lying in tier; and if any vessel, watercraft or raft shall anchor or lie contrary to any ordinance, rule or regulation, the Harbor Master shall forthwith give notice to the owner or master thereof, or the person having the care of same, to remove the same; and if the notice be not complied with without delay, the Harbor Master shall make or cause the removal, at the expense of the owner or master of the vessel, watercraft, or raft.
3. When appropriate, the provisions governing the towing of motor vehicles shall also apply to the removal of watercraft, vessels or other craft from wharves, docks, and moorings.

### **SECTION 118. RESTRICTED ACTIVITIES**

1. Commercial transactions on the public landings, launch ramps, and other Town owned properties are prohibited.
2. The movement of construction equipment, freight, and supplies across the launching ramps for transport to other sites must be approved by the Harbor Master.
3. No person shall place, or allow to be placed, any watercraft, vessel or any other craft at or on the public boat launching ramps or seaward side of floats for a period in excess of thirty (30) minutes unless by special permission of the Harbor Master for reasons of mechanical failure, illness, or similar emergency.
4. Use of the public floats shall be limited to the loading and unloading of watercraft and the passengers there on. Any other use of the Town floats shall be treated in the same manner as above.
5. No person shall interfere with the lawful use of the public launching ramps and floats by another person.

**SECTION 119. DISCHARGE OF REFUSE, WASTE, OR PETROLEUM FROM VESSELS OR WHARVES.**

As covered by Federal and State regulations.

**SECTION 120. SAINT GEORGE PUBLIC LANDINGS**

1. The floats are available for unattended tie-up of skiffs or dinghies. Such tie-up is to be on the wharf side of the floats so as to keep the seaward side free for attended tie-ups.
2. Unattended tie-ups permitted by the Harbor Master shall be removed from the facility prior to October 15<sup>th</sup> of each calendar year.
3. Skiffs or dinghies that disrupt or endanger other skiffs or dinghies shall not be permitted by the Harbor Master.
4. There is a thirty (30) minute time limit for attended tie-ups.
5. No skiffs, dinghies, or any other type of watercraft shall be allowed to be left unattended on the deck or walking surface of any Town float or dock, wharf, or pier.
6. Additional regulations pertaining to parking, boat size limitations, and general use are posted at the Port Clyde and Tenants Harbor public wharves.
7. Penalty for violation of this section shall be as allowed in MRSA Title 38, Section 12.

**SECTION 121. REMOVAL FROM PUBLIC WHARVES, DOCKS, MOORINGS, AND BOAT LAUNCHING RAMPS AND FLOATS**

Notwithstanding the provisions of Section 118 of this Ordinance and any public landing regulation adopted by the Board of Selectmen and/or Coastal Waters Management Board, the Harbor Master, is hereby authorized to remove to a safe location without prior notice to the owner, any boat, vessel or other craft, traps, or other fishing gear left at the public wharves, docks, moorings, and boat launching ramps and floats for a period in excess of twenty-four (24) hours at the expense solely of the owner of the boat, vessel, or craft or fishing gear.

**SECTION 122. OPERATING RESTRICTIONS**

1. Whoever operates any watercraft, vessel, water skis, surfboard, personal watercraft or similar device, however propelled, upon the waters of Saint George in a manner which endangers any person or property shall be guilty of a Class E crime as provided in MRSA Title 38.
2. Whoever operates any watercraft, vessel, water skis, surfboard, personal watercraft, or similar device, however propelled, upon the waters of Saint

George recklessly shall be guilty of a Class E crime as provided in MRSA Title 38.

3. Whoever operates any watercraft, vessel, water skis, surfboard, personal watercraft, or similar device, however propelled, upon the waters of Saint George while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana shall be guilty of a Class E crime as provided in MRSA Title 38.
4. Excessive Noise: As covered by State and/or Federal statutes.

### **SECTION 123. SAFE OPERATING SPEEDS**

The speed limit in Saint George harbors will be headway speed only. It shall be unlawful to operate a vessel in such a manner as to cause a wash, wake, or waves that damage, endanger or unreasonably disturb any person, wharf, float, anchored or moored vessel, or vessel tied up to any pier, float, dock, or wharf while within an area of two hundred (200) feet from any float or mooring area or within one hundred (100) feet of an anchored boat or vessel.

### **SECTION 124. MOORING PLAN IMPLEMENTATION**

It is the Town's intent to establish and implement a mooring plan for the waters of Saint George. Implementation is to be done in such a way as to cause the minimum possible disruption in the location of all current moorings, except in those cases where a change would be of benefit to the existing users without causing undue disruption to other sites.

### **SECTION 125. APPEALS BOARD**

The Coastal Waters Management Ordinance for the Town of St. George stipulates the following jurisdiction and procedures for the Board of Appeals.

The Board of Appeals shall hear any appeal by any aggrieved person affected directly or indirectly by a decision, order, rule, or by any act or failure to act by the Harbor Master. In its appeal decisions, the Board shall hear and approve, approve with modifications and/or conditions, or disapprove the decision, order, rule, act or failure to act by the Harbor Master, except that, in no instance shall the decisions be in conflict with or violate existing State or Federal regulations, or the Coastal Waters Management Ordinance for the Town of St. George.

An application for an appeal shall be submitted to the Town on the appropriate form describing the complaint and the relief sought. The original application will be placed on file at the Town Office and a copy of the original will be forwarded to the Chairman of the Board of Appeals for action as follows:

1. The Board of Appeals is required to act on any complaint within thirty (30) days of the receipt of the application by the Town. A hearing beyond the thirty (30) day requirement may be scheduled at the mutual agreement of the applicant and the Town. The Town shall set a hearing date taking

into consideration the schedules of the applicant, the members of the Board of Appeals, and the Coastal Waters Management Board. Public notice of the hearing shall be posted at the Town Office not less than seven (7) days prior to the hearing.

2. At the appeal hearing, the Board of Appeals may receive any oral or documentary evidence that is relevant and material. Every applicant, or their agent, shall have the right to present their case or defense by oral and/or documentary evidence, to submit rebuttal evidence, and/or to conduct reasonable cross-examinations.
3. The minutes of the meeting, together with all papers filed in the proceeding, shall constitute the official appeal record. All decisions of the Board shall become part of the record and include a written statement of findings and conclusions. Notice of any decision shall be mailed or hand delivered to the applicant, or their agent, with copies to the Town Manager, Harbor Master, and the chairman of the Coastal Waters Management Board within seven (7) days of a decision. An appeal may be taken from any act or decision of the Board through the court system of the State of Maine.

#### **SECTION 126. PRE-EXISTING CONSIDERATIONS**

No section, subsection, sentence or part of this Ordinance shall for any reason be considered to prohibit use of harbor facilities in accordance with past usages as specified and/or required by contracts or deeds to properties held by the Town of Saint George.

#### **SECTION 127. VALIDITY AND SEVERABILITY**

If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

#### **SECTION 128. EFFECTIVE DATE**

This ordinance shall become effective upon approval by majority vote at a properly held special or regular Saint George Town Meeting.

# **TOWN OF ST GEORGE**

## **DOG CONTROL ORDINANCE**

**PURPOSE.** The purpose of this ordinance is to require that all dogs in the Town of St George be kept under the control of their owners at all times so that they will not injure persons, damage property, cause unreasonable noise or otherwise create a nuisance.

1. **Dogs to be licensed in accordance with the statutes of the State of Maine.** No dog shall be kept within the limits of the Town of St George unless such dog shall have been licensed by its owner in accordance with the statutes of the State of Maine. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring a dog.

2. **Dogs not to be permitted to run at large.** It shall be unlawful for the owner of any dog, licensed or unlicensed, to permit such dog to run at large. "At Large" shall be intended to mean off the premise of the owner and not under the control of any person by means of a chain, rope or cord of sufficient strength to control the action of such dog or such other personal presence and attention as will reasonably control the conduct of such dog.

3. **Animals creating a nuisance by noise.** Any dog that barks, howls or makes other sounds continuously for twenty (20) minutes or intermittently for one (1) hour or more shall be deemed to constitute a nuisance. Dogs barking at trespassers on private property on which the dog is situated, dogs barking as part of an organized hunt, or dogs barking as a result of provocation shall not be deemed a nuisance.

4. **Duties of Law Enforcement Officers, Animal Control Officers and persons having control of impounding.** Any law enforcement officer, animal control officer or other duly authorized person within the Town of St George, shall seize, impound or restrain any dog kept in violation of this ordinance, and deliver such dog to the person who is duly authorized to have control of impounding. If the owner of such dog is known or can be located with reasonable diligence, then the person who has control of impounding shall personally notify the owner within three days of the receipt of such dog. If the owner of such dog is not known and cannot be located with reasonable diligence, then the person who has control of impounding shall post, within forty-eight hours of the time such person shall have taken such dog into his possession, written notices in three public places in the municipality, giving a description of the dog, stating where it is impounded and the conditions for its release. If the owner within seven days after receiving notice, or within seven days after notice has been posted, does not claim such dog, then the person having control of impounding shall dispose of the dog by sale or otherwise, in a proper and humane manner. The person having control of impounding shall keep a record of every dog disposed of by sale or otherwise.

5. **Conditions of release.** Before any impounded dog may be transferred or released to another person, (a) such dog shall be vaccinated with anti-rabies vaccine, or shall show proof of vaccination within the previous year, (b) such dog must be licensed in accordance with the statutes of the State of Maine, and (c) pay any fees incurred at the impounding facility.

6. **Penalties.** The penalty for violation of this ordinance shall be a fine of fifty dollars (\$50.00) for the first offense, and for a period of two years after the first offense, one hundred dollars (\$100.00) for any second offense, and two hundred and fifty dollars (\$250.00) for the third or any subsequent offense. Any fees collected under this ordinance shall be designated to a revenue account for animal control use in accordance with the provisions and requirements of State Statute. Any person found guilty of violating this ordinance shall be required to reimburse the Town for the attorney's fees and costs incurred in the prosecution of the action.

7. **Vaccination.** It shall be unlawful for the owner of any dog older than six months to keep and maintain such dog unless it has been vaccinated with anti-rabies vaccine as required by State Statute.

8. **Repeal of conflicting ordinances.** All existing animal control ordinances of the Town of St George are hereby repealed.

9. **Severability of provisions.** It is the intention of the municipality that each provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the municipality that if any provision of this ordinance be declared invalid all other provisions thereof shall remain valid and enforceable.

10. **Effective date.** This ordinance shall be in full force and effect immediately upon town meeting approval.

**FLOODPLAIN MANAGEMENT  
ORDINANCE**

**FOR THE**

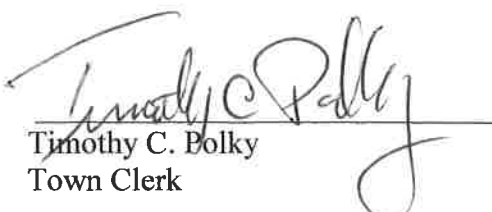
**TOWN OF ST. GEORGE, MAINE**

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Adopted: October 17, 1988  
Amended: July 19, 1993  
Amended: March 12, 2001  
Amended: March 8, 2010  
Amended: May 9, 2016  
Amended: May 15, 2018

EFFECTIVE DATE: May 15, 2018

A true copy  
Attest:

  
Timothy C. Polky  
Town Clerk



# FLOODPLAIN MANAGEMENT ORDINANCE

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## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of St. George, 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 St. George, 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 St. George, 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 St. George 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 St. George 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 St. George, Maine.

The areas of special flood hazard, Zones A, AE, AH, and VE for the Town of St. George, Knox County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Knox County, Maine," dated July 6, 2016 with accompanying "Flood Insurance Rate Map" dated July 6, 2016 with panels: 337D, 338D, 339D, 341D, 342D, 343D, 344D, 532D, 533D, 534D, 537D, 538D, 539D, 541D, 542D, 543D, 544D, 551D, 552D, 553D, 554D, 556D, 557D, 558D, 561D, 562D, 576D, 707D, 726D, 727D, 731D, and 750D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Knox 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 Code Enforcement Officer 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 St. George, Maine.

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

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer 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:
    - a. in Zones AE, AH, and VE from data contained in the "Flood Insurance Study – Knox County, Maine," as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;
      - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - 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 VLP.; 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 St. George Select Board, shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee maybe charged if the Code Enforcement Officer and/or 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 Code Enforcement Officer 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, in the review of all Flood Hazard Development Permit applications:
  - 1. the base flood and floodway data contained in the "Flood Insurance Study - Knox County, Maine," as described in Article I.;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
  3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- 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 an 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 so as 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 and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
4. 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. Zone AE and AH 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 AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
  - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
4. Zone VE shall meet the requirements of Article VI.P.

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

1. Zone AE and AH 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 maybe 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 AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
- 3. Zone A shall:
  - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
  - b. meet the anchoring requirements of Article VI.H.1.c.
- 4. Zone VE shall meet the requirements of Article VI.P.

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

- 1. Zone A, AE, and AH 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 Zones A, AH, and 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 Zones AE and A 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 Zones AE and A 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 Zones AE, AH, and A 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 A, AH, 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 A, AH, 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.

2. Zone AH shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, AH, 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 with non-supporting breakaway walls which 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 areas 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 Code Enforcement Officer 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 the 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 with 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 or 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 so as 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 St. George 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 it deems 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 Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer 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 MRS § 4452.
- B. The penalties contained in Title 30-A MRS § 4452 shall apply to any violation of this Ordinance.



- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. 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** - a small detached structure that is incidental and subordinate to 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 Shallow Flooding** – a designated AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

**Basement** - any area of the building having its floor 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 and ordinances.

**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

- a. built, in the case of a building in Zones A, AH, or 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 so as not to 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 Zones A, AH, or 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.l. 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 Flood-prone Area** - any land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - 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 that could contribute to flood heights greater than the height calculated for a selected site flood and floodway conditions.

**Functionally Dependent Use** - a use which 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** - 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 of 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** - 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, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was 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)** – 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 which 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** - 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** - 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** - 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** - a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - 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)

# MINIMUM LOT SIZE

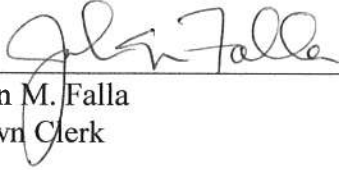
## ORDINANCE

### Town of St. George

Enacted	03/12/79
Amended	03/12/84
Amended	03/15/88
Amended	11/07/95
Amended	10/06/97
Amended	03/11/02
Amended	03/10/03
Amended	05/17/05
Amended	03/10/08
Amended	11/05/13

A true copy.

Attest: \_\_\_\_\_

  
John M. Falla  
Town Clerk



**Section 1. Purpose.** The purpose of this ordinance is to preserve the rural and residential character of the Town, to promote the maintenance of safe and healthful living conditions, to preserve and protect the natural environment and scenic beauty of the area, and to protect existing residential development.

**Section 2. Applicability, Conflict with Other Ordinances.** This ordinance applies to all land within the Town of St. George. All buildings and accessory structures hereafter erected, reconstructed, altered, enlarged, or moved shall be in conformance with the provisions of this ordinance. Nothing in this ordinance shall prevent the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer. Where other ordinances impose a greater restriction on the use of land, buildings or structures, the greater restriction shall control. This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, regulation, permit or provision of law.

**Section 3. Effective Date.** The effective date of this ordinance, as amended, is November 5, 2013. This ordinance shall be kept on file with the Town Clerk and shall be made available to any members of the public, at reasonable cost, at the expense of the person making the request.

**Section 4. Validity and 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 this ordinance.

**Section 5. Amendments.** This ordinance may be amended in part or in whole by majority vote of the registered voters of the Town of St. George present at a regular or special Town meeting.

**Section 6. Non-Conforming Buildings and Structures.** The use of a building or structure, existing before the effective date of this ordinance or subsequent amendment thereto, may continue although the building or structure does not conform to the provisions of this ordinance. A non-conforming building or structure may be repaired, maintained or improved, but any expansion of the building or structure shall be in conformance with the provisions of the ordinance.

**Section 7. 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. Variance requests relating to setback or other requirements not involving lot size or frontage shall be submitted to the Board of Appeals.
2. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law 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.

4. Division of Non-Conforming Lots: A non-conforming lot of record may be divided providing that the resulting lots do not increase the original non-conformity or create a new non-conformity and are in compliance with all other conditions of the ordinance.

**Section 8. Transfer of Ownership**. The ownership of a non-conforming building or structure or a non-conforming lot may be transferred and the new owner may continue its use, subject to the provisions of this ordinance.

**Section 9. Land Use Standards**:

- A. Lot Size shall meet or exceed the following minimum standards.
- a. The minimum lot size is one (1) acre, (43,560 square feet) exclusive of Resource Protected Land.
  - b. Multi-unit residential dwellings shall be located on lots or parcels of land which contain a minimum of five (5) acres. Any land divided by a town road shall be deemed to be two separate lots or parcels of land and non-contiguous lots owned by the same owner shall not be considered in determining the acreage requirement herein contained.
- B. Density requirements shall meet or exceed the following standards.
- a. For each residential dwelling unit, there shall be at least one acre of lot area exclusive of public and private rights of way and land not suitable for development in accordance with current state and town ordinances and regulations.
- C. Buildings and Accessory Structures Setbacks shall meet or exceed the following minimum standards.
- a. Single Family Residential
    - Setback: 25 feet from any right of way
    - Setback: 10 feet from any boundary line
  - b. Multi-unit Residential
    - Setback: 25 feet from any right of way
    - Setback: 25 feet from any boundary line
    - Separation Distance: each building shall be separated by a distance of at least 25 feet.
- D. Lot Coverage of all structures shall not exceed 20% of any lot.
- E. Cupolas
- For the purposes of determining height of a structure, a cupola, dome, widow's walk, or similar feature added to a legally existing conforming structure is exempt if:
- a. The legally existing conforming structure is not located in a Resource Protection District or a Stream Protection District as defined in guidelines adopted by the Board; and
  - b. The cupola, dome, widow's walk, or other similar feature:
    - (1) Does not extend beyond the exterior walls of the existing structure;
    - (2) Has a floor area of 53 square feet or less;
    - (3) Does not increase the height of the structure by more than 7 feet.
- F. Multi-unit Residential Buildings shall contain no more than five single residential dwelling units.
- G. Residential structures shall not exceed 35 feet in height or contain more than 2-1/2 stories. Non-residential structures shall not exceed 35 feet in height or contain more than 2-1/2 stories unless reviewed by the Planning Board under the Site Plan Review Ordinance and the Planning Board has approved a waiver under Section X of that ordinance.
1. Structures such as transmission towers, wind energy systems, antennas, and similar structures having no floor area shall comply with the following provisions.

- a. Purpose: The purpose of this section is to promote the safe, effective, and efficient use of transmission towers, wind energy systems, antennas, and similar structures having no floor area. This section describes the requirements for obtaining a permit to install transmission towers, wind energy systems, antennas, and similar structures having no floor area.
  - b. Setbacks:
    1. Transmission towers, wind energy systems, antennas, and similar structures having no floor area shall be setback a distance equal to 110% of its height from:
      - (a) any public or private right of way, unless written permission is granted by the Town or State entity with jurisdiction over the road,
      - (b) any overhead utility lines, unless written permission is granted by the utility, and
      - (c) all property lines, unless written permission is granted from the affected landowner or neighbor.
    2. The Planning Board may accept restrictive easements on abutting parcels to satisfy setback requirements.
    3. Transmission towers, wind energy systems, antennas, and similar structures having no floor area must meet all setbacks for residential structures for the district in which the system is located. Setback requirements include the guy wires, including anchors.
2. Tower Height:
- a. There shall be no limitation on Tower Height except as imposed by Federal Aviation Administration (FAA) regulations and setback requirements.
  - b. The Planning Board may accept restrictive easements on abutting parcels to satisfy acreage requirements.
  - c. The applicant shall provide evidence that the proposed Tower Height does not exceed the height recommended by the manufacturer of the system.
3. Design Requirements:
- a. Access.
    - (1) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. All electrical transmission lines connecting to the public utility electrical distribution system shall be located underground.
    - (2) The tower shall be designed and installed such that public access via step bolts or a ladder is prevented for a minimum of 12 feet above the ground or a locked anti-climb device is installed on the tower or a locked, protective fence at least six feet in height encloses the tower.
  - b. Blade clearance. For all systems the minimum distance between the ground and any protruding blades shall be 15 feet as measured at the lowest point of the arc of the blades.
  - c. Appearance. Towers shall maintain a galvanized steel finish (non-reflective surface) unless FAA standards require otherwise or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. Owner will immediately repair any visible oxidation or corrosion.
  - d. Location. The system shall be designed and located in such a manner to minimize negative visual impact on significant designated resources.
  - e. Guy Wires. Guy wires, if required, shall be enclosed by a fence or sheathed in bright orange or yellow covering from three to eight feet above the ground.
  - f. Signs. Towers shall not display any permanent or temporary signs, writing, symbols, logos, or any graphic representation of any kind.
  - g. Lighting. Tower shall be lighted when required by the FAA and at the discretion of the Planning Board.
  - h. Noise. Except during short-term events, including utility outages and severe wind storms, the audible noise due to wind turbine operations shall not be created which causes the noise level at the property boundary line of the proposed site to exceed fifty (50) dBA for more than five (5) minutes out of any one hour time period or to exceed fifty-five (55) dBA for any time period. Certification

- shall be provided by the applicant before construction demonstrating compliance with this noise requirement.
- i. Vibration. Any proposed transmission towers, wind energy systems, antennas, and similar structures having no floor area shall not produce vibrations humanly perceptible beyond the boundaries of the property on which the system is located.
  - j. Endangered or Threatened Species and/or Migratory Birds. Installation of a transmission towers, wind energy systems, antennas, and similar structures having no floor area shall not have an adverse impact on endangered or threatened species and/or migratory birds.
4. Documents Required: The following documents must be submitted with the application for a transmission towers, wind energy systems, antennas, and similar structures having no floor area:
- a. Complete an Application for Building or Use Permit.
  - b. A plot plan showing:
    - (1) The location of all existing and proposed structures or uses with scale and arrow pointing north.
    - (2) The setbacks of the transmission towers, wind energy systems, antennas, and similar structures having no floor area shall be 110% of the height of the structure from the abutting property lines and water setbacks.
    - (3) Any overhead utility lines.
  - c. Wind system specifications, including manufacturer and model, rotor diameter, Tower Height, tower type (freestanding or guyed).
  - d. Tower foundation blueprints or drawings.
  - e. Tower blueprint or drawing.
  - f. Standard drawing and an engineering analysis of the tower, and certification by a professional mechanical, structural, or civil engineer. This analysis shall include standards for ice and wind load.
  - g. A drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the current edition of the National Electric Code on file in the Code Enforcement Officer's office.
  - h. Data on approval from any small wind certification program that may apply.
  - i. Information showing that the generators and alternators to be used are constructed as to prevent the emission of disruptive electromagnetic interference with signal transmission or reception beyond the site, including radio and television signals. If it has been demonstrated that a system is causing such disruptive electromagnetic interference, the system operator shall promptly eliminate the disruptive electromagnetic interference or cease operation of the system.
5. Notification: The applicant shall provide evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
6. State and Federal Requirements:
- a. Transmission towers, wind energy systems, antennas, and similar structures having no floor area must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Evidence of compliance or non-compliance shall be submitted with the application.
  - b. Transmission towers, wind energy systems, antennas, and similar structures having no floor area must comply with applicable building codes, National Electric Code, and other State and Federal requirements.
7. Removal of Unsafe Transmission Towers, Wind Energy Systems, Antennas, and similar structures having no floor area: Any transmission towers, wind energy systems, antennas, and similar structures having no floor area found to be unsafe by the CEO shall be repaired by the owner to meet all federal, state, or local safety standards or removed within 6 months. If the owner fails to repair/remove the system as directed, the CEO may pursue legal action to have the system removed at the owner's expense.

8. Abandonment of Use: Transmission towers, wind energy systems, antennas, and similar structures having no floor area which is not used for eighteen (18) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner within six months of receipt of notice from the Town of St. George.

H. Road Frontage of each lot shall be a minimum of 100 feet on a public or private Right of Way.

- I. Parking Requirements shall be not less than two off-street parking spaces for each residential dwelling unit. Garages may be used to fulfill this requirement.

**Section 10. Administration.**

A. This ordinance shall be administered and enforced by the Code Enforcement Officer.

B. Permits.

1. Permits Required: After the effective date of this ordinance, no person shall erect, demolish, reconstruct, enlarge, or move a building or accessory structure, or expand or change an existing non-conforming structure without first obtaining a Permit.
2. Permit Application: Applications for permits shall be submitted in writing. The Code Enforcement Officer may require the submission of whatever information is necessary to determine conformance with the provisions of this ordinance.
3. Permit Application Fee Schedule:
  - No permit or fee is required for maintenance or repair costing under \$10,000.
  - For all other construction projects, the fee schedule for this ordinance shall be set by the St. George Select Board and amended as needed by the St. George Select Board.
  - No fee is required for demolition projects.
  - \$2.00 per \$1,000 cost or a minimum of \$20.00.
4. Wastewater Disposal Permit Required Prior to Building Permit: No building permit shall be issued for any structure or use involving or requiring the construction, installation or alteration of sewage disposal facilities unless a permit for such facilities has been secured by the applicant or his authorized agent.
5. Procedure for Administering Permits: Within thirty-five days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application. All permits shall either be approved or denied in writing within thirty-five days of receiving a completed application, including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this ordinance. Permits may be subject to reasonable conditions to insure conformity with the purposes and provisions of this ordinance. If a permit is denied, the reasons for the denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within thirty days of the approval or denial. A copy of all permits, conditions, and denials shall be maintained as a permanent record by the Code Enforcement Officer.
6. Permits shall expire two (2) years from the date of issuance, if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within two years of the issuance of the permit, the applicant shall have one (1) additional year to complete the project, at which time the permit shall expire.

## C. Appeals to Board of Appeals

### 1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers as they relate to this Ordinance:

- a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made in writing by the Code Enforcement Officer or Planning Board in the administration or enforcement of this Ordinance.
- b. Variations: To grant variations from the strict application of the terms of this Ordinance, within the limitations set forth in this Ordinance.

### 2. Variations Appeals

Variations may be granted only under the following conditions:

- a. Variations may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variations shall not be granted to permit a use otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variation unless it finds that:
  - (1) The proposed structure or use would meet the standards of Section 15 of this Ordinance 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 terms "undue hardship" means:

- (a) That the land in question cannot yield a reasonable return unless a variation is granted;
  - (b) That the need for a variation is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - (c) That the granting of a variation 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.
- d. Notwithstanding Section 16(H)(2)(c) above, the Board of Appeals may grant a variation to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variation granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variation, including limiting the variation to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
  - e. The Board of Appeals shall limit any variations granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variation as it deems necessary. The party receiving the variation shall comply with any conditions imposed.

### 3. Administrative Appeals

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

### 4. Appeal Procedures

#### a. Application and Hearing.

- (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 Office or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - (a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

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

- (1) A majority of the full membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.
- (2) The person filing the appeal shall have the burden of proof.
- (3) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the closing of the hearing, and shall issue a written decision on all appeals.
- (4) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

5. Appeal to Superior Court. Except as provided by 30-A M.R.S.A. Section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
6. Reconsideration. In accordance with 30-A M.R.S.A. Section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

D. Code Enforcement Officer; authority for disability structures permits.

The Code Enforcement Officer is authorized to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling.

For the purposes of this section, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps.

For the purposes of this section, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A.

**Section 11. 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.

***Contiguous Lots:*** lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of the land on both sides thereof.

***Cupola, dome, widow's walk or other similar feature:*** a non-habitable building feature mounted on a building roof for observation or aesthetic purposes.

***Dimensional Requirements:*** numerical standards relating to spatial relationships including but not limited to setback, shore frontage and height.

***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 months to a use's operating season, or the use of more floor area or ground area devoted to a particular use.

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

**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.

**Increase in Non-conformity of a Structure:** any change in the structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. For example, there is no increase in non-conformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing non-conforming structure. Hence, a structure may be expanded laterally from any portion of the existing structure to fill in the space left by an L or U shaped structure. Similarly, there is no increase in non-conformity with the height requirement if the expansion increases the height of the structure no further than the highest point of the existing non-conforming structure.

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

**Multi-unit Residential:** a residential structure containing three or more residential dwelling units.

**Nacelle:** the generator housing located at the top of the tower.

**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 to remain solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

**Principal Structure:** any building or structure in which the main use of the premises takes place.

**Principal Use:** the main use which takes place on the premises.

**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.

**Right of Way:** a road or other area over which is given legal right of passage. A public right-of-way is a way dedicated to the use of the public and accepted for ownership by the Town of St. George or other level of government.

**Road:** a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed or created by repeated passage of motorized vehicles.

**Rotor Diameter:** the cross sectional dimension of the circle swept by the rotating blades.

**Solar energy system:** a system designed and used to obtain energy from the sun in order to supply energy to a principal use or structure located on the same lot as the system, or an adjacent lot in the case of a common system serving more than one principal use or structure for the purpose of reducing the consumption of fuel for heating or electricity. A Solar

Energy System may include solar hot water or air conditioning or photovoltaic systems. Solar Energy Systems are allowed only as accessory uses or structures.

**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. It does not include driveways but does include paved parking areas.

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

**Tower Height:** the height above grade of the fixed portion of the tower, at the furthest most reaching point of the structure.

**Wind Energy System:** a system of equipment located on a single lot that has an aggregate rated capacity of not more than 100 kilowatts that converts and then stores or transfers energy from the wind into usable forms of energy for use on the same lot as the system, or on an adjacent lot in the case of a common system serving more than one residence or structure. This equipment includes the base, blade, foundation, generator, nacelle, rotor, tower, transformer vane, wire, inverter, batteries, or other components used in the system. Small Wind Energy Systems are allowed only as accessory uses or structures, and only one Small Energy Wind System is allowed per lot.

**Wind Energy System Height:** the height above grade to the top of the turbine blade when it reaches its highest elevation.

# SHORELAND ZONING ORDINANCE

## FOR THE TOWN OF ST. GEORGE, MAINE

Adopted	June 25, 1973
Amended	March 10, 1980
Revised	March 10, 1987
Revised	August 27, 1987
Revised	March 15, 1988
Revised	March 8, 1993
Amended	October 6, 1997
Amended	March 8, 1999
Amended	March 11, 2002
Amended	March 12, 2007
Amended	November 6, 2007
Amended	March 10, 2008
Amended	November 5, 2013
Amended	May 9, 2016
Amended	May 14, 2018

A true copy

Attest \_\_\_\_\_  
Timothy C. Polky  
Town Clerk

# SHORELAND ZONING ORDINANCE FOR THE TOWN OF ST. GEORGE

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## **Shoreland Zoning Ordinance for the Town of St. George**

### **Section 1. Purposes**

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open spaces; and to anticipate and respond to the impacts of development in shoreland areas; to require Planning Board approval for the landing, construction, and placement in the shoreland zone of associated facilities of offshore energy projects, to modify the setback requirements relating to certain portions of such associated facilities and to make certain changes to the Planning Board's procedures for obtaining approval for such facilities.

### **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 great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland, and all land area within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

### **Section 4. Effective Date**

#### **A. Effective Date of Ordinance and Ordinance Amendments**

This Ordinance, which was adopted by the Town's legislative body on June 25, 1973, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection for approval. If the Commissioner of the Department of Environmental Protection fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

## **Section 5. Availability**

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

## **Section 6. Validity and 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 another provision of this Ordinance or any other Ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

## **Section 8. Amendments**

This Ordinance may be amended in part or in whole by majority vote of the registered voters of the Town of St. George present at a regular or special Town meeting. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town of St. George and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. If the Commissioner of the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town of St. George within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

## **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(s) which is (are) made a part of this Ordinance:

#### **DISTRICTS:**

1. Resource Protection
2. Marine Residential
3. Limited Commercial
4. Commercial Fisheries/Maritime Activities
5. Stream Protection
6. Recreation District

### **B. Scale of Map**

The Official Shoreland Zoning Map shall be drawn at a scale of: 1 inch = 1,500 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the St. George Town Clerk and shall be located in the Town Office.

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 center lines of streets, roads or rights of way, and the boundaries of the shoreland area as defined herein. The boundaries of the Resource Protection District and the Stream Protection District as shown on the maps are approximate. Exact boundary determinations by a professional trained in wetlands identification may be requested by the Planning Board or the CEO from the applicants. Where uncertainty exists as to the exact location of district boundary lines, the St. George Board of Appeals shall be the final local authority as to location.

The Maine Supreme Judicial Court has held that the Official Shoreland Zoning Map is the primary tool to which to refer in determining district boundaries under ordinances that are not more explicit in their district descriptions than the language of the Guidelines, and that where there is inconsistency between the Map and these general text descriptions of the shoreland districts as provided in the minimum guidelines, the Map prevails.

**Section 11. Land Use Requirements**

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

**Section 12. Non-Conformance**

A. Purpose

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

## 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 which do not involve expansion of the non-conforming use or structure, or such other changes in a non-conforming use of structure as federal, state, or local building and safety codes may require, provided that such upkeep and maintenance will cost less than \$10,000.
3. Restoration of Unsafe Property: Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer.

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

## C. Non-conforming Structures

1. Expansions: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a), (b), (c), and (d).
  - a. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.
  - b. Notwithstanding paragraph (a) above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by paragraph a, Section 12(c)(1).
    - (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.



- c. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by Section 12 (c)(1) or Section 12 (c)(1)(a) above.
- i. For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a water body or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
  - ii. For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body or upland edge of a wetland shall meet the footprint and height limits in Section 12 (c)(1)(b)(i) and Section 12 (c)(1)(c)(i) above.
  - iii. In addition to the limitations in subparagraphs (1) and (2), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body or upland edge of a wetland shall meet the footprint and height limits in subparagraph (1) Section 12 (c)(1)(b)(i) and Section 12 (c)(1)(c)(i).
- d. An approved plan for expansion of a non-conforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
2. **Foundations:** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation shall be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C).

3. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, 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 of soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed shall be replanted with vegetation. Replanting shall be required as follows:

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

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure shall be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged or removed shall be re-established within the setback area. The vegetation and/or ground cover shall consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
  - b. Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
4. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or a wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure

at its new location. If the total amount of footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C) (3) above.

Any non-conforming structure which is located less than the required setback from water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one (1) year of such damage, destruction, or removal.

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

#### 5. Change of Use of a Non-Conforming Structure

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

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, 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 expansion of such structures as allowed in Section 12(C)(1) above.
2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one (1) 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) (5) above.

E. Non-conforming Lots

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

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on March 8, 1993 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

### **Section 13. Establishment of Districts**

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall

include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

1. Flood plains along rivers and flood plains along artificially formed great ponds 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 acres supporting wetlands vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
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.

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

5. Areas that have been recommended for protection in the comprehensive plan of the Town of St. George such as,
  - a. other important wildlife habitat;
  - b. natural sites of significant scenic or esthetic value;
  - c. areas designated by federal, state, or municipal governments as natural areas of significance to be protected from development; and
  - d. other significant areas which should be included in this district to fulfill the purpose of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.
  - e. Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

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

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

6. In addition to the notice required by Title 30-A, section 4352, subsection 9, a municipality shall provide written notification to landowners whose property is being considered by the municipality for placement in a resource protection zone. Notification to landowners must be made by first-class mail to the last known addresses of the persons against whom property tax on each parcel is assessed. The municipal officers shall prepare and file with the municipal clerk a sworn, notarized certificate indicating those persons to whom notice was mailed and at what addresses, and when, by whom and from what location notice was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate. The municipality must send notice no later than 14 days before it holds a public hearing on adoption or amendment of a zoning ordinance or map that places the landowners’ property in the resource protection zone. Once a landowner’s property has been placed in a resource protection zone, individual notice is not required to be sent to the landowner when the zoning ordinance or map is later amended in a way that does not affect the inclusion of the landowner’s property in the resource protection zone.

**B. Marine Residential District**

The Marine Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, or the Commercial Fisheries/Maritime Activities District.

**C. Limited Commercial District**

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

**D. Commercial Fisheries/Maritime Activities District**

The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses 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 the land within 250 feet, horizontal distance, of the shoreline;
3. Depth of the water within 150 feet, horizontal distance, of the shoreline;
4. Available support facilities including utilities and transportation facilities; and
5. Compatibility with adjacent upland uses.

E. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area 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.

F. Recreation District

To provide and encourage the development of public recreational facilities.

NOTE: District boundaries are shown on the Official Shoreland Zoning Map available at the St. George Town Office.

## 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.

### Key to Table 1:

Yes – Allowed (no permit required but the use shall comply with all applicable land use standards)

No – Prohibited

PB – Allowed with permit issued by the Planning Board

CEO – Allowed with permit issued by the Code Enforcement Officer

LPI – Allowed with permit issued by the Local Plumbing Inspector

### Abbreviations:

RP – Resource Protection

MR – Marine Residential

CFMA – Commercial Fisheries/Maritime Activities

SP – Stream Protection

LC – Limited Commercial

RC – Recreation



TABLE 1. LAND USES IN THE SHORELAND ZONE

Permits refer only to those required by the Town of St. George. Others may be required in certain cases; e.g. Army Corps of Engineers, DEP, MDOT, etc.

LAND USES	DISTRICTS					
	RP	MR	CFMA	SP	LC	RC
1.Non-intensive recreational uses not requiring structures, such as hunting, fishing, hiking	Y	Y	Y	Y	Y	Y
2.Motorized vehicular traffic on existing roads and trails	Y	Y	Y	Y	Y	Y
3.Forest management activities except for timber harvesting & land management roads	Y	Y	Y	Y	Y	Y
4. Land management roads & Timber harvesting	PB	Y	Y	PB	Y	PB
5. Clearing or removal of vegetation for activities other than timber harvesting*	CEO1	CEO	CEO	CEO	CEO	CEO
6.Fire prevention activities	Y	Y	Y	Y	Y	Y
7.Wildlife management practices	Y	Y	Y	Y	Y	Y
8.Soil & water conservation practices	Y	Y	Y	Y	Y	Y
9.Mineral exploration	N	Y2	Y2	N	Y2	N
10.Mineral extraction, including sand & gravel	N3	PB	PB	N	PB	PB
11.Surveying & resource analysis	Y	Y	Y	Y	Y	Y
12.Emergency operations	Y	Y	Y	Y	Y	Y
13.Agriculture*	PB	Y	Y	PB	Y	PB
14.Aquaculture*	PB	PB	Y	PB	Y	PB
15.Principal structures* & uses						
a. One & two family residential dwellings, including driveways	PB9	CEO	N	PB4	CEO	N
b. Multi-unit residential	N	PB	N	N	PB	N
c. Mobile home parks	N	N	N	N	N	N
d. Commercial	N	N	PB5	N	PB	N
e. Marine-related home occupation associated family business and support activities necessary to lobstering and fishing	N	PB	N	N	CEO	N
f. Motels/hotels	N	N	N	N	PB	N
g. Bed & Breakfasts	N	PB	N	N	PB	N
h Industrial structures	N	N	PB5	N	N	N
i. Governmental & institutional structures	N	PB	PB5	N	PB	N
j. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	CEO	PB5	PB4	CEO	PB
16. Structures accessory to allowed uses*	PB	CEO	Y	PB4	CEO	PB
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland	PB	PB	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	N
19. Home occupations	PB	PB	Y	PB	CEO	N
20.Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
21.Essential services	PB6	PB	PB	PB6	PB	PB
a. Roadside distribution lines (34.5kV & lower)	CEO6	Y12	Y12	CEO6	Y12	PB
b. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB6	CEO	CEO	PB6	CEO	PB
c. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB6	PB	PB	PB6	PB	PB

LAND USES	RP	MR	CFMA	SP	LC	RC
d. Other essential services	PB6	PB	PB	PB6	PB	PB
22. Service drops, as defined, to allowed uses	Y	Y	Y	Y	Y	Y
23. Public & private parks & recreation areas involving minimal structural development	PB	PB	CEO5	PB	CEO	CEO
24. Individual private campsites	CEO	CEO	CEO	CEO	CEO	CEO
25. Campgrounds*	N7	PB	N	N	PB	N
26. Road construction*	N8	PB	PB5	PB	PB	PB
27. Parking facilities	N7	PB	PB5	N	PB	PB
28. Marinas	N	PB	PB	PB	PB	PB
29. Filling and earth moving of < 10 cubic yds.	CEO	Y	Y	CEO	Y	Y
30. Filling and earth moving of > 10 cubic yds.	PB	CEO	CEO	PB	CEO	PB
31. Signs (see size restrictions – Section 15, I)	PB	PB	PB	PB	PB	PB
32. Associated facilities of offshore energy projects located in the shoreland zone	PB	PB	PB	PB	PB	PB
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

## Notes:

1. In RP not allowed within 75 feet horizontal distance of normal high-water line of great ponds, except to remove safety hazards
2. Requires permit from CEO if more than 100 square feet of surface area, in total, is disturbed.
3. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
6. See further restriction in Section 15(L)(2).
7. Except when area is zoned for RP due to floodplain criteria in which case a ~~PB~~ permit is required from the Planning Board.
8. Except as provided in Section 15(H)(4).
9. Single family residential structures may be allowed by Special Exception only according to the provisions of Section 16(E) Special Exceptions. Two family residential structures are prohibited.
10. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12. Permit not required but must file a written “notice of intent to construct” with CEO.
13. Option 3 towns only.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. 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.

\*\* Subject to specific Land Use Standards, Section 15

## 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. Dimensional Requirements

##### Residential; per dwelling unit

Minimum lot area – 50,000 square feet

Minimum Shore Frontage – 200 feet

##### Governmental, Institutional, Commercial or Industrial; per principal structure

- a. Within the Shoreland Zone adjacent to Tidal Areas exclusive of those areas zoned for CFMA
  - Minimum lot area – 50,000 square feet
  - Minimum Shore front – 200 feet
- b. Within the Shoreland Zone adjacent to Tidal Areas zoned for CFMA
  - Minimum lot area – 50,000 square feet
  - Minimum Shore front – 200 feet

##### Public and Private Recreational Facilities

- a. Within the Shoreland Zone adjacent to Tidal and Non-Tidal Areas
  - Minimum lot area – 50,000 square feet
  - Minimum Shore front – 200 feet
2. Land below the normal high-water line of a water body and upland edge of a wetland and land beneath roads serving more than one (1) lot 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 and upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
5. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure or use.

6. Setbacks

SETBACKS	CFMA	MR	LC
Minimum frontage on public/private way	50 ft	100 ft	50 ft
Minimum setback from normal HW residential	NA	75 ft	75 ft
Minimum setback, *NHW: non-residtl & accessory	75 ft	75 ft	75 ft
Sewerage drainage field setback from NHW	100 ft	100 ft	100 ft
Minimum front yard setback from edge of ROW**	25 ft	25 ft	25 ft
Minimum side and back yard setback:			
Residential	NA	20 ft	20 ft
Non-residential & accessory	10 ft	20 ft	10 ft
Maximum building height above ground level	35 ft	35 ft	35 ft
Maximum lot coverage by buildings, parking lots, and other non-vegetated surfaces within the shoreland zone.	70%	20%	50%

\*Not applicable to piers, docks, wharves, breakwaters, commercial boat houses, and other structures projecting into or requiring direct access to the water as an operational necessity.

\*\*Where a proposed structure is abutted on both sides by structures whose setback is less than that required, the Planning Board may reduce the setback to that of the abutting structures, but in no case less than ten (10) feet from the edge of the right of way. The front yard setback shall be required for each yard abutting the right of way.

\*\*\*Electrical cable, located in the shoreland zone, that is part of associated facilities of an offshore energy project shall not be subject to the setback requirements of this section 15(A)(6). Other associated facilities, located in the shoreland zone, that are part of an offshore energy project shall be subject to the applicable setback requirements of this section 15(A)(6).

7. Cupolas

For the purpose of determining height of a structure, a cupola, dome, widow's walk or similar feature added to a legally existing conforming structure is exempt if:

- a. The legally existing conforming structure is not located in a Resource Protection District or a Stream Protection District as defined in guidelines adopted by the Board; and
- b. The cupola, dome, widow's walk or other similar feature:
  - (1) Does not extend beyond the exterior walls of the existing structure;
  - (2) Has a floor area of 53 square feet or less;
  - (3) Does not increase the height of the existing structure by more than 7 feet.

## B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirement specified above shall apply.

In addition:

- a. The water body, tributary streams, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
  - b. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable by the Maine Geological Survey pursuant to the *Classification of Coastal Bluffs*” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.
  - c. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setback, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
  - d. The Planning Board may increase the required setback of a proposed structure, as a condition of approval, if necessary to accomplish the purposes of this ordinance. Instances where a 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.
  - e. A principle structure has to be in place before an accessory structure may be permitted on a property.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Marine Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. Structures such as transmission towers, wind energy systems, antennas, and similar structures having no floor area shall meet the development standards in section (B)(7) below.

3. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the base flood elevation, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
4. Coastal wetlands and rivers that do not flow to great ponds and Commercial Fisheries/Maritime Activities District, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

Commercial Fisheries/Maritime Activities District, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone and in the Limited Commercial District where lot coverage shall not exceed fifty (50) percent.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - a. The site has been previously altered and an effective vegetated buffer does not exist;
  - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - d. The total height of the wall(s), in the aggregate, is not more than 24 inches;
  - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood 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;
  - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area shall meet the following characteristics:

- (1) The buffer shall include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area shall be supplemented with leaf and bark mulch;
- (2) Vegetation plantings shall be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;
- (3) Only native species may be used to establish the buffer area;
- (4) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- (5) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer.

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

6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided that side yard setback requirements are met; 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 Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
7. 1. Structures such as transmission towers, wind energy systems, antennas, and similar structures having no floor area shall comply with the following provisions.
  - a. Purpose: The purpose of this section is to promote the safe, effective, and efficient use of transmission towers, wind energy systems, antennas, and similar structures having no floor area. This section describes the requirements for obtaining a permit to install transmission towers, wind energy systems, antennas, and similar structures having no floor area.
  - b. Setbacks:
    1. Transmission towers, wind energy systems, antennas, and similar structures having no floor area shall be setback a distance equal to 110% of its height from:
      - (a) any public or private right of way, unless written permission is granted by the Town or State entity with jurisdiction over the road,
      - (b) any overhead utility lines, unless written permission is granted by the utility, and
      - (c) all property lines, unless written permission is granted from the affected landowner or neighbor.
    2. The Planning Board may accept restrictive easements on abutting parcels to satisfy setback requirements.
    3. Transmission towers, wind energy systems, antennas, and similar structures having no floor area shall meet all setbacks for residential structures for the district in which the system is located. Setback requirements include the guy wires, including anchors.
2. Tower Height:
  - a. There shall be no limitation on Tower Height except as imposed by Federal Aviation Administration (FAA) regulations and setback requirements.

- b. The Planning Board may accept restrictive easements on abutting parcels to satisfy acreage requirements.
  - c. The applicant shall provide evidence that the proposed Tower Height does not exceed the height recommended by the manufacturer of the system.
3. Design Requirements:
- a. Access.
    - 1. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. All electrical transmission lines connecting to the public utility electrical distribution system shall be located underground.
    - 2. The tower shall be designed and installed such that public access via step bolts or a ladder is prevented for a minimum of 12 feet above the ground or a locked anti-climb device is installed on the tower or a locked, protective fence at least six feet in height encloses the tower.
  - b. Blade clearance. For all systems the minimum distance between the ground and any protruding blades shall be 15 feet as measured at the lowest point of the arc of the blades.
  - c. Appearance. Towers shall maintain a galvanized steel finish (non-reflective surface) unless FAA standards require otherwise or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. Owner will immediately repair any visible oxidation or corrosion.
  - d. Location. The system shall be designed and located in such a manner to minimize negative visual impact on significant designated resources.
  - e. Guy Wires. Guy wires, if required, shall be enclosed by a fence or sheathed in bright orange or yellow covering from three to eight feet above the ground.
  - f. Signs. Towers shall not display any permanent or temporary signs, writing, symbols, logos, or any graphic representation of any kind.
  - g. Lighting. Tower shall be lighted when required by the FAA and at the discretion of the Planning Board.
  - h. Noise. Except during short-term events, including utility outages and severe wind storms, the audible noise due to wind turbine operations shall not be created which causes the noise level at the property boundary line of the proposed site to exceed fifty (50) dBA for more than five (5) minutes out of any one hour time period or to exceed fifty-five (55) dBA for any time period. Certification shall be provided by the applicant before construction demonstrating compliance with this noise requirement.
  - i. Vibration. Any proposed transmission towers, wind energy systems, antennas, and similar structures having no floor area shall not produce vibrations humanly perceptible beyond the boundaries of the property on which the system is located.
  - j. Endangered or Threatened Species and/or Migratory Birds. Installation of a transmission towers, wind energy systems, antennas, and similar structures having no floor area not have an adverse impact on endangered or threatened species and/or migratory birds.
4. Documents Required: The following documents shall be submitted with the application for a transmission towers, wind energy systems, antennas, and similar structures having no floor area:
- a. Complete an Application for Building or Use Permit.
  - b. A plot plan showing:
    - (1) The location of all existing and proposed structures or uses with scale and arrow pointing north.
    - (2) The setbacks of the transmission towers, wind energy systems, antennas, and similar



structures having no floor area shall be 110% of the height of the structure from the abutting property lines and water setbacks.

- (3) Any overhead utility lines.
- c. Wind system specifications, including manufacturer and model, rotor diameter, Tower Height, tower type (freestanding or guyed).
  - d. Tower foundation blueprints or drawings.
  - e. Tower blueprint or drawing.
  - f. Standard drawing and an engineering analysis of the tower, and certification by a professional mechanical, structural, or civil engineer. This analysis shall include standards for ice and wind load.
  - g. A drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the current edition of the National Electric Code on file in the Code Enforcement Officer's office.
  - h. Data on approval from any small wind certification program that may apply.
  - i. Information showing that the generators and alternators to be used are constructed as to prevent the emission of disruptive electromagnetic interference with signal transmission or reception beyond the site, including radio and television signals. If it has been demonstrated that a system is causing such disruptive electromagnetic interference, the system operator shall promptly eliminate the disruptive electromagnetic interference or cease operation of the system.
5. Notification: The applicant shall provide evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
6. State and Federal Requirements:
- a. Transmission towers, wind energy systems, antennas, and similar structures having no floor area shall comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Evidence of compliance or non-compliance shall be submitted with the application.
  - b. Transmission towers, wind energy systems, antennas, and similar structures having no floor area shall comply with applicable building codes, National Electric Code, and other State and Federal requirements.
7. Removal of Unsafe Transmission Towers, Wind Energy Systems, Antennas, and similar structures having no floor area: Any transmission towers, wind energy systems, antennas, and similar structures having no floor area found to be unsafe by the CEO shall be repaired by the owner to meet all federal, state, or local safety standards or removed within 6 months. If the owner fails to repair/remove the system as directed, the CEO may pursue legal action to have the system removed at the owner's expense.
8. Abandonment of Use: Transmission towers, wind energy systems, antennas, and similar structures having no floor area which is not used for eighteen (18) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner within six months of receipt of notice from the Town of St. George.

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 and Shoreline Stabilization

1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of the water body or within a wetland is allowed on a single lot.
2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
3. The location shall not interfere with existing developed or natural beach areas.
4. The facility shall be located so as to minimize adverse effects on fisheries.
5. The facility shall be no longer in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
6. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

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

7. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
8. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
9. Except in the Commercial Fisheries/Marine 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.
10. Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
  - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete, the construction equipment accessway must be restored.
  - (b) Revegetation must occur in accordance with Section 15(S).

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

A permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection for Shoreline Stabilization activities.

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

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites

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

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
3. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
4. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
5. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
6. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector.

Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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

F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds:

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

G. Parking Areas

1. Parking areas shall meet the shoreline, tributary stream and side yard setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial Fisheries/Maritime Activities Districts, shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - b. Internal travel aisles: Approximately twenty (20) feet wide.

## H. Roads and Driveways

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

1. Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazards result. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.
2. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15(H)(2) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline, or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(2) except for that portion of the road or driveway necessary for direct access to the structure.

3. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.
4. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
5. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).

- 6. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- 7. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 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. Surface drainage which is directed to an unscarified buffer strip shall be diffused and spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- 8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

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

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
    - c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the center line of the road or driveway.
    - d. Ditch relief culverts shall be sufficiently sized and property installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

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

I. Signs

The following provisions shall govern the use of signs in all Districts:

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

2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in aggregate.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be allowed without restriction.
6. No sign shall extend higher than twenty (20) feet above the ground.
7. Signs may be illuminated only by 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 pre-development 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.

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

K. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:
  - a. clearing or removal of woody vegetation necessary to site a new system and any associated fill extension, not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and
  - b. a holding tank is not allowed for first-time residential use in the shoreland zone.

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

#### L. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

#### M. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan describe in detail procedures to be undertaken to fulfill requirements of Section 15(M)(3) below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:



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

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

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

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

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

#### N. Agriculture

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law (7 M.R.S.A. Sections 4201-4209)*.
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board, Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal mean high-water line of a great pond; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

NOTE: 7 M.R.S.A. Section 155 requires a municipality to provide the Commissioner of Agriculture, Conservation and Forestry with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

**NOTE RELATING TO TIMBER HARVESTING STANDARDS:**

Timber Harvesting Standards state that Title 38 M.R.S.A. Section 438-A provides that, notwithstanding other provisions of the Mandatory Shoreland Zoning Act, the regulation of timber harvesting and timber harvesting activities in the shoreland areas must be in accordance with section 438-B and rules adopted by the Maine Forest Bureau pursuant to Title 12, section 8867-B. Section 438-B establishes three options from which each municipality may choose how they enforce the Timber Harvesting Rules.

Option 1: The first option available to a municipality is the complete repeal of Timber Harvesting Provision from the Shoreland Zoning Ordinance. Under this option the Bureau of Forestry will administer the regulation of all forestry activities within the municipality.

Option 2: The second option available to the municipality is the option of timber harvesting standards that are identical to the statewide standards. This option allows the municipality to retain some local control over the administration and enforcement of timber harvesting in the shoreland zone, while receiving assistance and expertise from staff of the Bureau of Forestry.

Option 3: The third option available to the municipality is to retain its current timber harvesting standards.

St. George opted to go with Option 2.

**O-1. Timber Harvesting – Statewide Standards [Effective on August 30, 2012]**

1. The filling of wetlands is prohibited for timber harvesting operations.
2. Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities shall take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions shall be corrected.
3. Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

- a. Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  - b. Adjacent to great ponds, rivers and wetlands:
    - (1) No accumulation of slash be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
    - (2) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or  
or  
upland edge of a wetland, all slash larger than 3 inches in diameter shall be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
4. Timber harvesting and related activities shall leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
- a. Option 1 (40% volume removal), as follows:
    - (1) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
    - (2) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, shall be maintained; and,
    - (3) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of freshwater or coastal wetlands, there shall be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities shall not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they shall be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
  - b. Option 2 (60 square foot basal area retention), as follows:
    - (1) The residual stand shall contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre shall be greater than or equal to 4.5 inches DBH;
    - (2) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, shall be maintained; and,
    - (3) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there shall be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities shall not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they shall be at least 100 feet, horizontal distance, apart. Such cleared openings

will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

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

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

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

- 5. Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
  - a. Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - b. Skid trails and yards shall be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards shall be stabilized.
  - c. Setbacks:
    - (1) Equipment shall be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation shall be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
    - (2) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.
- 6. Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly

entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the recourse being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.

- a. Land management roads and associated ditches, excavation, and fill must be set back at least:
  - (1) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland
  - (2) 50 feet, horizontal distance, from the normal high-water line of streams; and
  - (3) 25 feet, horizontal distance, from the normal high-water line of tributary streams
- b. The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(1) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(2) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- c. On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- d. New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. Section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- e. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads shall be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- f. Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) shall continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals,

constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

- g. Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
  - h. Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.
  - i. Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
7. Crossing of waterbodies. Crossing of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- a. Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the ten year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - b. Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
  - c. Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
  - d. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

- e. Notice of Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
- (1) a map showing the location of all proposed permanent crossings;
  - (2) the GPS location of all proposed permanent crossings;
  - (3) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - (4) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- f. Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
- (1) concentrated water runoff does not enter the stream or tributary stream;
  - (2) sedimentation of surface water is reasonable avoided;
  - (3) there is no substantial disturbance of the bank, or stream or tributary stream channel;
  - (4) fish passage is not impeded; and,
  - (5) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(1-5) above, skid trail crossings and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- g. Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
- (1) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows and with a cross sectional area at least equal to 3 times and cross-sectional area of the river, stream, or tributary stream channel.
  - (2) Temporary bridge and culverts sizes may be smaller than provided in Section 15(O-1)(6)(g)(1) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
    - (a) use of temporary skidder bridges;
    - (b) removing culverts prior to the onset of frozen ground conditions;
    - (c) using water bars in conjunction with culverts;
    - (d) using road dips in conjunction with culverts.
  - (3) Culverts utilized in river, stream and tributary stream crossings must:
    - (a) be installed at or below river, stream or tributary stream bed elevation;

- (b) be seated on firm ground;
- (c) have soil compacted at least halfway up the side of the culvert;
- (d) be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater, and
- (e) have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

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

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

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

- (1) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails shall either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
- (2) Water crossing structures that are not bridges or culverts shall either be removed immediately following timber harvesting or related activities, or if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
- (3) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams shall be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions shall be corrected.

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

- (1) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way to that water does not reenter the road surface.
- (2) Water crossing structures shall be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.



(3) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

- (a) it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
- (b) it shall be designed to provide an opening with a cross-sectional area at least 3½ times the cross-sectional area of the river, stream or tributary stream channel; or
- (c) it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

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

8. Slope Table

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

<b>Average slope of land between Exposed Mineral Soil and the shoreline (percent)</b>	<b>Width of strip between Exposed Mineral Soil and shoreline (feet along surface of the ground)</b>
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<b>0</b>	<b>25</b>
<b>10</b>	<b>45</b>
<b>20</b>	<b>65</b>
<b>30</b>	<b>85</b>
<b>40</b>	<b>105</b>
<b>50</b>	<b>125</b>
<b>60</b>	<b>145</b>
<b>70</b>	<b>165</b>

9. Definitions. Unless otherwise provided herein, this Section O-1 incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, “Forest Regeneration and Clearcutting Standards”, and Chapter 21, “Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas”.

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

Within the shoreland area, municipal ordinances must provide for effective vegetative screening between buildings and shorelines. Notwithstanding any other provision in a local ordinance to the contrary, vegetative screening requirements must be no less restrictive than the following:

- 1. Within a strip extending 100 feet inland from the normal high-water line of a great pond classified as GPA under section 465-A or a river that flows to a great pond classified as GPA under section 465-A or

within a strip extending 75 feet inland from the normal high-water line of other water bodies or the upland edge of a wetland, there may be no cleared opening or openings greater than 250 square feet and a well-distributed stand of vegetation must be retained. The restrictions in the paragraph do not apply to the construction of a structure or the establishment of a land use within 75 feet of the normal high-water line of a water body or upland edge of a wetland that is specifically allowed by municipal ordinance in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the commissioner;

2. Within a shoreland area zoned for resource protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet horizontal distance, inland from the normal high-water line, except to remove safety hazard trees as described in Section O.

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

3. Except in areas as described in Section P(1), above, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation be preserved as follows:

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

b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained.

For the purposes of Section 15(P)(2)(b) a “well-distributed stand of trees” adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1,250 square feet) area as determined by the following rating system:

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

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

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three

trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot plot contains trees worth 36 points. Trees totaling 12 points ( $36 - 24 = 12$ ) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

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

For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter in four and one half (4½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Except as otherwise provided in this paragraph, selective cutting of no more than 40% of the total volume of trees 4 inches or more in diameter, measured at 4½ feet above ground level, is allowed in any 10-year period. Rules adopted by the board may allow for 70% of a lot to be nonvegetated in a general commercial fisheries and maritime activities district.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
  - d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
  - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section O unless existing new tree growth is present.
  - f. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).
4. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there

shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ 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 cleared openings for any purpose, including but not limited to, principal and accessory structure, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within shoreland zone, including the buffer area but shall not apply to Commercial Fisheries/Maritime Activities Districts.

5. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
6. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).
7. Clearing of vegetation; exception. The following exceptions to the standards governing the clearing of vegetation apply.
  - a. The standards in subsection P, paragraphs a and c do not apply to properties that are located within areas designated as commercial fisheries and maritime activities districts or other equivalent zoning districts approved by the commissioner of the Department of Environmental Protection that support commercial fisheries and maritime activities if:
    - (1) The commissioner of the Department of Environmental Protection determines that special local conditions exist and a local municipal ordinance is approved in accordance with section 438-A, subsection 3; and the Department of Environmental Protection.
    - (2) The districts are in existence at the time this subsection becomes effective.
  - b. The standards in subsection P, paragraphs a and c and any standards related to the clearing of vegetation contained in a municipal ordinance enacted in accordance with section 438-A, subsection 3 do not apply to remediation activities that are necessary to clean up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the commissioner that is part of a state or federal brownfields program or a voluntary response action program under section 343-E and that is located along:
    - (1) A coastal wetland; or
    - (2) A river that does not flow to a great pond classified as GPA under section 465-A.

#### Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth

- is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
- b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  - c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  - d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  - e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measure at four and one half (4.5) feet above the ground level.
2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - ii. Stumps from the storm-damaged trees may not be removed;
    - iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  - b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

## R. Exemptions to Clearing and Vegetation Removal Requirements

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

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 39 M.R.S.A. section 343-E, and that is allocated along;
  - a. A coastal wetland; or
  - b. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A. section 465-A.
6. The removal of non-native invasive vegetation species provided the following minimum requirements are met:
  - a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment maybe operated or stored on existing structural surfaces, such as pavement or gravel;
  - b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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

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

#### S. Revegetation Requirements

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

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
  - a. All trees and saplings removed must be replaced with native noninvasive species;
  - b. Replacement vegetation must at a minimum consist of saplings;
  - c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - d. No one species shall make up 50% or more of the number of trees and saplings planted;
  - e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height;
  - a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - e. Survival of planted woody vegetation and vegetation under three (3) feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover;
- a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  - c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

T. Erosion and Sedimentation Control

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

#### U. 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.

#### V. Water Quality

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

#### W. Archaeological Site

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

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

## **Section 16. Administration**

### **A. Administering Bodies and Agents**

#### **1. Code Enforcement Officer.**

A Code Enforcement Officer shall be appointed or reappointed annually in accordance with the Town Charter.

#### **2. Board of Appeals.**

A Board of Appeals shall be created in accordance with the provisions of the Town Charter.

#### **3. Planning Board.**

A Planning Board shall be created in accordance with the provisions of the Town Charter.

### **B. Permits Required.**

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

1. A permit is not required for the replacement of an existing road culvert as long as:
  - a. The replacement culvert is not more than 25% longer than the culvert being replaced;
  - b. The replacement culvert is not longer than 75 feet; and
  - c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.
2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approval list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **C. Permit Application.**

1. Application for permits shall be submitted in writing along with the appropriate building permit application fee; see below. The Code Enforcement Officer or Planning Board may require submission of whatever information is necessary to determine conformance with the provisions of this Ordinance.

Permit Application Fee Schedule:

No permit or fee is required for maintenance or repair costing under \$10,000.

For all other construction projects the following fee schedule applies:

\$20.00 minimum

\$2.00 per \$1,000. cost

2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
5. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application (or 90 days in the case of an application for associated facilities, located in the shoreland zone, of an offshore energy project), the Planning Board, Code Enforcement Office, or Local Plumbing Inspector 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 (or 90 days in the case of an application for associated facilities, located in the shoreland zone, of an offshore energy

project). However, if the Planning Board has a waiting list of applications, a decision on the application occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application (or 180 days in the case of an application for associated facilities, located in the shoreland zone, of an offshore energy project), or within 35 days of the public hearing (or 90 days in the case of an application for associated facilities, located in the shoreland zone, of an offshore energy project), if one is held. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this ordinance. Permits may be made subject to reasonable conditions to insure conformity with the purposes of this Ordinance. If a permit is denied, or approved with conditions, the reasons for denial as well as the conditions shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within thirty (30) days of the approval or denial. A copy of all permits, conditions, and denials shall be maintained as a permanent record by the Planning Board.

All construction shall be in accordance with the current Maine State Laws and the provisions of the Shoreland Zoning Ordinance, Town of St. George, as revised March 10, 2008. The applicants have the burden of proving that the proposed land use activity is in accordance with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, Code Enforcement Officer or Local Plumbing Inspector, the application shall be approved, or approved with conditions, if a positive finding is made based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities 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.

No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality.

If any of the time periods specified in this section IV(C) are inconsistent with applicable state law (such as, for example, section 480-HH(14) of title 38 of the Maine Revised Statutes, relating to offshore wind energy demonstration projects), the time periods provided by state law shall govern.

E. Special Exceptions:

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

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
3. All proposed buildings, sewage disposal systems and other improvements are:
  - a. located on natural ground slopes of less than 20%; and
  - b. located outside the floodway of the 100-year floodplain along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.
4. The total footprint, including cantilevered or similar overhanging extension, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's evaluation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

If no action is taken by the Planning Board in the prescribed time, the applicant may apply to the Appeals Board.

F. Expiration of Permit

Permits shall expire two (2) years from the date of issuance, if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within two years of the issuance of the permit, the applicant shall have one (1) additional year to complete the project, at which time the permit shall expire.

## G. Installation of Public Utility Service

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

## H. Appeals to Board of Appeals

### 1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers as they relate to this Ordinance:

- a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made in writing by the Code Enforcement Officer or Planning Board in the administration or enforcement of this Ordinance.
- b. Variances: To grant variances from the strict application of the terms of this Ordinance, within the limitations set forth in this Ordinance.

### 2. Variances Appeals

Variances may be granted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted to permit a use 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 standards of Section 15 of this Ordinance 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 terms “undue hardship” means:

- That the land in question cannot yield a reasonable return unless a variance is granted;
  - That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - That the granting of a variance will not alter the essential character of the locality; and
  - That the hardship is not the result of action taken by the applicant or a prior owner.
- d. Notwithstanding Section 16(H)(2)(c) above, the Board of Appeals or the Code Enforcement Officer if authorized in accordance with 30-A M.R.S.A. §4353-A may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a

person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.

- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- f. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### 3. Administrative Appeals

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

### 4. Appeal Procedures

#### 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 Office or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

- (a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
- b. Decision by Board of Appeals.
- (1) A majority of the full membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.
  - (2) The person filing the appeal shall have the burden of proof.
  - (3) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the closing of the hearing, and shall issue a written decision on all appeals.
  - (4) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
5. Appeal to Superior Court. Except as provided by 30-A M.R.S.A. Section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
6. Reconsideration. In accordance with 30-A M.R.S.A. Section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision shall be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration shall occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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



## I. Code Enforcement Officer; authority for disability structures permits

The Code Enforcement Officer is authorized to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling.

For the purposes of this section, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps.

For the purposes of this section, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553 – A.

## J. 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 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, and abatement of nuisance conditions. A copy of such notices shall be submitted to the St. George Select Board of Selectmen and be maintained as a permanent record.
- 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 involving this Ordinance, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

### 3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of St. George. The municipal officers, or their authorized agent,

are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

#### 4. Fines

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

### **Section 17. Definitions**

Accessory Structure Of 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 of a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

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

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

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

Associated Facilities – elements of an offshore energy project, other than its generating facilities, that are necessary to the proper operation and maintenance of the project, including but not limited to cables, poles, transformers and other electrical equipment, connection vaults, building and other structures, and access roads. The term does not include (1) equipment that is part of the electrical grid of a transmission and distribution utility licensed by the Maine Public Utilities Commission or (2) anything located in submerged lands.

Basal Area – the area of the cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

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

Bed And Breakfast – Bed and breakfasts are private residences that rent up to five (5) rooms for a night or week that contains no kitchen facilities.

Boat House – a non-residential structure designed for the purpose of protecting and storing boats.

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

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

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

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

Coastal Wetland – all tidal and sub-tidal lands; all lands with vegetation present that is tolerant to salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

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

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

Contiguous Lots – lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

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

Cupola, dome, widow’s walk or other similar feature - a non-habitable building feature mounted on a building roof for observation purposes.

Currently Developed – areas which have at least two (2) dwellings per 1,000 ft. of shore frontage.

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

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

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

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

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

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

Electrical Grid – cables, poles, transformers and other electrical equipment, connection vaults, structures, and access roads, that collectively constitute an electrical transmission or distribution system that carries electricity other than, or in addition to, electricity generated by an offshore energy project.

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 – 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 not include service drops or buildings which are necessary for the furnishing of such services.

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

Expansion Of Use – the addition of months to a use's operating season, or the use of more floor area or ground area devoted to a particular use, or addition of services.

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

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

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

Footprint – the entire area of ground covered by the structures on a premises lot including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios 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.

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

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

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

Freshwater Wetland – freshwater swamps, marshes, bogs and similar areas which are:

1. Of ten (10) 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 as shown by the National Wetlands Inventory map and Maine Geological Survey Freshwater Wetlands map; 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.

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

Great Pond – any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great Pond Classified GPA – any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

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.

Mobile Home Park – any land upon which two or more occupied Mobile Homes or recreational vehicles used for habitation are parked, whether free of charge or for income producing purposes including any roadway, building, structure, vehicle, or enclosed used or intended for use as part of the facilities of the park.

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

Nacelle - the generator housing located at the top of the tower.

Native – indigenous to the local forests.

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

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

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

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

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

Normal High-water Line (non-tidal waters) – that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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

Offshore Energy Project – a project for the generation or transmission of electrical energy from generating facilities in, over, or on the coastal waters of the State of Maine (including islands located in those waters), whether from conventional, nuclear, or renewable sources.

Outlet Stream – means any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map that flows from a freshwater wetland.

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

Piers, Docks, Wharves, 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 structure or use on the same lot.

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

Public Facility – any facility including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body of 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 usually 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 shall remain with its tires on the ground, and shall 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 at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual Basal Area – the average of the basal area of trees remaining on a harvested site.

Rip Rap – 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.

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

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.

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

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

Rotor Diameter - the cross sectional dimension of the circle swept by the rotating blades.

Salt Marsh – areas of coastal wetlands (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is salt marsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eel grass, and Sago pond weed.

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

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

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

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

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

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

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

Shoreland Zone – the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, or river, within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

Significant River Segments – See Appendix A or 38-M.R.S.A. section 437.

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

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

Solar Energy System - a system designed and used to obtain energy from the sun in order to supply energy to a principal use or structure located on the same lot as the system, or an adjacent lot in the case of a common

system serving more than one principal use or structure for the purpose of reducing the consumption of fuel for heating or electricity. A Solar Energy System may include solar hot water or air conditioning or photovoltaic systems. Solar Energy Systems are allowed only as accessory uses or structures.

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

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

Local ordinances may designate other free-flowing bodies of water to be included in “streams”.

**Structure** – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind and anything constructed or erected on or in the ground. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E subsection 8. As used in this subsection, “service drop” has the same meaning as in section 952.

It does not include driveways but does include paved parking areas.

**Submerged Lands** – the meaning given to that term in section 1801(9) of title 12 of the Maine Revised Statutes (as it may be amended from time to time, and any replacement of that provision).

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

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

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

**Tidal Waters** – all waters affected by tidal action during the maximum spring tide.

**Timber Harvesting** – the cutting or removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities.

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

Tower Height - the height above grade of the fixed portion of the tower, at the furthest most reaching point of the structure.

Transmission and Distribution Utility – the meaning given to that term in section 102(20-B) of title 35A of the Maine Revised Statutes (as it may be amended from time to time, and any replacement of that provision).

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

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

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Upland Edge Of A Wetland – the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation – all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

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

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

Water Body – any great pond, river or stream.

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

Wetland – a Freshwater Wetland or Coastal Wetland.

Wind Energy System - a system of equipment located on a single lot that has an aggregate rated capacity of not more than 100 kilowatts that converts and then stores or transfers energy from the wind into usable forms of

energy for use on the same lot as the system, or on an adjacent lot in the case of a common system serving more than one residence or structure. This equipment includes the base, blade, foundation, generator, nacelle, rotor, tower, transformer vane, wire, inverter, batteries, or other components used in the system. Small Wind Energy Systems are allowed only as accessory uses or structures, and only one Small Energy Wind System is allowed per lot.

Wind Energy System Height - the height above grade to the top of the turbine blade when it reaches its highest elevation.

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

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

Working Waterfront Activity – an activity that qualifies a parcel of land as working waterfront land. “Working waterfront activity” includes commercial fishing activities; commercial boat building and repair; commercial hauling, launching, storage and berthing of boats; marine construction; marine freight and passenger transportation; and other similar commercial activities that are dependent on the waterfront. As used in this subsection, “commercial fishing activities” has the same meaning as in Title 36, section 1132, subsection 3.

Working Waterfront Land – a parcel of land, or a portion thereof, abutting water to the head of tide, land located in the intertidal zone or submerged land that is used primarily or predominantly to provide access to or support the conduct of a working waterfront activity.

## APPENDIX A

## 38 §437. Significant river segments identified

For purposes of this chapter, significant river segments include the following:

1. **Aroostook River.** The Aroostook River from St. Croix Stream in Masardis to the Masardis and T.10, R.6, W.E.L.S. townline, excluding segments in T.9, R.5, W.E.L.S.; including its tributary the Big Machias River from the Aroostook River in Ashland to the Ashland and Garfield Plantation townlines;
2. **Dennys River.** The Dennys River from the railroad bridge in Dennysville Station to the dam at Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;
3. **East Machias River.** The East Machias River from ¼ of a mile above the Route 1 bridge in East Machias to the East Machias and T.18, E.D., B. P.P. townline, and from the T.19, E.D., B.P.P. and Wesley townline to the outlet of Crawford Lake in Crawford, excluding Hadley Lake;
4. **Fish River.** The Fish River from the bridge in Fort Kent Mills to the outlet of Eagle Lake in Wallagrass, and from the Portage Lake and T.14, R.6, townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;
5. **Machias River.** The Machias River from the Whitneyville and Machias townline to the Northfield T.19, M.D., B.P.P. townline;
6. **Mattawamkeag River.** The Mattawamkeag River from the outlet of Mattakeunk Stream in Winn to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake to the Route 2 bridge; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R.3, W.E.L.S. and Oakfield townline to Red Bridge in Oakfield; the Fish Stream from the Route 95 bridge in Island Falls to the Crystal-Patten townline; and the Baskehegan Stream from its inlet into Crooked Brook Flowage in Danforth to the Danforth and Brookton Township townline
7. **Narraguagus River.** The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township townline, excluding Beddington Lake;
8. **East Branch of Penobscot.** The East Branch of the Penobscot from the Route 157 bridge in Medway to the East Millinocket and Grindstone Township townline;
9. **Pleasant River.** The Pleasant River from the railroad bridge in Columbia Falls to the Columbia and T.18, M.D., B.P.P. townline, and from the T.24, M.D., B.P.P. and Beddington townline to the outlet of Pleasant River Lake;
10. **Rapid River.** The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;

11. **West Branch Pleasant River.** The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township townline; and
12. **West Branch of Union River.** The West Branch of the Union River from the Route 9 bridge to Amherst to the outlet of Great Pond in the Town of Great Pond.

# Site Plan Review Ordinance

## Town of St. George, Maine

<b>Enacted</b>	<b>03/14/89</b>
<b>Amended</b>	<b>11/07/95</b>
<b>Amended</b>	<b>03/11/02</b>
<b>Amended</b>	<b>03/09/09</b>
<b>Amended</b>	<b>03/08/10</b>
<b>Amended</b>	<b>11/5/13</b>
<b>Amended</b>	<b>05/14/18</b>

A true copy

Attest: \_\_\_\_\_

Timothy C. Polky  
Town Clerk



SITE PLAN REVIEW ORDINANCE  
TOWN OF ST. GEORGE, MAINE  
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## SITE PLAN REVIEW ORDINANCE

### I. PURPOSE

The substantial development or major changes in the use of land can cause a profound impact upon the cost and efficiency of municipal services and facilities and upon the environment of the Town. Such impact can affect municipal schools, recreation facilities, public utilities, solid waste programs, police department, fire department, open space, road systems, transportation systems, and the general health, safety and welfare of the municipality. It is the purpose of this ordinance to avoid such impacts when they are unreasonable and are potentially caused by developments including commercial, retail, industrial, institutional and multi-family residential dwelling units consisting of three or more attached dwelling units.

### II. AUTHORITY AND ADMINISTRATION

A. This Ordinance is adopted pursuant to the Home Rule Powers of Article VIII-A of the Maine Constitution and 30A M.R.S.A. 2101.

B. The St. George Planning Board shall administer this ordinance.

C. No building permit or plumbing permit or certificate of occupancy shall be issued by the Code Enforcement Officer for any use or development within the scope of this Ordinance until a Site Plan Review Application has been reviewed and approved by the Planning Board.

### III. APPLICABILITY

This ordinance shall apply to buildings, structures and uses of land for commercial, industrial, municipal, office, institutional or multi-residential purposes. Included in the definition are new and expanded uses of existing buildings and structures, and new and expanded associated facilities of offshore energy projects..

The ordinance does not apply to uses existing at the adoption of the ordinance, alterations, agricultural and forest management practices, subdivisions or home occupations.

### IV. SITE PLAN CONTENT AND APPLICATION PROCEDURE

#### A. Pre-Application Procedure

1. Applicant shows site plan and makes a simple presentation of the proposed project to the Planning Board.
2. The Planning Board may, at that time, accept the site plan as a complete application and approve it or offer suggestions toward the drafting of a formal Site Plan Review Application.

- B. The Formal Site Plan Review Application shall include a site plan and a written statement describing the proposed project in detail.

All applications for site plan review must contain the following information:

- (1) A fully executed and signed copy of the application for site plan review.
  - (2) Evidence of payment of the application fee.
  - (3) Eight (8) copies of written materials plus eight (8) site plans showing the proposed development.
1. A site plan prepared at a scale of not less than one inch to fifty feet and may include one or more of the following at the discretion of the Planning Board.
    - a. name, address, and other contact information of the applicant or his/her authorized agent (including a description of the applicant's legal structure and a corporate organizational chart of the applicant and its affiliates); name of proposed development and any land within 500 feet of which the applicant has title or interest;
    - b. location of development on the site, illustrating existing and proposed improvements, and location of property boundaries and required setbacks.
    - c. location of all water courses, brooks, streams and wetland areas within the site;
    - d. existing soil conditions and/or types;
    - e. municipal tax maps and lot numbers and names of landowners within 300 feet from the property lines;
    - f. graphic scale, true north indicator and total acreage of the development;
    - g. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights of way within the development;
    - h. location of buildings, other structures, wells, sewer and septic systems, water bodies, wetlands and roads within 300 feet of the developed area;
    - i. if the site is not served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site evaluator shall be provided. The report shall contain the types of soil, location of the test pits and proposed locations and design of the best practical subsurface disposal system for the site;
    - j. location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets and curb and sidewalk lines;

- k. landscape plan showing location, type and approximate size of plantings, including areas proposed to be cleared of vegetation and location and dimensions of all existing and proposed fencing and screening;
  - l. topography indicating contours at 10' intervals or as specified by the Planning Board.
  - m. erosion control plan – show what measure will be taken to prevent soil erosion and water siltation off the proposed site;
2. A written statement by the applicant that may consist of one or more of the following at the discretion of the Planning Board.
- a. evidence by the applicant of his/her title and interest in the land for which the application covers, including, for any land not owned by the applicant, a copy of each lease, license easement, and other right to use the land for the purposes relating to the application;
  - b. a description of the proposed uses to be located on the site, including quantity and type of residential unit, and hazardous materials, if any;
  - c. total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;
  - d. summary of existing and proposed easements, restrictions and covenants placed on the property;
  - e. method of solid and sewage waste disposal;
  - f. erosion and sedimentation control plan;
  - g. statement of financial capacity, including audited financial statements of the applicant, as well as for such affiliates of the applicant as the applicant wishes the Planning Board to consider in making its determination of financial capacity under section V(A)(17), in each case for the three most recent fiscal years (or such shorter period as the applicant and the relevant affiliates have been in existence)
  - h. the applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water and streets;
  - i. an estimate of the date when construction will start and when the development will be completed;
  - j. photographs of the existing conditions at the proposed site and a set of the same photographs with the proposed improvements overlaid;

- k. proof of liability insurance, issued by an insurer licensed to do business in the State of Maine and having an A.M. Best financial strength rating of A or better, in an amount that the Planning Board determines to be commercially responsible for projects of similar size and complexity, and otherwise on terms (including an endorsement naming the Town of St. George as additional insured) reasonably satisfactory to the Planning Board; and
  - l. any additional information requested by the Planning Board to determine whether the requirements of this ordinance (including Section V) and, if applicable, the requirements of the Shoreland Zoning Ordinance (including sections 15 and 16 thereof) are satisfied.
3. In addition to the requirements in section IV(B)(1) and (2), an application relating to associated facilities of an offshore energy project shall include the following, unless the Planning Board determines otherwise:
- a. A reasonably detailed plan and time line for construction of the associated facilities.
  - b. (i) A listing of all licenses, permits, and other approvals required for the development from any agency of the United States, or and subdivision thereof; (ii) at the time the site plan application is filed, a copy of each such license, permit, and approval that has been obtained at that time; and (iii) during the pendency of the site plan application, a copy of each such license, permit, approval and application therefor, promptly after it is obtained or filed.
  - c. A plan for the removal of the associated facilities in accordance with section V(B)(6) and an estimate of the cost thereof, all in reasonable detail.
  - d. Such other relevant professional studies, reports, certifications and approvals as the Planning Board reasonably requests to establish compliance with this ordinance and and the Shoreland Zoning Ordinance, if applicable.

### C. Application Submission and Review Procedures

1. The application shall be filed with the Code Enforcement Officer for review by the Planning Board and accompanied by a fee to be set by the Select Board for processing the application. Upon receiving the application, the Planning Board shall notify the applicant either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application.

After the Planning Board has determined that a complete application has been filed, it shall notify the applicant and begin its review of the proposed development.

2. The Planning Board may hold a public hearing within 30 days (or 90 days in the case of an application for associated facilities of an offshore energy project) of the filing of the completed application at which time public comments will be heard. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first

publication to be at least seven days prior to the hearing in a newspaper of area wide circulation and will be posted on the Town website. The abutting landowners within 300 feet from the property lines shall be notified of the hearing by first class mail.

Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30A M.R.S.A. Section 291.

3. The Planning Board may hold an on-site inspection of the site to review the existing conditions, verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in (7) may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection.
4. Within 30 days (or 90 days in the case of an application for associated facilities of an offshore energy project) of the public hearing or 60 days (or 180 days in the case of an application for associated facilities of an offshore energy project) of receiving the application the Planning Board shall either approve or approve with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
5. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action and the reason for taking such action.

All time limits provided for in this Section may be extended by mutual agreement of the applicant and Planning Board.

All notices provided for by this Section shall be mailed to the address of Town record and posted on the Town's website.

6. The Planning Board may obtain professional services from such service providers as it may select, to advise it in connection with its review of any application, including but not limited to legal, financial, engineering, scientific, and land-use services. Such services may address the same subjects covered in connection with the application by the applicant or its advisors including the requirements of section V and the Shoreland Zoning Ordinance, if applicable. The applicant shall pay or reimburse the Town of St. George for the cost obtaining such services, and, if required by the Planning Board, shall deposit with the Town of St. George from time to time funds in an amount determined by the Planning Board to be necessary to cover the likely cost thereof.
7. If any of the time periods specified in this section IV(C) are inconsistent with applicable state law (such as, for example, section 480-HH(14) of title 38 of the Maine Revised Statutes, relating to offshore wind energy demonstration projects), the time periods provided by state law shall govern.

## V. PERFORMANCE STANDARDS

- A. The following standards are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet any of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary for the Planning Board to review the application.
1. **Preserve and Enhance the Landscape:**  
The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring land-use.
  2. **Relationship of the Proposed Buildings to the Environment:**  
The proposed development shall reflect the natural capabilities of the site to support development. Proposed structure shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of the building(s) and such natural features as slope, soil type and drainage ways. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitats for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers along with areas identified or listed in the Town of St. George Comprehensive Plan must be maintained and preserved to the maximum extent.
  3. **Vehicular Access:**  
The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and controls of access points including site distances (Maine Department of Transportation standards), turning lanes, traffic signalization, when required by existing and projected traffic flow on the municipal road system. Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development.
  4. **Parking and Pedestrian Circulation:**  
The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.

(1) Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" two way
60°	8'-6"	10'-6"	18'-0"	16'-0" one way only
45°	8'-6"	12'-9"	17'-6"	12'-0" one way only
30°	8'-6"	17'-0"	17'-0"	12'-0" one way only

(2) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(3) Parking areas for non-residential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.

(4) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on accent walkways, or damage landscape materials.

5. Surface Water Drainage:

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream properties, soil erosion and public or private streets and existing storm drainage system. On-site absorption and detention and/or retention of run-off waters shall be utilized to minimize discharges from the site.

All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

The design of the storm water drainage system must provide for the disposal of storm water without damage to adjacent properties, downstream, soils, and vegetation.

The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.



6. Existing Utilities:  
The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, Tenants Harbor Standard Water and Port Clyde Water Districts' facilities and other infrastructures.
7. Advertising Features:  
The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.
  - Site shall not have more than 2 signs.
  - Signs cannot exceed 20 square feet per sign.
8. Special Features and Operations of the Development:  
Exposed storage areas, exposed machinery installation, service areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties. The Planning Board shall also consider the hours of operation.
9. Exterior Lighting:  
All exterior lighting shall be designed to be down shielded to minimize adverse impact on neighboring properties.
10. Emergency Vehicle Access:  
Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
11. Municipal Services:  
The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, public safety functions, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.
12. Water/Air Protection:  
Will not result in undue water or air pollution. In making this determination the Planning Board shall at least consider:
  - the elevation of land above sea level and its relation to the flood plain;
  - the nature of the soils and subsoils and their ability to adequately support water disposal;
  - the slope of the land and its effect on effluents; and
  - the proximity of abutting land owners and existing land uses.
13. Water Supply:  
Has sufficient water available for the reasonable foreseeable needs of the development, and will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

14. Soil Erosion:  
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. Soil erosion and sedimentation of watercourses and water bodies, wetlands and other environmentally sensitive areas shall be minimized by an active erosion control plan meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.
15. Sewage Waste Disposal:  
Will provide for adequate sewage waste disposal according to the Maine subsurface wastewater disposal rules.
16. Hazardous, Special and Radioactive Materials  
The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous or special waste must be done in accordance with the standards of these agencies. List all materials that will be stored on site.  
  
No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.
17. Financial/Technical Capacity:  
The applicant may be required to demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.
18. Shoreland Zone:  
Whenever situated in whole or in part within the Shoreland, the applicant must demonstrate that the project will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
19. Flood Plain:  
Whenever situated in whole or in part within the Town of St. George Flood hazard areas the applicant shall meet the standards as required by the Flood Plain Ordinance.
20. Lot Standards:
  - a. Lot configuration and area should be designed to provide for adequate off-road parking service facilities.
  - b. The maximum lot coverage for structures is 20 percent.
  - c. The maximum height of buildings is 35 feet.
  - d. The minimum building setbacks are:
    - 1) Front yard: 25 feet from edge of right-of-way.
    - 2) Side yard: 20 feet from property line.
    - 3) Rear yard: 20 feet from property line.
    - 4) Shoreland: As per Shoreland Zoning Ordinance.

## B. ASSOCIATED FACILITIES OF OFFSHORE ENERGY PROJECTS

In addition to the standards stated in Section V(A), the following standards are to be used by the Planning Board in judging applications for associated facilities of offshore energy projects and shall serve as minimum requirements for approval of the application. The application shall be approved, unless in the judgement of the Planning Board the applicant is not able to meet any of these standards. In all instances the burden of proof shall include the production of evidence necessary for the Planning Board to review the application.

1. Town's Electrical Needs: The applicant shall use reasonable efforts so the design, construction, and location of the associated facilities (including the location of the point of landing and of related equipment) do not preclude the Town's residents, businesses, and municipal facilities from the ability to satisfy anticipated electrical capacity requirements over the life of the offshore energy project.
2. Cable to be buried: Electrical cable that is part of associated facilities of an offshore energy project shall be buried to a depth of 18 inches from the point where it meets the land to the point where it connects to a utility pole, vault, or other structure, or to a transformer or other item of electrical equipment, except that (a) in places where ground conditions do not make it reasonably practical for it to be buried to that depth without resorting to blasting such cable may be buried to a depth sufficient for vegetation to take root, and (b) where that is not possible such cable shall be permanently encased in concrete or the like, which shall be covered by sufficient soil to allow vegetation to take root. Land disturbed to bury such cable and the surface covering such cable shall be regraded to return the land to its original contour to the extent reasonably practicable. If any vegetation in the shoreland zone is removed or disturbed by such burial and covering, the land shall be revegetated in accordance with the section 15(S) of the Shoreland Zoning ordinance. The Planning Board may require the installation of signage identifying the location of buried cable if it considers it advisable on the basis of public safety.
3. Setback requirements: Electrical cable that is part of associated facilities of an offshore energy project shall not be subject to the setback requirements of section V(A)(20)(d)(1) (2), or (3). Other associated facilities that are part of an offshore energy project shall be subject to the applicable setback requirements of this ordinance.
4. Decommissioning: If the authority from the State of Maine to operate an offshore energy project expires or is terminated, or if the associated facilities of an offshore energy project are not used for 12 consecutive months to transmit or distribute electricity, the Town of St. George may give written notice to the owner of the associated facilities requiring removal of specified portions of the associated facilities. The specified portions shall be dismantled and removed, in accordance with the decommissioning plan included in the application, at the expense of the owner of the associated facilities within twelve months after receipt of such notice, unless state law imposes a different schedule. The following requirements shall apply to the dismantlement and removal of the associated facilities:

- (a) Unless state law provides otherwise, in determining which portions of the associated facilities shall be required to be removed, the Town shall consider the extent to which the individual components of the associated facilities will continue to serve a useful purpose or are capable of being usefully repurposed. In determining whether to require the removal of buried cable, the Town shall balance the cost of its removal against the consequences to the Town and its residents of leaving it in place (in terms of both safety and appearance), whether or not the cable is proposed to be or capable of being repurposed.
- (b) Unless state law provides otherwise, land disturbed in effecting such removal shall be regraded to return the land to its original contour to the extent reasonably practicable. If any vegetation in the shoreland zone is removed or disturbed by such removal, the land shall be revegetated in accordance with section 15(S) of the Shoreland Zoning Ordinance.
- (c) The provisions of this section V(B)(4) shall be binding on and enforceable against the applicant and each subsequent owner of the associated facilities of an offshore energy project. The applicant and each such subsequent owner shall require any transferee of such associated facilities to expressly assume those obligations in a writing reasonably satisfactory to the Town of St. George, but no failure to do so shall affect the transferee's obligations.
- (d) If the owner fails to comply with its obligations under this section V(B)(4), the Town, in addition to its other remedies, may itself carry out or contract for the performance of those obligations at the expense of the owner, and the owner's obligation to pay to pay the cost thereof will be secured as provided in section V(B)(5). The owner will also pay the Town's reasonable attorneys' fees and costs in enforcing the obligations under section V(B)(4), and the owner's obligation to do so will also be secured as provided in section V(B)(5).

5. Security for Decommissioning Obligations:

- (a) If the applicant provides funds (in escrow or otherwise), a bond, or other security for its obligation to the State of Maine, the United States, any other government, or any agency of them, to secure the applicant's obligation with respect to the decommissioning of an offshore energy project, the applicant (if the government or agency so agrees) will include provisions in the security arrangement, reasonably satisfactory to the Planning Board, to the effect that (i) the arrangement secures the obligations under section V(B)(4) with respect to the removal of the associated facilities, and (ii) the Town of St. George may directly enforce the security arrangement against the escrow holder, bonding company, or other person obligated under the arrangement as it relates to the obligations under section V(B)(4).
- (b) If section V(B)(5)(a), does not apply, the applicant shall provide a performance bond or other form of security specified by the Planning Board to secure performance of the obligations under section V(B)(4). The amount of the security shall be 150 percent of the estimated decommissioning costs, or such lesser amount as the

Planning Board shall approve, and the terms of the security instrument shall be reasonably satisfactory to the Planning Board. The issuer of the security instrument shall be an insurance company licensed to do business in the State of Maine and having an A.M. Best financial strength rating of A or better, or a bank or other financial institution with a long-term credit rating of A or better from a nationally recognized rating service.

#### VI. CERTIFICATE OF COMPLIANCE

No lot, building or structure requiring approval under this Ordinance shall be conveyed, leased, or occupied or offered for sale, conveyance, lease or occupancy without a certificate of occupancy issued by the Code Enforcement Officer indicating that all of the terms of approval have been complied with.

#### VII. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

A. Validity and Separability: Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

B. Conflict with Other Ordinances: Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

#### VIII. AMENDMENTS

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

#### IX. PERFORMANCE GUARANTEES

##### A. Guarantee Required

The final plan shall be accompanied by a performance guarantee or, at the discretion of the Planning Board, a conditional agreement. The performance guarantee shall be for an amount adequate to cover the total construction costs of all required improvements for roads, utilities, sewerage collection and other improvements for the public benefit.

##### B. Types of Guarantees

The following types of guarantees are acceptable.

1. Certified check paid to the town or a savings account or certificate of deposit naming the town as owner.
2. A performance bond payable to the town issued by a surety company.
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the project.
4. A conditional agreement, if acceptable in lieu of a performance guarantee, shall

be endorsed by the Planning Board. It shall provide that no occupancy of the property may take place until the completion of all street grading, paving, utilities and other improvements for the public benefit.

C. Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each phase of construction, provisions for inspection of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the town shall have access to the funds to finish construction.

D. Completion of Required Improvements

The completion of improvements shall be determined by the Code Enforcement Officer. The Planning Board shall receive signed certification from the Code Enforcement Officer that all improvements assured by the performance guarantee have been met. In addition, the Planning Board may require a professional engineer inspect that project and certify that all required improvements have been completed. The costs of the inspection shall be incurred by the applicant.

E. Release of Performance Guarantee

The performance guarantee shall be released to the applicant by the Planning Board only after:

1. The Board receives the above certification of completion;
2. The applicant has furnished the Town with an accurate record plan and profile (original drawn on durable, permanent transparency material) of all streets including drainage lines, sanitary sewage lines, water mains and all other utilities as actually installed.

F. Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within twenty-four (24) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2) six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

G. Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer.

H. Amendments to Approved Plans

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, constitutes an amendment to the plan and is subject to review and approval by the Planning Board.

## X. WAIVERS

### A. Submission Requirements

Where the Planning Board makes written findings of fact that there are special circumstances of a particular site proposed to be developed, it may waive portions of the submission requirements, provided the public health, safety and welfare are protected.

### B. Waiver of Performance Standards

Where the Planning Board makes written findings of fact that there are special circumstances of a particular site proposed to be developed, it may waive portions of the performance standards to permit a more practical and economical development, provided the public health, safety and welfare are protected.

### C. Waivers Conditionally Granted

In granting waivers to any of the provisions of this Ordinance in accordance with Subsection A and B above, the Board shall require such conditions as will assure the purpose and objectives of this Ordinance are met.

## XI. APPEALS

An appeal from any decision of the Planning Board under this Ordinance shall be taken to the St. George Board of Appeals within thirty (30) days of the Planning Board decision. An appeal from any decision of the Board of Appeals may be taken to the Superior Court within thirty (30) days of the Board of Appeals' decision, in accordance with the Maine Rules of Procedure, Rule 80-B.

### A. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers as they relate to this ordinance:

Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made in writing by the Planning Board in the administration or enforcement of this Ordinance.

### B. Procedures.

#### 1. Application and Hearing

- a. An administrative appeal shall be taken within thirty (30) days of the date of the order, requirement, decision or determination appealed from, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.

- b. An appeal shall be made by filing a written application to the Board of Appeals.
- c. Upon receiving an application for an administrative appeal from a decision of the Planning Board, the Code Enforcement Officer shall cause all of the papers constituting the record of the Planning Board proceeding to be transmitted to the Board of Appeals.
- d. The Board of Appeals shall hold a public hearing on an administrative appeal within thirty-five (35) days of the Town's receipt of the written application.

2. Decision by Board of Appeals

- a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an application. A member who abstains shall not be counted in determining whether a quorum exists.
- b. 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 Planning Board, to grant a variance, or to decide in favor of the applicant on any matter which the Board of Appeals is required to decide under this Ordinance. The applicant shall have the burden of proof. The Board of Appeals may reverse or modify a decision of the Planning Board only if it finds an error of law, misinterpretation of this Ordinance or misapplication of the law to the facts. If the Board of Appeals reverses or modifies a decision of the Planning Board, the Board of Appeals shall remand with instructions for such further action as may be necessary to effect a final disposition of the matter.
- c. When the Board of Appeals reviews a decision of the Planning Board, such review is limited to the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider oral or written argument. If the Board of Appeals determines that the record of the Planning Board proceedings is not adequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.
- d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board, and shall cause such statement to be included in the written record of the Board's proceedings. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision.

- 3. 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 forty-five (45) days from the date of the decision of the Board of Appeals.

XII. VIOLATIONS, ENFORCEMENT AND FINES



A. Violations and Enforcement

The Code Enforcement Officer shall be responsible for the enforcement of this Ordinance, and upon finding a violation of the Ordinance, shall notify in writing the person or persons responsible for the violation. The notice shall include the nature of the violation and the action necessary to correct the situation. A copy of this notice shall be provided to the Planning Board.

B. Legal Action

When a person does not correct a violation after receiving notice to do so, the Selectmen, after notice from the Code Enforcement Officer, may institute all legal and equitable actions to correct the violation.

C. Fines

Any person who continues to violate a provision of this Ordinance after receiving written notice to correct the situation shall be subject to penalties as outlined at 30-A M.R.S.A. Section 4452.

XIII. DEFINITIONS

**ABUTTING PROPERTY:** Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

**ACCESSORY BUILDING:** A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land and which is located on the same lot as that of the principal building or use.

**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.

**AGGRIEVED PARTY:** An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval 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 approval.

**AGRICULTURAL LAND MANAGEMENT PRACTICES:** Those devices and procedures utilized in the cultivation of land to further crop and livestock production.

**ALTERATION:** Structural changes, rearrangement, repairs and modification in building equipment not involving any increase in overall floor area of the structure or building.

**ARTERIAL:** A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

**ASSOCIATED FACILITIES:** Elements of an offshore energy project, other than its generating facilities, that are necessary to the proper operation and maintenance of the project, including but not limited to cables, poles, transformers and other electrical equipment, connection vaults, buildings and other structures, and access roads. The term does not include (1) equipment that is part of the electrical grid of a transmission and distribution utility licensed by the Maine Public Utilities Commission or (2) anything located in submerged lands.

**BED AND BREAKFAST:** Private residences that rent up to five (5) rooms that contain no kitchen facilities and rent nightly or weekly.

**BUILDING:** Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

**BUILDING FOOTPRINT:** The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

**CAMPGROUND:** An area devoted to overnight recreational or educational use, where the land area is divided into sites or lots for which a charge is made; either on a short or a long-term basis by sale, rent or lease or condominium type of financing.

**CHANGE FROM ONE CATEGORY OF NON-RESIDENTIAL USE TO ANOTHER CATEGORY OF NON-RESIDENTIAL USE:** A change in the type of occupancy of a non-residential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**COLLECTOR STREET:** A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

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

**COMPREHENSIVE PLAN:** Any part or element of the overall plan or policy for development of the Town as defined in 30, M.R.S.A. 4961.

**CONTIGUOUS LOTS:** Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

**CURB CUT:** The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

**DEVELOPED AREA:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, roads and other areas not re-vegetated.

**DRIVEWAY:** A private vehicular entrance from a road or right-of-way.

**ELECTRICAL GRID:** Cables, poles, transformers and other electrical equipment, connection vaults, structures, and access roads, that collectively constitute an electrical transmission or distribution system that carries electricity other than, or in addition to, electricity generated by an offshore energy project.

**ENLARGEMENT OR EXPANSION OF A STRUCTURE:** An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

**ENLARGEMENT OR EXPANSION OF USE:** Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

**FISHERIES, SIGNIFICANT FISHERIES:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the Town's Comprehensive Plan.

**FLOOR AREA:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

**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.

**GROUNDWATER:** All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

**HEIGHT OF 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.

**HISTORIC OR ARCHAEOLOGICAL RESOURCES:** Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the Town's Comprehensive Plan.

**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.

**IMPERVIOUS SURFACE:** The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

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

**INSTITUTIONAL:** A building devoted to some public educational, charitable, medical or similar purpose.

**LOCAL STREET:** A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

**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.

**MULTI-FAMILY RESIDENTIAL:** A residential structure containing three or more residential dwelling units.

**NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES:** Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the Town's Comprehensive Plan.

**OFFSHORE ENERGY PROJECT:** A project for the generation or transmission of electrical energy from generating facilities in, over, or on the coastal waters of the State of Maine (including islands located in those waters), whether from conventional, nuclear, or renewable sources.

**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.

**PRINCIPAL STRUCTURE:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**PRINCIPAL USE:** A use other than one which is wholly incidental or accessory to another use on the same premises.

**RECHARGE AREA:** Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

**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.

**RETAIL:** Connected with the sale of goods to the ultimate consumer for direct consumption and not for trade.

**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.

**SETBACK, FRONT:** An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SETBACK, REAR:** An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SETBACK, SIDE:** An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SITE PLAN:** A plan showing the proposed layout of buildings, structures, roads, parking, landscaping and other site improvements.

**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. It does not include driveways, but does include paved parking area.

**SUBMERGED LANDS:** The meaning given to that term in section 1801(9) of title 12 of the Maine Revised Statutes (as it may be amended from time to time, and any replacement of that provision).

**SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED:** Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than seventy (70) percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or revegetation of areas of the site that were disturbed during construction.

**TRANSMISSION AND DISTRIBUTION UTILITY:** The meaning given to that term in section 102(20-B) of title 35A of the Maine Revised Statutes (as it may be amended from time to time, and any replacement of that provision).

**USE:** The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

**VARIANCE:** A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

**VEGETATION:** All live trees, shrubs, ground cover, and other plants.

**WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the Town's Comprehensive Plan.

# **SOLID WASTE ORDINANCE**

**\* \* \***

## **ST. GEORGE, MAINE**

### **SECTION I. - TITLE**

This ordinance shall be known and may be cited as the "SOLID WASTE AND RECYCLING ORDINANCE OF THE TOWN OF ST. GEORGE, MAINE".

### **SECTION II. - STATEMENT OF PURPOSE AND AUTHORITY**

#### **A. PURPOSE**

The purpose of this ordinance is to protect the health, safety and general well being of the citizens of St. George; enhance and maintain the quality of the environment; conserve natural resources and prevent water and air pollution.

#### **B. AUTHORITY**

Authority for this ordinance is the Charter of the Town of St. George, Maine.

### **SECTION III. - DEFINITIONS**

As used in the following sections, these words have the following meanings:

**COMMERCIAL HAULER** - means any business that is compensated for hauling solid waste or that hauls commercially generated solid waste, including demolition and construction debris and restaurant waste. Persons hauling solid waste for apartment buildings, motels, hotels and inns shall be considered commercial haulers.

**CONTRACTOR** - means any person who agrees with another to undertake special work according to price, specifications and terms agreed on, and any person engaged in the construction, alteration or repair of buildings or other structures, sidewalks or driveway pavements, or engaged in lawn maintenance and landscaping.

**DEMOLITION AND CONSTRUCTION DEBRIS** - means lumber, asphalt, shingles, insulation and other similar materials. It does not include asbestos.

**HOUSEHOLD REFUSE** - means refuse commonly generated by usual domestic activities. It does not include material defined as demolition and construction debris and furniture, white goods, tires, abandoned automobiles and any item that exceeds sixty (60) pounds in weight or four (4) feet in any dimension.

**INERT MATERIAL** - means bricks, masonry, etc.

**METAL GOODS** – shall include such material as steel, aluminum, tin, etc.

**PERSON** - means any individual, association, partnership, firm, corporation or other entity or their agents.

RESIDENT - means any person who resides or owns property within the Town of St. George or within any town which may be a party to a solid waste agreement with the Town of St. George.

SOLID WASTE - means unwanted or discarded solid material with insufficient liquid content to be free flowing, including, but not limited to, rubbish, garbage, scrap materials, junk, refuse and construction and demolition debris. It does not include septage or agricultural waste.

RESTAURANT WASTE - means solid waste generated by restaurants, commercial dining facilities, and ready-to-eat food vending establishments.

WHITE GOODS - mean refrigerators, stoves, freezers, washing machines, clothes dryers, air conditioners and other large, predominantly metal household appliances.

UNIVERSAL WASTE- means televisions, computers and monitors, fluorescent light bulbs, mercury devices and thermometers and batteries.

BROWN GOODS - mean radios, and other household electronics.

#### **SECTION IV. - ADMINISTRATION**

The Select Board shall establish the fees, rules and regulations required for the municipality to conform to the standards and requirements set forth in this ordinance, subject to any requirements for public hearings. Rules and regulations shall also conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

There shall be a Recycling and Solid Waste Committee consisting of five (5) voting members with staggered three year terms. Two (2) alternate members shall be appointed for a one year term. Voting members shall elect their chairman and the secretary annually by secret ballot at the first regular meeting of the Recycling and Solid Waste Committee after the Select Board complete the annual appointments. An alternate may only vote in the absence of a regular member. The Chairman shall delegate which alternate votes. The Solid Waste Department Head shall attend Recycling and Solid Waste Committee meetings as a member ex officio. The Recycling and Solid Waste Committee shall make recommendations for an effective recycling program and advise on all phases of the municipal solid waste operation. The Chairman shall submit to the Municipal Officers by January 15th of each year a written report of the previous year's activities, the same report to be included in the annual town report.

#### **SECTION V. - PERMIT REQUIREMENT AND FEES**

##### **A. Permit Required**

A permit from the Town Office shall be required to dispose of solid waste at the facility. Proof of residency may be required as proof of residency in order to obtain a permit.

##### **B. Commercial Permits**

All commercial haulers disposing of solid waste at the facility shall be required to obtain a permit from the Town Office.



### C. Permit Displayed

The permit sticker must be displayed in a conspicuous place in order to gain access to the facility.

### D. Permit Fees

The Select Board may set fees for permits for Commercial Haulers, Contractors, and businesses not serviced by commercial haulers.

The Select Board may set load fees for the following:

- 1) Brush and construction and demolition debris. Fees may vary according to the size of the load.
- 2) Waste Oil [per gallon]
- 3) Tires
- 4) White Goods
- 5) Storage Batteries
- 6) Brown Goods
- 7) Propane Tanks
- 8) Universal Waste
- 9) Other Items as necessary

## **SECTION VI. - DISPOSAL REQUIREMENTS**

### A. Responsibility

It is the responsibility of each resident to provide proper disposal of all solid waste generated on his premises in accordance with the requirements of this ordinance. This responsibility includes the voluntary separation of solid waste, delivery of solid waste to the facility, proper home storage of solid waste and proper methods of home disposal. All residents must ensure that solid waste stored on their premises does not create a nuisance. While refuse generated in households and commercial establishments should be taken to the facility for recycling and ultimate disposal, home composting of kitchen wastes, yard and garden wastes and other organic materials is encouraged.

### B. Separation of solid waste

The Town of St. George requires separation of solid waste delivered to the facility. Any solid waste that is not separated according to the requirement of this section shall be subject to the penalties for unseparated trash set forth in Section IX.

1) Compactor - All household refuse generated in households and commercial establishments shall be placed in the compactor. Large items shall be broken down into pieces not exceeding four feet (4') in any dimension. Hard to burn material, such as seafood processing wastes, must be delivered in manageable quantities. No fluids shall be delivered to the compactor. While the separation of recyclable materials is not mandatory at this time, the Town of St. George does encourage the separation of recyclable materials, such as newspapers, glass, plastics, etc., to reduce the costs involved with handling solid waste.

2) Storage Areas - The following materials (which may include but not limited to the following list) shall be separated from the solid waste stream and deposited in specifically designated areas, which may include:

- a) Scrap Metal - All metal items such as white goods, sinks, as well as all pieces of iron, steel and copper.
- b) Wood Demolition Debris and Wood Waste - Wood waste may include uncontaminated brush, lumber, bark, wood chips, shavings, edgings, slash and sawdust.
- c) Demolition Debris - all construction and demolition debris other than wood waste and scrap metal deposited according to sections a) and b) above.
- d) Tires - all vehicle tires.
- e) Compost - compost material will be accepted when an area is available.
- f) Waste oils separated by type and contamination.

#### C. Delivery of Wastes

- 1) All wastes delivered to the facility must be transported in a manner to prevent littering. Acceptable methods include:
  - a) In covered containers or bags,
  - b) Enclosed vehicles such as compactors or containers, and
  - c) Open body vehicles with the load secured.
- 2) Solid waste that has been sorted for delivery to a designated area by a client of a commercial hauler, and has been received by the commercial hauler in that manner, shall be delivered to the transfer station properly separated for processing and placed in the designated areas.

## SECTION VII. - UNACCEPTABLE WASTES

#### A. Waste originating out of town

Only wastes generated within the boundaries of the Town of St. George or contracted municipalities and properly sorted will be accepted at the facility. It is illegal to dispose of wastes originating from other municipalities at the facility.

#### B. Unacceptable categories

The following categories of wastes will not be accepted by the facility:

- 1) Liquid Wastes (except waste oil and antifreeze);
- 2) Empty containers that contained regulated pesticides or herbicides;
- 3) Containers that have chemical residue inside;
- 4) Special wastes, defined by the DEP as any non-hazardous waste generated by sources, other than domestic and typical commercial establishments, that exist in such an unusual quantity or in such a chemical or physical state, or any combination thereof, which may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal

procedures. Special waste includes, but is not limited to:

- a) Coal, wood and multi-fuel boiler and incinerator ash;
- b) Industrial and industrial process waste;
- c) Wastewater treatment plant sludge, paper mill sludge and other sludge;
- d) Debris and residuals from non-hazardous chemical spills and cleanup of those spills;
- e) Contaminated soils and dredge spoils;
- f) Asbestos and asbestos-containing waste;
- g) Sandblast grit and non-liquid paint waste (paint chips or scrapings);
- h) Medical and other potentially infectious or pathogenic waste;
- i) High and low pH waste;
- j) Spent filter media and residue;
- k) Animal carcasses; and,
- l) Tree stumps

## **SECTION VIII. - FACILITY OPERATION**

### **A. Hours**

The hours of operation for the facility shall be set by the Select Board .

### **B. Access**

Access to the facility shall be only during the hours of operation unless upon express permission from the Solid Waste Department Head.

### **C. Disposal**

Wastes shall be disposed in separate designated areas.

### **D. Scavenging**

No person may remove any article or object which has been disposed of at the facility without permission of the site operator.

## **SECTION IX. - PENALTIES AND ENFORCEMENT**

### **A. Violations**

The Select Board shall review any alleged violation of this ordinance and take appropriate action as required. The Select Board shall institute any necessary proceedings to enforce this ordinance.

### **B. Enforcement**

Enforcement of this ordinance is the responsibility of the law enforcement officers and the Select Board of the Town of St. George.

C. Penalties

Any person found in violation of any of the provisions of this ordinance may lose privileges and shall be subject to a civil penalty in an amount not less than \$50 nor more than \$500 for each offense, except the minimum penalty for a second offense within a twelve month period shall not be less than \$250. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. All civil penalties shall accrue to the Town of St. George.

**SECTION X. - VALIDITY AND CONFLICT OF ORDINANCES**

The invalidity of any section, subsection, paragraph, sentence, clause, phrase or word of this ordinance shall not be held to invalidate any other section, subsection, paragraph, sentence, clause, phrase or word of this ordinance; and to this end, the provisions of this ordinance are hereby declared to be severable.

In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of the Town of St. George existing on the effective date of this ordinance, the condition which establishes the higher standard for the promotion and protection of health and welfare for the community shall prevail.

**SECTION XI. - EFFECTIVE DATE**

This ordinance takes effect immediately upon adoption by the Town of St. George at its Town Meeting.

ADOPTED -

AMENDED - March 12, 2007; March 8, 2010; May 14, 2012

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Chairman, Select Board

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John M. Falla, Town Clerk

**TOWN OF ST. GEORGE**

**SUBDIVISION ORDINANCE**

Adopted	3/10/03
Amended	5/17/05
Amended	11/06/07

A true copy.

Attest: \_\_\_\_\_  
John M. Falla  
Town Clerk

**TOWN OF ST. GEORGE  
SUBDIVISION ORDINANCE**

**Section I: Purposes**

The purpose of this Ordinance is to ensure the comfort, convenience, safety, health and welfare of the people of the Town of St. George, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of St. George, Maine, the Planning Board shall before granting approval, make written findings of fact that the provisions of this Ordinance have been met, and that the proposed subdivision will meet the following criteria from Title 30-A, M.R.S.A. 4404:

A. Pollution:

The proposed subdivision will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents; and
5. The applicable state and local health and water resource rules and regulations.

B. Sufficient Water:

The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

C. Municipal Water Supply:

The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

D. Erosion:

The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

E. Traffic:

The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section.

F. Sewage Disposal:

The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

G. Municipal Solid Waste Disposal:

The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

H. Aesthetic, Cultural and Natural Values:

The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

I. Conformity with Local Ordinances and Plans:

The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, and all applicable ordinances. In making this determination, the Planning Board may interpret these ordinances and plans.

J. Financial and Technical Capacity:

The subdivider has adequate financial and technical capacity to meet the standards of this section.

K. Surface Waters; Outstanding River Segments:

Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

1. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

a) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

b) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983.

L. Ground Water:

The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

M. Flood Areas:

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

N. Freshwater Wetlands:

All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

O. River, Stream or Brook:

Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

P. Storm Water:

The proposed subdivision will provide for adequate storm water management.



Q. Spaghetti-lots Prohibited:

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

R. Lake Phosphorus Concentration:

The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

S. Impact on Adjoining Municipality:

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

T. Lands Subject to Liquidation Harvesting:

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of the subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14. (30-A MRSA 4404, sub-20)

In order to determine if these criteria will be met, the Planning Board may hire a qualified professional, the services of whom shall be paid by the applicant, to provide the necessary information and an expert opinion. The selection and fee for the services of the consultant should be mutually acceptable to the Planning Board and the applicant. If the applicant is not satisfied with the findings of the consultant, the applicant may appeal to the Board of Appeals.

## **Section II: Authority**

A. This Ordinance is enacted under the authority granted to the Town of St. George by the statutes of the State of Maine 30-A, M.R.S.A. 4403, and in accordance with the provisions of Title 30-A of Maine Revised Statutes Annotated, Sections 4401-4407.

B. This Ordinance shall be in effect the day after approval by the Town's legislative body.

## **Section III: Administration**

A. The provisions of this Ordinance shall apply to all proposed subdivisions within the boundaries of the Town of St. George and shall be administered by the Town of St. George Planning Board.

B. The fee schedule for this Ordinance shall be set by the St. George Board of Selectmen and amended as needed by the St. George Board of Selectmen. (See attached fee schedule, as amended from time to time.)

## **Section IV: General Performance Standards**

In reviewing applications for subdivision, the Planning Board shall consider the following general performance standards. In all instances the burden of proof shall be the responsibility of the applicants proposing the subdivision.

### **A. Conformance with Comprehensive Plan:**

Any proposed subdivision shall be in conformity with the Comprehensive Plan of St. George and with the provisions of all pertinent State laws and local ordinances and regulations.

### **B. Preservation of Natural and Historic Features:**

The Planning Board may require that the proposed subdivision include a landscape plan that will show the preservation of scenic, historic or environmentally desirable areas. The road and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as much as possible. Except for surplus topsoil from roads, parking areas, and building excavations, topsoil shall not be removed from the site. Land in the subdivision to be reserved as open space or natural area shall be so labeled, with the notation, "Open space not to be developed", on the Final Plan. The open space so designated shall also be marked by metes and bounds. The Planning Board may require "Buffer Areas" if deemed necessary.

C. Land Not Suitable for Development:

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the St. George Minimum Lot Size Law.

1. Land which is situated below the normal high water mark of any water body.
2. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least one foot above the 100-year flood level. The elevation of filled or made land shall not be considered.
3. Land which is part of a right-of-way, or easement, including right of ways for roads and utilities.
4. Land that has been created by filling or draining a pond or wetland.
5. Land delineated on plans as wetlands or slopes of 20% or more and identified on the Town of St. George Official Shoreland Zoning Map.
6. Resource Protected Land
7. Areas identified as “highly unstable” or “unstable” Coastal Bluffs.

D. Lots:

1. All lots shall meet the minimum requirements of the zoning district in which they are located. These lot standards are outlined in, but not limited to, the St. George Shoreland Zoning Ordinance and any other applicable zoning ordinances.
2. The lot configuration should be designated to maximize access to solar energy on building sites with suitable orientation, whenever practical.
3. Where a tract is subdivided into lots substantially larger than the minimum size required by the Land Use Ordinance, the Planning Board in its review may consider the potential effect of future subdivision.
4. If a lot on one side of a stream, road, or other similar barrier fails to meet the minimum lot size required, it may not be combined with a lot on the other side of the barrier to meet the minimum lot size or for the purpose of on-site waste disposal.

5. Odd-shaped lots in which narrow strips are joined to other parcels to meet minimum lot size requirements are prohibited. Lots of ten acres or more must have a lot length to lot width ratio of no more than 5:1.
6. Any proposed subdivision shall be so designed that every lot has frontage upon a roadway, granting legal access, and so that no part of the tract is landlocked. Such roadway shall be part of the construction plan of the subdivider. Minimum road frontage for each lot is 100 feet.

E. Preservation of Natural Drainage Ways:

1. General Provisions:

- a. The storm drainage system should not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of run-off water shall be utilized to minimize discharges from the site.
- b. Surface water run-off shall be minimized and detained on-site if possible. If it is not possible to detain water on-site, downstream improvements to the channel may be required by the applicant to prevent flooding caused by the project. The natural state of water courses, swales, floodways, or rights-of-way shall be maintained.
- c. The subdivider shall provide for proper drainage systems to be installed by subsequent lot owner and contractors. This provision shall be by covenant or other appropriate written contract.

2. Storm Water Management Design Standards:

- a. Adequate provision shall be made for disposal of all storm water generated within the development, and any drained ground water through a management system to swales, culverts, underdrain, and water courses. The storm water management system shall be designed to conduct storm water flows to existing water courses.
- b. The minimum pipe size for any storm drainage pipe shall be fifteen inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe, and covered with a minimum of an additional twelve inches of fine gravel.
- c. Catch basins shall be installed where necessary and located at the curb line.
- d. Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way or common area, perpetual easements shall be

provided to the subdivider or landowners' association allowing maintenance and improvement of the system.

- e. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream run-off.
- f. Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
- g. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

#### F. Utilities:

The Planning Board shall encourage all utilities to be installed underground, but shall not require that utilities be installed underground.

#### G. Monuments:

1. Permanent monuments shall be set at all corners and angle points of subdivision boundaries.
2. All monuments shall be referenced on the Final Plan. They shall be secured according to the standards of the Maine Board of Land Surveyors.
3. All corners shall be marked with iron rod not less than 5/8 inch in diameter. Such rods shall be driven securely so that removal or vandalism is discouraged. Rods shall extend at least 24" above the ground in wooded rural areas and be clearly painted or marked for ease of locating. In residential and village areas, rods may be driven flush with the finished grade. In ledge or stone, all rods will be set in borings.

#### H. Roads - Construction, Names, Signs:

##### 1. General Requirements:

- a. The proposed subdivision shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools and other traffic generators.

- b. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to lots.
- c. The Planning Board shall not approve any subdivision plan unless proposed roads are designed in accordance with the specifications contained in the ordinance. Approval of a Final Plan by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.
- d. Applicants shall submit to the Planning Board, as part of their Final Plan, detailed construction drawings showing the profile and typical cross-section of the proposed roads. The plans shall include the following information:
  - 1) date, scale, and magnetic or true north point;
  - 2) intersections of the proposed road with existing roads;
  - 3) roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs;
  - 4) complete curve data shall be indicated for all horizontal and vertical curves;
  - 5) turning radii at all intersections;
  - 6) center line gradients; and
  - 7) locations of all existing and proposed utilities.

## 2. Road Design Standards

- a. These design standards shall be met by all roads within subdivisions and into subdivisions, from and including public right of ways, reviewed under this ordinance and shall control the roadway, shoulders, sidewalks, drainage systems, culverts, and other appurtenances. Also all newly constructed roads within previously approved subdivisions shall meet these standards.
- b. Roads shall be designed to discourage through traffic within a subdivision.
- c. Any subdivision containing thirty lots or more shall have at least two road connections with existing public roads or roads on an approved development plan.

d. The following design standards apply according to road classification:

<u>Description</u>	<u>Public Rights-of-Way</u>	<u>Private Rights-of-Way</u>
Minimum Right-of-Way Width	50'*	50'*
Minimum Surface Width	18'	18'
Shoulder Width	4' each side	2' each side
Minimum Grade	0.5%	0.5%
Maximum Grade	8%	10%
Minimum Center line Radius	200'	200'
Roadway Crown	1/8" per ft.	1/4" per ft.
Minimum angle of road intersections	60 degrees	75 degrees
Maximum grade within 50' of intersection	3%	3%

\*see requirements for cul-de-sacs below

e. Dead End Roads - In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: 65 ft. property line radii and 55 ft. outer edge of travel way radii or capable of accommodating the largest emergency vehicle in the area. The Planning Board may approve hammerhead or "T" turn-arounds that have a minimum of 50-foot wide by 150-foot long ROW and shall be constructed with a minimum of 18-foot wide by 118-foot long traveled way centered on the head of the "T". The Planning Board may require the reservation of a 20 ft., 50 ft., or 66 ft. easement in line with the dead-end road to provide continuation of pedestrian traffic or utilities to the next road, or to access possible future subdivision or development.

f. Grades, Intersections, and Sight Distances:

- 1) Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- 2) All changes in grade shall be connected by vertical curves to provide for at least the minimum sight distances of two hundred (200) feet.
- 3) Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.
- 4) A minimum distance of two hundred feet shall be maintained between center lines of side roads.

### 3. Road Construction Standards

#### a. Minimum Requirements:

<u>Road Materials</u>	<u>Public Right-of-Way</u>	<u>Private Right-of-Way</u>
Sub base course - bank run gravel	18"	12"
Base course - crushed gravel, compacted	6"	6"
Asphalt Paving	2" base & 1" wearing	Not required

#### b. Preparation:

- 1) before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at 50 ft. intervals;
- 2) side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be done between April 15 and November 1; and
- 3) all topsoil stumps, rocks, and other debris shall be removed before the installation of the sub base gravel course. A disposal or burial site for all removed material shall be identified and approved.

### 4. Cleanup

Following road construction, the subdivider/applicant shall conduct a thorough cleanup of stumps and debris from the entire road right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil and seeded.

### 5. Certification of Construction

Upon completion of private rights-of-way, a written certificate signed by the St. George Code Enforcement Officer shall be submitted to the Planning Board.

### 6. Road Names and Signs

Road name signs shall be furnished and installed by the subdivider, and shall be of a type and size that conform with local practice.

#### I. Sidewalks and Curbs:

Sidewalks and curbs will be installed by the subdivider at the discretion of the Planning Board, and at such locations as the Planning Board deems necessary. In making its determination, the Planning Board shall consider the number and density of lots.



J. Parking:

1. Parking lot design shall include the following:
  - a. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
  - b. All parking spaces and access drives shall be at least ten (10) feet from any side or rear lot line.
2. Parking for off-shore islands: Any proposed use or development which is located on an off-shore island which is not accessible by a public or private road shall be permitted only after a plan for permanent mainland support facilities to service the use or development has been approved by the Planning Board. The plan shall provide for launching and mooring facilities to service the development. It shall also require off-road parking in accordance with Section IV.J.3. The applicant shall present documentation of sufficient title, right or interest in these facilities. If these mainland facilities are located in another town, the applicant shall provide a written statement of approval from the Code Enforcement Officer of that town.
3. Off-street parking requirements:
  - a. An off-street parking space shall be a minimum of ten (10) feet wide by twenty (20) feet long.
  - b. Two (2) spaces per dwelling unit.
  - c. Motels, hotels, inns - four (4) spaces plus one (1) space per sleeping room.
  - d. Bed & breakfast, tourist home - two (2) spaces for each dwelling unit plus one (1) space per room offered for rent.

K. Required Improvements at Developer's Cost:

All required improvements, such as roads, sidewalks, storm water drainage systems, utilities, and where appropriate, centralized water supply and sanitary sewage systems, shall be installed at the expense of the developer.

L. Clustered Subdivision Development:

1. Purpose - the purpose of cluster development is to encourage innovative approaches to housing and environmentally sound design by a modification of space and dimensional requirements of lots. A good cluster design should result in:
  - a. A choice in the types of housing available.

- b. The preservation of open space and recreation areas.
- c. The conservative use of farm land, fields, and open space.
- d. A pattern of development that will work in harmony with the natural features of the land.
- e. Efficient use of the land and natural resources through a smaller network of utilities and roads.

2. Cluster Performance Standards:

- a. Each lot and building in a cluster development must meet all the standards of this and other town ordinances except those standards dealing with lot density and setbacks.
- b. Each building shall be an element in an overall plan in the cluster development, and their proposed location shall be shown on the plat plan.
- c. The use of the land must conform to the uses permitted in the district in which the land is located.
- d. No cluster development shall be approved which exceeds the net residential density of the district in which it is proposed.
- e. Net residential density is defined as the residual land available for development after subtracting roadways and land not suitable for building because of wetlands, substandard drainage or other natural impediments.
- f. If the cluster development is divided into individual lots for detached one or two dwelling units then:
  - 1) The Planning Board may reduce the lot size to 50% of district requirements per dwelling unit;
  - 2) The Planning Board may reduce road frontage to 50% of district requirements;
  - 3) The Planning Board may reduce side and rear yard setbacks to 50% of district requirements; and
  - 4) Setbacks affecting shoreland areas shall not be reduced.
- g. The design process of cluster development shall utilize the services of landscape architects, engineers, and other trained specialists.

- h. Building plans shall show elevations of all proposed structures, and indicate their locations on the plat plan. The developer is responsible for the construction of all multi-unit buildings, and for the conceptual design and plans for all single family dwellings. The conceptual plan shall be an integral component for each approved lot.
- i. The infrastructure for the cluster development (roads, sidewalks, utilities, potable water and sewage) shall all be shown on the plat plan.
- j. Common water supply and waste water systems shall be approved by the appropriate state agency.
- k. Easements for common utility installation shall be shown on the plat plan.

### 3. Open Space

- a. The common open space shall be shown on the subdivision plat plan by metes and bounds and labeled “Common open space, not to be further developed nor further subdivided”.
- b. The common open space shall be accessible to the residents of the development.
- c. The common open spaces can be used for agriculture, woodlands and outdoor recreational activities such as a ball field. Further uses of open spaces may be limited at the time of final subdivision approval to protect neighboring properties.
- d. As a condition of final plan approval, the applicant shall form and incorporate a homeowners’ association. The homeowners’ association shall include:
  - 1) Covenants for mandatory membership to be included in the deed for each lot or unit;
  - 2) The homeowners’ association shall have the responsibility for maintaining the common open space; and
  - 3) The homeowners’ association shall levy annual charges to all property owners for the purpose of maintaining the open space and common roadways.

### 4. Site Considerations - In designing a cluster development, the developer must consider the following items and show them on the plat plan and supporting drawings:

- a. Orientation: The orientation of buildings shall respect natural features and solar access.
- b. Roads: All roads in the cluster development shall be designed for safety and the proper access for emergency equipment.

- c. Drainage: A drainage system shall be designed for groundwater run-off. Particular concern shall be shown for effluent drainage from the site.
  - d. Sewage Disposal: Adequate provision shall be made for sewage disposal.
  - e. Water Supply: Adequate provision shall be made for potable water supply.
  - f. Utilities: All utility service or entrance service from aerial poles to buildings shall be underground.
  - g. Landscaping: A landscape design shall be created to integrate the cluster development with the surrounding landscape.
5. The Planning Board shall consider all aspects of the plan before permitting a cluster development. Aspects such as building design and affordability and landscaping shall be considered.
  6. The developer of cluster housing shall provide a twelve month written warranty to each initial lot buyer. This warranty will provide for defective building and roads, and defective utility installation. Date of lot transfer will determine beginning of twelve month warranty period for each initial lot buyer.

M. Fire Protection Water Supply

1. Purpose. The purpose of this section is to establish standards for the installation of fire protection water supplies in residential subdivisions where a public water system and hydrants are not available.
2. Applicability. This section applies to all applications for new residential subdivisions and for the expansion of existing or already approved residential subdivisions.
3. Standards. Where a public water system and hydrants are not available for fire protection, a developer shall install a fire protection water supply that meets the following standards:
  - a. Except as otherwise provided in Subsection 3 f. of this Section, the fire protection water supply shall include a fire pond which shall be designed with 2:1 pitched bankings and shall have a minimum depth of ten feet (10').
  - b. The fire pond shall contain a minimum of 120,000 gallons of water in storage as certified by a registered professional engineer, for the purpose of supplying the first flow requirements of 500 gallons per minute for the duration of two (2) hours, with the additional amount being a safety margin for dry weather and additional fires.

This water storage level shall be maintained at all times by a spring, well point, pumping facility and rain and snow run-off.

An overflow system shall be installed with proper drainage materials and facilities to handle the projected overflow.

- c. The fire protection water supply shall include dry hydrants and associated piping and materials, which shall be installed in accordance with the provisions of paragraph e.
- d. In cases where the dry hydrant cannot be placed next to a Town accepted street, an access road to the dry hydrant shall be provided to allow a fire department pumper, to be capable of connecting to the dry hydrant connection with one (1) ten foot (10') length of hard suction hose.

The access road shall be a mini D of twelve feet (12') wide and capable of handling fire department apparatus in all seasons and weather conditions. The access road shall be approved as meeting these requirements by the Fire Chief, and the developer shall, prior to final subdivision approval, provide an executed easement deed to this access road to the Town in a form approved by the Town Attorney. The access road shall be posted "No Parking Fire Lane".

- e. Dry hydrants shall be installed in accordance with the following standards:
  - 1) A minimum of six inch (6") piping and fittings shall be utilized from the screen to the steamer connection.
  - 2) Piping and fittings shall be a minimum of schedule 40 rating. The steamer hose connection shall be 4 ½ inch National Standard Thread (NST).
  - 3) The piping from the suction screen to the 90 degree elbow below ground shall be schedule 40 PVC pipe capped off at the screen end.
  - 4) All pipe connections shall be cleaned and cemented so as to provide air tight connections.
  - 5) All pipe and connections below ground shall be protected from frost.
  - 6) The maximum amount of lift permitted shall be fifteen feet (15') as measured from the surface of the water to the center of the suction inlet of a pumper at draft at the dry hydrant.
  - 7) The riser piping shall be exposed above grade level twenty-four inches (24") as measured from the surface of the water to the center of the suction inlet of a pumper at draft at the dry hydrant.

- 8) A suction screen shall be formed in the end of the PVC pipe by drilling a minimum of nine hundred and sixty (960) 3/8" holes along the piping leaving a four inch (4") wide strip along the top of the pipe that is not drilled or other suction screen approved by the Fire Chief. The suction screen shall be raised off the bottom of any Fire Pond twenty-four inches (24"), and shall be twenty-four (24") away from any of the sides of the pond.
  - 9) All piping and fittings exposed to sunlight shall be primed and painted, except the threads of the streamer connection.
  - 10) The hydrant riser pipe shall be protected with four inch (4") in diameter steel pumper posts that are at least three feet (3') above grade.
  - 11) The area around the pond and where the piping has been installed shall be graded and seeded.
  - 12) Fencing is optional; however, if a fence is provided it shall have a gate access point and, if locked, a lock box shall be installed holding the keys for the gate.
  - 13) The maximum distance from the dry hydrant to any dwelling with the project shall be two thousand feet (2,000').
- f. Storage tanks. In cases where a pond cannot be supported, the developers shall install underground storage tanks, the size and number of which shall be determined by the Fire Chief, proof shall be supplied by the developer that the property to be developed will not support a fire pond before the developer will be allowed to substitute underground storage tanks for a fire pond.
4. Easement Deed. The developer shall, prior to final subdivision approval, provide an executed dry hydrant easement deed to the Town in a form approved by the Town Attorney to provide the Town of St. George with the right to enter onto the property to use, maintain, repair, replace and install the fire pond or underground storage tanks, dry hydrant, water lines and all necessary fixtures and appurtenances.
  5. Plan. A detailed plan of the fire pond or underground storage tanks, hydrant, piping, overflow and roadway shall be submitted to the Fire Chief and to the Planning Board as part of the Preliminary Plan submission. The Fire Chief will review the plan and make his/her recommendations in writing to the Planning Board.
  6. Inspection. The fire protection water supply with dry hydrant shall be installed by the developer in accordance with these standards and no certificate of occupancy for any dwelling in the subdivision shall be issued unless and until the fire protection water supply and dry hydrant are tested and approved as being in working order by the Fire Chief or his/her designee.

7. The requirement of Compliance with this ordinance shall not apply if the developer, as a written condition of subdivision approval, agrees to install a sprinkler system in each and every dwelling in accordance with the N.F.P.A. 13R.

## **Section V: Preapplication Procedure (Step One)**

### **A. Planning Board Agenda:**

At each stage of the subdivision review process, an applicant shall request to be placed on the Planning Board's agenda at least twenty-one (21) calendar days prior to the regularly scheduled meeting at which s/he wishes to be heard. Submission requirements shall be accompanied by the appropriate documentation as prescribed by the Planning Board and the required fee.

### **B. Preapplication Meeting:**

1. Prior to the formal submission of the subdivision application the applicant shall appear informally to discuss the proposed subdivision at the regular meeting of the Planning Board.
2. At this meeting the applicant shall have submitted:
  - a. the fee required for the preapplication meeting; and
  - b. the Preapplication Sketch Plan - this sketch may be a free-hand drawing based on the Town tax map.
3. Purpose of Preapplication Meeting and Site Inspection - the purpose of both the preapplication meeting and site inspection is to give the Planning Board a clear understanding of what is proposed. Subsequent filing of a formal subdivision application must be within six months of the preapplication meeting.
4. On-Site Inspection - the Planning Board Chairman at the preapplication meeting shall schedule an on-site inspection of the land to be subdivided. The date set shall be scheduled so that at least a majority of the Planning Board members and the applicant will be in attendance. In addition the Chairman may also request that the Code Enforcement Officer attend the on-site inspection.
5. Applicants Rights not Vested - submissions and attendance at the preapplication meeting shall create no binding commitments between the applicant and the Planning Board. It shall not be considered the initiation of the review process for purposes of bringing the plan under the protection of 1 M.R.S.A. 302.

## **Section VI: Preliminary Plan Procedure (Step Two)**

A. Within six months of the preapplication meeting, the applicant shall submit a formal application for approval of a preliminary plan with the appropriate fee. If an application is not submitted within this period of time, the Planning Board shall require a new preapplication meeting.

The applicant shall request to be placed on the Planning Board agenda at least twenty-one (21) calendar days prior to a regularly scheduled meeting at which s/he wishes to be heard.

B. Upon receiving an application for preliminary plan approval at a regularly scheduled Planning Board meeting, the Planning Board shall issue the applicant a dated receipt.

Within thirty days from the receipt of a preliminary plan by the Planning Board at a regularly scheduled Planning Board meeting, the Planning Board shall notify the applicant in writing that the preliminary plan is either complete or incomplete. If the application is incomplete, the Planning Board shall notify the applicant, in writing, of the specific steps necessary to make a complete application.

C. Upon receiving a complete preliminary plan, the Planning Board shall notify all property owners abutting the proposed subdivision, specifying the location and a general description of the project.

The Planning Board shall notify the Harbor Master, Parks & Recreation Director, Public Works Director and Public Safety Director of the proposed subdivision including the number of lots proposed and length of roadways. The Planning Board shall request in writing that these officials comment on the adequacy of their department's existing facilities to service the proposed subdivision.

A public hearing shall be held within thirty days of a complete preliminary plan application. The Planning Board shall give notice of the date, time and place of such a hearing to be published twice in a newspaper of general circulation with the date of the first publication at least seven days prior to the hearing.

D. Within thirty days after a public hearing, the Planning Board shall either approve, approve with conditions, or disapprove the preliminary plan. In issuing its decision, the Planning Board shall state in writing the conditions of such approval, specifically:

1. the specific changes it will require in the Final Plan;
2. the character and extent of the required improvements for which waivers have been requested and which, in the opinion of the Planning Board, may be waived without jeopardy to the public health, safety, and general welfare; and



3. the amount of improvement or the amount of the performance guarantee that the Planning Board will require for Final Plan approval.

Approval of a preliminary plan shall not constitute approval of a Final Plan. Rather, it shall be viewed as a guide in the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any.

1. Prior to the approval of a Final Plan, the Planning Board may require additional changes in the Final Plan as the result of substantial new information.
2. The Planning Board may request an additional site inspection to view the location of lot markers, test pits, and proposed roads prior to Final Plan review.

E. Preliminary Plan Submission Requirements - The complete preliminary plan submission requirements shall consist of the following information:

1. The applicant shall complete and sign seven copies of the subdivision application, and submit the appropriate preliminary plan fee as described.
2. Location Map - the preliminary plan shall be accompanied by seven copies of a location map showing the relationship of the proposed subdivision to adjacent properties and the surrounding area. The location map shall show all the area within 500 feet of any property line of the proposed subdivision. The location map shall show:
  - a. locations and names of existing and proposed roads;
  - b. boundaries of land use districts, where applicable;
  - c. names of all owners of property abutting or directly across a road from the proposed subdivision;
  - d. the outline of the proposed subdivision together with its probable access and an indication of the future road system; and
  - e. any river, stream, brook or coastal bluff within or abutting the proposed subdivision.
3. Preliminary Plan - the preliminary plan shall be submitted in seven copies which may be printed or reproduced on paper drawn to a scale of not more than 100 feet to the inch. Where practical the sheet size of the drawings shall be 24" x 36" or as required by the Knox County Registry of Deeds. The following information shall either be shown on the preliminary plan or accompany the application for preliminary approval:
  - a. the date the plan was prepared, magnetic north arrow, graphic map scale, names and addresses of the record owner, subdivider, and surveyor who prepared the plan;

- b. proposed name of the subdivision and the Tax Assessor's Map and lot numbers;
- c. an actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner;
- d. a copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. A copy of any covenants or deed restrictions proposed to cover all or part of the lots in the subdivision;
- e. the names, addresses and telephone numbers of all property owners abutting the proposed subdivision;
- f. contour lines at specified intervals may be required and specified by the Planning Board, showing elevations in relation to Mean Sea Level;
- g. the number of acres within the proposed subdivision, all land defined as not suitable for development, location of property lines, existing buildings, water courses, vegetative cover types, and other essential existing physical features;
- h. indication of the type of sewage disposal to be used in the subdivision;
  - 1) When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted. Where a proposed subsurface sewage disposal system is to serve more than 5 dwelling units, the developer shall demonstrate the existence of a reserve area of suitable soils for a replacement subsurface system.
  - 2) When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer District indicating there is adequate capacity within the District's system to transport and treat the sewage shall be submitted.

A copy of the HHE-200 form for each lot shall be submitted.

- i. indication of the type of water supply system(s) to be used in the subdivision;
- j. the location of any land use district boundaries affecting the subdivision;
- k. the location of any ponds, streams or wetlands on or adjacent to the proposed subdivision;

- l. the location, name and widths of existing and proposed roads, easements, parks and other open spaces on or adjacent to the subdivision;
- m. the proposed lot lines with approximate dimensions and lot areas;
  - 1) all parcels of land proposed to be dedicated to public use and a copy of the proposed deed of gift;
  - 2) the location of open space to be preserved within the subdivision and a copy of the proposed legal document to accomplish this end;
- n. a soil erosion and sedimentation control plan, and drainage plan may be required by the Planning Board;
  - 1) a copy of the Knox County soil survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Planning Board will require the submittal of a high intensity soil survey prepared by a registered soil scientist indicating the suitability of soil conditions for those uses.
- o. if any portion of the subdivision is in a flood prone area, the boundaries of any flood hazard area and the 100-year flood elevation shall be delineated.

**Section VII: Final Plan Review Procedures (Step Three)**

**A. Procedure:**

1. Within six months after approval of a preliminary plan, the applicant shall submit the final plat and supporting documentation for Final Plan review. If the Final Plan is not submitted to the Planning Board within this period, the Planning Board may refuse, without prejudice, to act on the Final Plan and may require resubmission of the preliminary plan. The applicant shall request to be placed on the Planning Board agenda at least twenty-one (21) calendar days prior to the regularly scheduled meeting at which s/he wishes to be heard.
2. All applications for Final Plan approval shall be accompanied by the appropriate fee.
3. Prior to submittal of the Final Plan application, the following approvals shall be obtained, in writing, where appropriate:
  - a. Maine Department of Human Services, if the applicant proposes to provide a central water supply system;
  - b. the servicing sewer district, if an existing public sewage disposal system is to be used; and

- c. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
  - d. Maine Department of Environmental Protection, under the Site Location Development Act, Natural Resource Protection Act, or if a Wastewater Discharge License is needed.
  - e. Wildlife Study.
4. The applicant, or his/her duly authorized representative, shall attend a regularly scheduled meeting of the Planning Board to discuss the Final Plan.
  5. Within thirty days of the receipt of a Final Plan application by the Planning Board at a regularly scheduled Planning Board meeting, the Planning Board shall notify the applicant that the Final Plan is either complete or incomplete. If the final application is incomplete, the Planning Board shall notify the applicant, in writing, of the specific steps necessary to make a complete application.
  6. Upon determination that a complete application has been submitted for review the Planning Board shall issue a dated receipt to the applicant.
  7. Within sixty days of receiving a complete Final Plan application, the Planning Board must:
    - a. deny approval of the proposed subdivision if it fails to meet the review criteria;
    - b. grant approval of the proposed subdivision if it meets the review criteria and other local standards; or
    - c. grant approval of the proposed subdivision upon terms and conditions it considers advisable to meet the review criteria and other local standards, and to ensure that the public's health, safety, and general welfare are protected.

**B. Submission Requirements - Final Plan:**

The Final Plan shall be submitted in one reproducible, stable based transparent original, and three copies. After Planning Board approval, one original will be recorded at the Knox County Registry of Deeds and one filed at the St. George Town Office. The plans shall be drawn to a scale of not more than 100 feet to the inch. Where practical, the sheet size of the drawings shall be 24" x 36". Space shall be reserved on the drawing for conditions the Planning Board may impose and the endorsement of the Planning Board. The application for Final Plan approval shall include the following:

1. All of the information presented on the preliminary plan and location map and any amendments thereto as required by the Planning Board.

2. The name, registration number, and seal of the land surveyor, architect, engineer, or planning consultant who prepared the plan.
3. Permanent monuments at all outside corners of the subdivision tract and referenced in the Final Plan. In addition, the outside perimeter of the property to be subdivided is to be clearly marked for complete identification of land boundaries.
4. Written offers of cession, in a form certified as satisfactory by the St. George Town Attorney, of all land proposed to be dedicated to the Town.
5. A performance bond or guarantee in a form and amount meeting the requirements of Section IX to secure the completion of all improvements required by the Planning Board, and written evidence that the Board of Selectmen has approved the bond or guarantee.

C. Final Plan Approval and Filing:

1. No Final Plan shall be approved by the Planning Board as long as the applicant is in default on a previously approved plan.
2. Upon findings of fact and determination that all review criteria in 30-A, M.R.S.A.4404 and all local regulations have been met, and upon voting to approve the subdivision, the Planning Board shall sign the Final Plan. The Planning Board shall specify in writing its findings of facts and reason for any conditions or denial. Any subdivision not recorded in the Knox County Registry of Deeds by the applicant within ninety days of the date upon which the plan is approved and signed by the Planning Board, shall be considered unapproved and shall require resubmission, review and approval.
3. If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the Registry of Deeds.
  - a. In the case of an amendment, if no amended plan is to be recorded, a certificate shall be prepared in recordable form and recorded in the Knox County Registry of Deeds. This certificate shall indicate the name of the current property owner; identify the property by reference to the last recorded deed in its chain of title; and indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.
  - b. The variance is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or the variance is void.
  - c. At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections, subject to any conditions the Planning Board deems necessary in order to ensure the orderly development of the Plan.

- d. No changes, erasures, modifications or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Planning Board approves any modifications. The Planning Board shall make findings that the revised plan meets the standards of 30-A, M.R.S.A. 4404, and this ordinance. In the event that a plan is recorded without complying with the requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the Plan stricken from the records of the Knox County Registry of Deeds.
- e. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of St. George of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the Plan shall not constitute an acceptance by the municipality of such areas. As a condition of approval, the Planning Board shall require the Plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

D. Revisions to Approved Plans:

1. An applicant proposing a revision to a previously approved plan shall, at least twenty-one (21) calendar days in advance, ask to be placed on the Planning Board agenda. If the revision involves the creation of additional lots, the applicant shall follow the procedure for preliminary and final plan approval.
2. The applicant shall submit one copy of the approved plan, as well as seven copies of the proposed revision.
3. The scope of review shall be limited to those portions of the plan which are proposed to be changed.

**Section VIII: Performance Guarantees**

A Performance Guarantee is required unless the Planning Board accepts a conditional agreement.

A. Types of Performance Guarantees:

1. A certified check payable to the Town of St. George Planning Account;
2. A savings account passbook issued in the name of the Town of St. George;

3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board;
4. A faithful performance bond running to the Town of St. George and issued by a surety company licensed to do business in the State of Maine.

B. Amount of Guarantees:

The amount of the guarantee shall be 125 percent of the cost of furnishing, installing, connecting and completing in good working condition all of the road grading, storm drainage, utilities, and other similar improvements, as specified in the Final Plan. All guarantees shall be conditioned upon the completion of all such improvements within five years from the date of the approval of the Final Plan, as recorded on the subdivision plat. If a performance guarantee as described in paragraph (A) above has been satisfactorily filed with the Town, building permits may be issued for construction within the subdivision prior to completion of required improvements, but prior to occupancy of a building or dwelling unit, the improvements serving that building or dwelling unit shall be in place and serviceable.

C. Conditional Agreements:

A conditional agreement, if acceptable in lieu of a performance guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the Code Enforcement Officer, for any building or other permanent structure within the subdivision until the completion of the road construction, storm drainage, utilities, and other similar improvements as specified in the Final Plan. The agreement shall be conditioned upon the completion of all such improvements within five years from the date of the approval of the Final Plan, recorded on the subdivision plat.

D. Inspection of Required Improvements:

1. Completion of required improvements shall be determined by the Planning Board to its satisfaction, which shall receive written and signed certifications by the Code Enforcement Officer or other qualified person that all improvements assured by the performance guarantee or conditional agreement have been constructed in accordance with the Final Plan and all applicable codes and regulations. Before construction or required improvements begins, the subdivider shall provide the Planning Board with adequate written notice and a proposed schedule of construction.
2. If the Code Enforcement Officer determines that construction standards are not being applied, then the Planning Board may hire, at the applicant's expense, a professional engineer or other qualified person to represent the Town in monitoring the construction of required improvements.
3. Upon receipt of written notice and a proposed schedule of construction, the Planning Board shall set an hourly fee according to a schedule established by the Selectmen to

cover the cost to the Town of monitoring the construction. The subdivider shall be notified of such fee and shall be billed and shall pay the fee monthly.

4. Monitoring by the Town shall not in any way cause the Town to be liable for the improvement. All grades, materials, engineering, and construction techniques are the responsibility of the applicant.

E. Release of Guarantee:

The performance guarantee shall be released by the Planning Board upon the request of the applicant only after:

1. The Board receives the certifications of completion required in paragraph D-1 above; and
2. The applicant has furnished the Town with an accurate record plan and profile (which may be the original reproducible drawing with corrections, provided the Town has been provided with a print of the unaltered originals [mylars] approved by the Planning Board) of all roads including drainage lines, sanitary sewerage lines, water mains, and all other utilities as actually installed, with sufficient ties for proper identification.

**Section IX: Waivers**

A. Waivers of Submission Requirements:

Where the Planning Board makes written findings of facts that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the submission requirements to permit a more practical development provided that the public health, safety and welfare are protected. The waivers should not have the effect of nullifying the intent and purpose of the comprehensive plan or any ordinance or regulation and provided the criteria of the State Subdivision laws are met.

B. Waiver Due to Special Circumstances:

Where the Planning Board makes written findings of fact, due to special circumstances of a particular lot to be subdivided, it may waive the requirement for lot improvements subject to appropriate conditions and provided that the public health, safety, and welfare are adequately considered.

C. Waivers Conditionally Granted:

In granting waivers to any of the provisions of these regulations, the Planning Board shall require such conditions as will assure that the objectives of these regulations are met. When the Planning Board grants a waiver to the above standards it shall indicate such waiver on the Final Plan approval.



## **Section X: Appeals**

Any aggrieved party having proper standing may appeal any decision of the Planning Board under this ordinance to the St. George Board of Appeals.

### **A. Powers and Duties of the Board of Appeals**

The Board of Appeals shall have the following powers as they relate to this Ordinance:

1. **Administrative Appeals:** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made in writing by the Code Enforcement Officer or Planning Board in the administration or enforcement of this Ordinance.

### **B. Procedures**

#### **1. Application and Hearing.**

- a. An administrative appeal shall be taken within thirty (30) days of the date of the order, requirement, decision or determination appealed from, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.
- b. Upon receiving an application for an administrative appeal from a decision of the Code Enforcement Officer, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers relating to the action taken by the Code Enforcement Officer. Upon receiving an application for an administrative appeal from a decision of the Planning Board, the Code Enforcement Officer shall cause all of the papers constituting the record of the Planning Board proceeding to be transmitted to the Board of Appeals.
- c. The Board of Appeals shall hold a public hearing on an administrative appeal within thirty-five (35) days of the Town's receipt of the written application.

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

- a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an application. A member who abstains shall not be counted in determining whether a quorum exists.
- b. 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, to decide in favor of the applicant on any matter which the Board of Appeals is required to decide under this Ordinance. The applicant shall have the burden of proof.

The Board of Appeals may reverse or modify a decision of the Code Enforcement Officer or Planning Board only if it finds an error of law, misinterpretation of this Ordinance or misapplication of the law to the facts. If the Board of Appeals reverses or modifies a decision of the Code Enforcement Officer or Planning Board, the Board of Appeals shall remand with instructions for such further action as may be necessary to effect a final disposition of the matter.

- c. When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals may receive and consider evidence and testimony and oral or written argument. When the Board of Appeals reviews a decision of the Planning Board, such review is limited to the record of the proceedings before the Planning Board and the Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider oral or written argument. If the Board of Appeals determines that the record of the Planning Board proceedings is not adequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.
- d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board, and shall cause such statement to be included in the written record of the Board's proceedings. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision.

#### D. 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 forty-five (45) days from the date of the decision of the Board of Appeals.

### **Section XI: Enforcement**

#### A. Violations and Enforcement:

1. No subdivision plan shall be recorded in the Knox County Registry of Deeds until a Final Plan has been approved and signed by the Planning Board in accordance with these Regulations.
2. No person, firm, corporation or other legal entity may sell or offer to sell any land in a subdivision which has not been approved by the Planning Board and recorded in the Knox County Registry of Deeds.

3. No public utility, water district or sewer district shall serve any lot in a subdivision for which a final Plan has not been approved by the Planning Board and recorded in the Knox County Registry of Deeds.
4. No development of the infrastructure of a subdivision may begin until Final Plan approval by the Planning Board and recording in the Registry of Deeds. Development includes the grading and construction of roads, the grading of land or lots, and construction of buildings.
5. No building permit shall be issued for any lot until all infrastructure is completed up to and including that lot.

B. Amendments After Approval:

No changes, erasures, or modifications shall be made in a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of a new subdivision, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original subdivision, or unless the change constitutes a resubdivision. If an amended Final Plan is recorded without complying with the requirement, it shall be null and void. The Planning Board may institute proceedings to have the plan stricken from the Registry of Deeds.

**Section XII: Definitions**

A. Construction of Language:

In general, all words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

B. Relationship to Other Town Ordinances:

Where there is a conflict between the language contained in the St. George Subdivision Ordinance and any other Town ordinance, the stricter language shall apply for purposes of this Ordinance.

C. Definitions:

**Abutter:** One whose property abuts, is contiguous, or joins at a border or boundaries, including the property across the street, road, public or private way.

**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 and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

**BMP's (Best Management Practices):** Procedures designed to minimize the impact of certain activities or land uses.

**Bed & Breakfast:** A private, owner-occupied dwelling that offers for compensation up to five (5) rooms to guests for lodging purposes which contain no kitchen facilities.

**Boarding House:** Any residential structure where lodging or lodging and means are provided for compensation for a period of at least two weeks, and where a family residing in the building acts as proprietor or owner and where there are no provisions for cooking in any individual room other than the main kitchen.

**Body Of Water:** Shall include the following:

*Pond or Lake* - any inland impoundment, natural or manmade, which collects and stores surface water.

*River, stream or brook* - "River, stream or brook" means a channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics.

- 1) It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- 2) It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- 3) The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- 4) The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
- 5) The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"River, stream or brook" does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

*Tidal* - any area upon which tidal action occurs.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Building:** Any structure and its attachments such as decks, breezeways, and porches, which is supported by columns or walls for the housing or enclosure of persons, animals, or personal property excluding mobile homes which have a separate definition.

**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 established for camping for which a fee is charged.

**Cluster Development:** A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by the lot and/or unit owners, the Town or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

**Coastal Bluff:** Areas identified as being “highly unstable” or “unstable” Coastal Bluffs by the Maine Geological Survey pursuant to its *Classification of Coastal Bluffs* and published on the most recent Coastal Bluff Maps.

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

**Code Enforcement Officer:** A person appointed by the Municipal Officers to administer and enforce these ordinances. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

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

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Comprehensive Plan:** Any part or element of the overall plan for development of the Town as defined in 30-A, M.R.S.A. 4301 as the same may be amended from time to time.

**Constructed:** Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

**Construction Drawings:** Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground power and telephone ducts, pavements, cross section of roads, miscellaneous structures, drainage and other easements, and similar items.

**Contiguous Lots:** Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of the land on both sides thereof.

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

**Densely Developed Area:** Any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

**Driveway:** A private vehicular entrance less than five-hundred (500) feet in length from a road or right-of-way serving one lot. The driveway itself shall not constitute the means of legal access along which frontage may be measured.

**Dwelling:** Any building, mobile home or structure or portion thereof designed or used for residential purposes. The term does not include recreational vehicles.

*Single-Family Dwelling* shall mean any building containing only one dwelling unit for occupation by not more than one family.

*Two-Family Dwelling* shall mean a building containing only two dwelling units, for occupation by not more than two families.

*Multi-Family Dwelling* shall mean a building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

**Dwelling Unit:** Shall mean a room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing and mobile homes, but not recreational vehicles or motel units.

**Easements:** The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his or her property.

**Engineer:** Consulting engineer licensed by the State of Maine.

**Expansion:** In relation to a structure, expansion shall mean: the enlargement of floor area, or enlargement of volume of the building enclosure including all extensions such as, but not limited to attached decks, garages, porches and greenhouses. In relation to use: the addition of weeks or months to a use's operating season, the addition of hours to a business day, the use of more floor area or ground area, or the provision of additional seats or seating capacity.

**Family:** One or more persons occupying a premise and living as a single housekeeping unit.

**Fee Schedule:** A fee schedule for subdivision review shall be set annually by the municipal officers.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Final Subdivision Plan:** The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be filed for recording with the municipal officers and the Knox County Registry of Deeds.

**Flood Plain:** The lands adjacent to a body of water which are inundated with flood water during a 100-year flood event and which under normal circumstances, support a prevalence of wetland vegetation typically adapted for life in saturated soils (from SZO).

**Freshwater Wetland:** Freshwater swamps, marshes, bogs and similar areas which are:

1. 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;
2. Of 10 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,
3. Not considered part of great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of the subsection.

**Frontage:** The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot.

**Forest Management Activities:** Includes timber cruising and other forest resource evaluation activities, pesticide or fertilizer applications, management planning activities, timber stand improvement, pruning, timber harvesting and other forest harvesting and regeneration activities of forest stands, and other similar associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**HHE-200:** Subsurface Wastewater Disposal System Application.

**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 not more than two (2) persons other than family members residing in the home.

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

**Lot:** A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by ordinances, and having frontage upon a public street, right-of-way or private way.

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

**Lot Width:** The closest distance between the side lot lines of a lot.

**Manufacturing:** The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

**Manufactured Housing Unit:** Structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

**Mobile Home Park:** A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

**Motel:** A building in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building.

**Net Residential Density:** The residential land available for development after subtracting roadways and land not suitable for building because of wetlands, substandard drainages, or natural impediments.

**New Structure Or Structures:** Any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance.

**Non-Conforming Use:** Use of land or structures that is not otherwise permitted, but which is allowed to remain solely because it was in lawful existence at the time the ordinance or



subsequent amendments took effect. If the use of the non-conforming structure is discontinued for more than twelve consecutive months, the rights to continue the non-conforming use is lost.

**Normal High Water Line** ( non-tidal waters): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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

**Official Submittal Date:** The time of submission of a Preapplication Plan, Preliminary Plan, or Final Plan shall be considered to be the date of written acknowledgement by the Planning Board of the receipt of an application. Upon receipt of an application at a regularly scheduled Planning Board meeting, the Planning Board shall issue a dated receipt. Within thirty days of this receipt, the Planning Board shall notify the applicant in writing either that the application is a complete application, or if it is incomplete, shall specify the additional material needed to complete the application. The date of notification of a complete application shall constitute the official submittal date.

**Person:** Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

**Planning Board:** The Planning Board of the Town of St. George as created by 30-A, M.R.S.A. 4311 et seq.

**Plat:** A map of a town, section or subdivision showing the location and boundaries of individual parcels of land subdivided into lots with streets, alleys, easements, etc., usually drawn to scale.

**Preliminary Subdivision Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

**Resubdivision:** The division of an existing subdivision or any change in the plan for an approved subdivision which affected the lot lines, including land transactions by the subdivider not indicated on the approved plan, or the relocation of any street or lot line in a subdivision.

**Retail:** Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

**Right-Of-Way:** A road or other area over which is given legal right of passage. A public right-of-way is a way dedicated to the use of the public and accepted for ownership by the Town of St. George or other level of government.

**Road Classification:**

*Town Road:* Strip of land held by the Town for the passage and use of the general public by motor vehicle and for which the Town has a maintenance responsibility.

*Private Rights-of-Way:* A way that the general public has no right to pass over by foot or vehicle, and for which the Town has no maintenance responsibility.

**Setback:** The horizontal distance from a lot line to the nearest part of a structure.

**Setback From Water:** The nearest horizontal distance from the normal high water line or the upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

**Shoreland Zone:** The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body, within 250 feet of the upland edge of a coastal or fresh water wetland, or within 75 feet of the normal high-water line of a stream.

**Spaghetti Lot:** A parcel of land with a lot depth to shore frontage ratio greater than 5:1. Shore frontage means land abutting a river, stream, brook, coastal wetland or great pond as these features are defined in Title 38, section 480-B.

**Stream:** Any free-flowing body of water lasting or continuing for more than six (6) consecutive months of the year, characterized by the lack of upland vegetation or the presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock.

**Structure:** Anything constructed or erected 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 but not limited to decks and satellite receiving dishes, commercial park rides and games, carports, porches and other building features.

**Subdivider:** Assessed owner or owners of land to be subdivided or person with documented title, right, or interest in the land to be subdivided.

**Subdivider’s Representative Or Agent:** That person who has written authorization to act for the subdivider.

**Subdivision Of Land:** As defined in 30-A, M.R.S.A. 4401:

*Subdivision* means the division of a tract or parcel of land into three or more lots within any five-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of

land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

- A. In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless:
  - 1. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence that has been the subdivider's principal residence for a period of at least five years immediately preceding the second division; or
  - 2. The division of the tract or parcel is otherwise exempt under this section.
- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this section, do not become subject to this section by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
- C. A lot of 40 or more acres must be counted as a lot, except:

When a municipality has, by ordinance, or the Planning Board has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this section when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.
- D.
  - 1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
  - 2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
  - 3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
  - 4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division

by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
  6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.
- E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.
- F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
- G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the Planning Board has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.
- H. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:
1. Expands the definition of 'subdivision' to include the division of a structure for commercial or industrial use; or
  2. Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of subdivision except as provided in this subchapter. A municipality that has a definition of 'subdivision' that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006.

Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

- I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

**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.

**Tract Or Parcel Of Land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

**Upland Edge Of A Wetland:** The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) or taller.

**Variance:** A relaxation of the terms of an ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

**Wetland:** A freshwater or coastal wetland.

**Wetlands Associated With Great Ponds And Rivers:** Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be a part of that great pond or river.

# **WELLHEAD PROTECTION ORDINANCE**

**Town of St. George**

**Adopted 5/17/05**  
Amended 8/11/09

A true copy.

Attest: John M. Falla  
Town Clerk

**TOWN OF ST. GEORGE  
WELLHEAD PROTECTION ORDINANCE**

**ARTICLE I - GENERAL INFORMATION**

**Section A. Purpose**

The purpose of the Wellhead Protection Ordinance is to protect the quality of the ground water being extracted from the wells which serve the Tenants Harbor Water District (THWD) and the Port Clyde Water District (PCWD).

**Section B. Authority**

The ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, Title 30-A MRSA Section 3001 (Home Rule), Title 30-A MRSA Section 4311 (Growth Management) and Title 22 MRSA 2642 (Protection of Drinking Water Supplies).

**Section C. Applicability**

This ordinance applies to all land uses within the Wellhead Protection Areas (WHPA) of the Tenants Harbor Water District's and the Port Clyde Water District's production wells.

1. Tenants Harbor Water District. The WHPA was based upon analysis of extensively monitored pumping tests, and is illustrated on maps produced by Emery and Garrett Groundwater, Inc. of Waterville, Maine for the Maine Department of Environmental Protection. The land area consists of 2 zones, with decreasing need for special land use protection. All zones were defined based upon an understanding of groundwater flow towards the two pumping wells within the bedrock aquifer. The zones are as follows:

Zone 1 includes an area of about 67 acres around the THWD wells. It is the area within which flow of groundwater towards the pumping wells is likely to be sufficiently rapid that any spills would have serious and relatively rapid consequences for water quality in the wells. This area is the area owned by the THWD, and put under a restrictive easement, so that the land can be kept in a pristine condition that favors the highest water quality standards in perpetuity.

Zone 2 includes the immediate area that may contribute groundwater to the wells while pumping. Zone 2 will be protected by the Best Management Practices (BMP's) described in Article IV.

2. Port Clyde Water District. The Water District has four bedrock wells, neither of which has Wellhead Protection areas defined by hydrogeological evaluation following a pumping test. In the absence of such scientific definition, the Town arbitrarily assigns Zone 1 to an area of 300-foot radius around each production well, and Zone 2 as an area of 1000-foot radius around each production well. Zone 1 and Zone 2 will be protected by Best Management Practices (BMP's) described in Article IV.

**Section D. Relationship with other Ordinances**

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

**Section E. Effective Dates**

The ordinance shall take effect upon its enactment by the Town of St. George.

**Section F. Amendments**

This ordinance may be amended in part or in whole by majority vote of the registered voters of the Town of St. George present at a regular or special town meeting.

**ARTICLE II – ADMINISTRATION, ENFORCEMENT, APPEAL**

**Section A. Administering Bodies and Agents**

1. Code Enforcement Officer (CEO)  
The CEO of the Town of St. George shall administer land uses in Zone 2 and enforce this ordinance.
2. Town of St. George Planning Board (PB) shall administer all land uses in Zone 1 and land uses in Zone 2 that are appropriate.
3. Public Water Systems  
The employees and officers of the public water systems shall refer any problems or potential problems regarding land uses within the wellhead protection area to the CEO.
4. Appeal to Board of Appeals  
The Town of St. George Board of Appeals shall hear and act on administrative and variance appeals.

(1) Variances may be granted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted to permit a use 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 standards of this Ordinance 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 terms “undue hardship” means:

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

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

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

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

## **Section B. Existing and Future Land Uses**

1. Lawful non-conforming uses within the WHPA that existed before the effective date of this ordinance shall be allowed to continue. No expansion will be allowed unless it can be shown that the expansion does not pose a potential threat to the water supply. Changes to other non-conforming uses will not be allowed.
2. Any existing or future land use within the WHPA may be subject to inspection by the CEO accompanied by a representative of a Water District and their consultant to determine if an existing or future land use may pose a threat to the water supply.
  - a.) If the CEO and Water District representatives agree that there is a potential, but not immediate threat, the CEO will notify the landowner in writing of the potential threat and request that the problem be remedied.
  - b.) If the landowner cannot agree with the CEO regarding the threat or the remedy, he may ask for the opinion of a third party expert agreeable to him and the CEO. The landowner will pay for this opinion and all parties will abide by it.
  - c.) If the CEO and Water District representatives agree that there is an immediate threat, in violation of any provision in Article III, the CEO will notify the landowner in writing of the violation and request that the problem be remedied immediately. If the landowner does not agree, or the CEO is not satisfied with the response received, the CEO, or his authorized agent(s), may enter the property and remedy the problem. The Town shall be reimbursed by the landowner for the costs of the remedial action in addition to any fines associated with the violation.
  - d.) When the CEO finds that a credible threat to the public water supply exists and that groundwater monitoring in the area will serve to protect the public water supply from existing or potential land use threats, the land owner shall either: 1.) Grant the Water

- District the right to install groundwater monitoring wells and maintain the right to sample such wells on the applicant's property; or 2.) Install monitoring wells and implement a groundwater-monitoring program approved by the CEO.
- e.) Further, the CEO or the Water District representative shall have the right upon reasonable advance notice, to conduct such testing as the CEO may deem appropriate to determine that groundwater pollution control devices are in good condition and are working properly, and that BMP's are being followed. Such testing shall be at the expense of the Water District. If testing indicates that the groundwater has been contaminated above the State Primary or Secondary Drinking Water Standards, then further testing shall be at the expense of the landowner in question. The landowner shall reimburse the Water District for expenses incurred in the initial well installation and testing.
3. The above procedures do not preclude or limit the Town's rights and remedies as specified in Section D. below.

### **Section C. APPEAL OF PLANNING BOARD AND CEO ACTIONS**

An appeal of any decision of the Planning Board/CEO under this Ordinance shall be taken to the St. George Board of Appeals within thirty (30) days of the Planning Board decision. An appeal of any decision of the Board of Appeals may be taken to the Superior Court within thirty (30) days of the Board of Appeals' decision, in accordance with the Maine Rules of Procedure, Rule 80-B.

#### **1. Powers and Duties of the Board of Appeals.**

The Board of Appeals shall have the following powers as they relate to this ordinance:

**Administrative Appeals:** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made in writing by the Planning Board or the Code Enforcement Officer in the administration or enforcement of this Ordinance.

#### **2. Procedures.**

##### **(1) Application and Hearing**

- a. An administrative appeal shall be filed within thirty (30) days of the date of the order, requirement, decision or determination appealed from, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.
- b. An administrative appeal shall be made by filing a written application to the Board of Appeals.
- c. Upon receiving an application for an administrative appeal of a decision of the Planning Board, the Code Enforcement Officer shall cause all of the papers constituting the record of the Planning Board proceeding to be transmitted to the Board of Appeals.

d. The Board of Appeals shall hold a public hearing on an administrative appeal within thirty-five (35) days of the Town's receipt of the written application.

(2) Decision by Board of Appeals

a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an application. A member who abstains shall not be counted in determining whether a quorum exists.

b. 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 Planning Board/CEO, to grant a variance, or to decide in favor of the applicant on any matter which the Board of Appeals is required to decide under this Ordinance. The applicant shall have the burden of proof. The Board of Appeals may reverse or modify a decision of the Planning Board/CEO only if it finds an error of law, misinterpretation of this Ordinance or misapplication of the law to the facts. If the Board of Appeals reverses or modifies a decision of the Planning Board/CEO, the Board of Appeals shall remand with instructions for such further action as may be necessary to effect a final disposition of the matter.

c. When the Board of Appeals reviews a decision of the Planning Board/CEO, such review is limited to the record of the proceedings before the Planning Board/CEO. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board/CEO, but the Board of Appeals may receive and consider oral or written argument. If the Board of Appeals determines that the record of the Planning Board proceedings is not adequate, the Board of Appeals may remand the matter to the Planning Board/CEO for additional fact finding.

d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board, and shall cause such statement to be included in the written record of the Board's proceedings. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision.

(3) 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 forty-five (45) days from the date of the decision of the Board of Appeals.

Appeal of any actions taken by the Planning Board/CEO with respect to this Section shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

## **Section D. Violations, Enforcement, Legal Action and Fines**

### **1. Violations and Enforcement**

The CEO shall be responsible for the enforcement of this Ordinance, and upon finding a violation of the Ordinance, shall notify in writing the person or persons responsible for the violation. The notice shall include the nature of the violation and the action necessary to correct the situation. A copy of this notice shall be provided to the Select Board and the Planning Board.

### **2. Legal Action**

When a person does not correct a violation after receiving notice to do so, the Select Board, after notice from the CEO may institute all legal and equitable actions to correct the violation. Any person who shall violate a provision of this ordinance or who fails to comply with any of the requirements thereof shall be subject to the penalties in Title 30-A MRS Section 4452.

## **ARTICLE III – LAND USES**

### **Section A. Land Uses Permitted in Zone 1**

Land uses that are permitted in Zone 1 include the following:

- Uses related to well field operations: access roads, structures, power supply and water treatment strictly related to and essential to well field operations.
- Timber planting, growth and harvesting.
- Trails for non-motorized use (walking, skiing, biking, etc.).
- Structures having no floor area, i.e., transmission towers, antennas, and windmills that are deemed to have no adverse impact on water quality as determined by the Planning Board.
- Structures Accessory to permitted uses

### **Section B. Land Uses Permitted in Zone 2**

All land uses located within the Wellhead Protection Zone 2 shall comply with BMP's as outlined in Article IV. In some instances, there may be more than one management practice needed to fully mitigate the problem. Therefore, discretion is needed by the Planning Board/CEO in determining which management practices to apply.

## **ARTICLE IV – BEST MANAGEMENT PRACTICES (BMP's) FOR WELLHEAD PROTECTION AREAS**

### **Section A. Information Sources**

The following documents contain BMP's for Wellhead Protection as applied in the State of Maine: "Source Protection: A Guidance Manual for Small Surface Water Supplies in New England," 1996, by New England Interstate Water Pollution Control Commission; "Environmental Management; A Guide for Town Officials," 1992, by Maine Department of Environmental Protection; and "Best Management Practices for Marinas and Boatyards," 1999, by Maine Department of Environmental Protection. These shall be used as a guide in making a determination of the threat to the water supply and the remedial action necessary.

**Section B. General BMP's to be applied in all Wellhead Protection Zones**

1. All federal and state laws pertaining to pesticides and chemicals shall be strictly adhered to.
2. Use biodegradable chemicals and cleaning agents only.
3. Restore vegetation, or mulch bare soil areas, before any storm or rainfall event.

**Section C. BMP's to be applied to Specific Land Uses**

1. Agriculture/Open Space/Utility Corridors/Landscaping/Logging Operations  
Agricultural and Forestry BMP's shall be followed according to those listed in "Source Protection: A Guidance Manual for Small Surface Water Supplies in New England".
2. Storage, Handling, Use and Disposal of Hazardous Materials  
Commercial and Municipal storage, handling, use and disposal of hazardous materials is prohibited within the WHP Zones 1 and 2 with the exception of liquefied petroleum gas (LPG) when used to fuel back up power supplies.

Use of hazardous materials for domestic purposes will follow all applicable BMP's as described in "Environmental Management: A Guide for Town Officials, Best Management Practices to Control Nonpoint Source Pollution".

3. Solid Waste Disposal  
The long term (>3 months) storage or disposal of solid waste is prohibited in WHP Zones 1 and 2.
4. Mining
  - a. Excavation shall be limited to 5 feet above the seasonal high water table.
  - b. Haul roads shall be watered to control dust. Salting and oiling of roads for dust control is prohibited.
  - c. A reclamation plan shall be provided, maintained and implemented.
  - d. Avoid using leaking or damaged equipment.
  - e. No excavation pits are to be located within 1,000 feet of the Water Districts' wells.
5. Septic/Subsurface Wastewater/Sewage Disposal
  - a. Sewer/septic systems shall be designed by registered professionals using sound engineering practices. On-site sewage disposal shall be according to the State of Maine Subsurface Wastewater Disposal Rules (144A CMR 241).
  - b. Construction of sewers and septic systems shall be carefully inspected to assure proper installation.
  - c. New sewer systems shall be tested for leakage, according to State standards.

- d. Sewers and drainage systems shall be designed to assure that storm water does not enter sanitary sewers.
  - e. For cluster systems, 1,000 gallon septic tank capacity shall be provided for each 300 gallons of flow.
  - f. Chemicals, hazardous materials, floor drains and storm water drains (i.e. roof drains) shall not be discharged to septic systems.
  - g. Inspect old (pre-1974) septic systems and look for signs of leakage and poor soil conditions on an annual basis.
  - h. Replace or repair malfunctioning systems.
  - i. Inspect the level of septic tanks regularly (at least every 3 years) and pump out as required.
  - j. Additional septic system BMP's shall be followed according to those listed in "Source Protection: A Guidance Manual for Small Surface Water Supplies in New England".
6. Storm Water Runoff/Snow and Ice Control
- a. Drainage systems, including detention basins, drainage ways, and storm sewer systems, shall be maintained in order to assure they function properly.
  - b. Chemicals and wastes shall be stored in such a manner to prevent rainfall from contacting them.
7. Wells, Abandoned, Existing and New
- a. Abandoned wells must be filled with cement grout.
  - b. Wells must be constructed according to the State of Maine Regulations. This will ensure that contamination cannot enter ground water via either the inside or outside of the well.
  - c. No injection wells or dry wells except for infiltration of rainwater from roof drains are permitted in the WHPA.
8. Construction Sites
- a. Erosion control plans for any construction sites must be approved by the Planning Board/CEO prior to the start of any construction.
  - b. Erosion control plans must include a buffer strip of vegetation between construction sites and bodies of water, and the mulching and re-seeding of cleared areas.

9. Salt Piles or Sand/Salt Piles
  - a. All salt and sand/salt piles shall be located or placed on an impervious surface and shall be covered or protected from precipitation
  
10. Boatyards/Boat Storage
  - a. Only 50% of the total storage area may be covered with impervious surfaces.
  - b. All bilge water from boat pump-out facilities will be routed through an oil-water separator.
  - c. All pumps, lines and fueling equipment shall be inspected annually.
  - d. Prevent fuel spills by using backpressure and automatic shut-off valves on fuel pumps.
  - e. Dispose of waste oil at the Town of St. George Waste Transfer Station.
  - f. Collect and dispose of sand blasting and paint stripping waste at the Town of St. George Waste Transfer Station.
  - g. Use propylene (instead of ethylene) glycol antifreeze. Dispose of used antifreeze at the Town of St. George Waste Transfer Station.
  - h. Store and recycle used batteries at the Town of St. George Waste Transfer Station.
  - i. Wash down boats with water only; use mild detergents.
  - j. Do not use tributyltin (TBT) paint on boat hulls.
  - k. Discharge untreated sanitary waste to an onsite septic system or holding tank.
  - l. Additional BMP's for boat yards and marinas shall be followed according to those listed in "Best Management Practices for Marinas and Boatyards".

## **ARTICLE V – DEFINITIONS**

### **Agriculture**

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

### **Aquifer**

A permeable geologic formation, either rock or sediment, that when saturated with ground water is capable of transporting water through the formation.

**Best Management Practice**

Procedures designed to minimize the impact of certain activities or land uses on ground water quality and quantity.

**Buffer Strip**

Vegetated buffer strips are natural, undisturbed strips of vegetation or planted strips of close-growing vegetation adjacent to developed areas. As storm water travels over the buffer area, vegetation (or mulch) slows the runoff and traps particulate pollution.

**Code Enforcement Officer**

A person appointed by the municipal officers to administer and enforce these ordinances.

**Commercial Use**

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

**Construction**

Includes building, erecting, moving or any physical operations on the premises required for construction. Excavation, fill, paving and the like shall be considered part of construction.

**Drinking Water Standards, Primary and Secondary**

Standards for drinking water as stated in the 'State of Maine Rules Relating to Drinking Water' with the Maine Department of Human Services.

**Excavation** (see construction)

**Fill** (see construction)

**Floor Drain**

An opening in the floor that leads to the ground and/or is not permitted under other State, Federal, or local regulations; work sinks that lead to such drains are included.

**Ground Water**

The water contained within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined aquifer.

**Hazardous Material**

Any gaseous, liquid or solid materials or substances designated as hazardous by the Environmental Protection Agency and/or the Maine Department of Environmental Protection. This specifically includes petroleum products.

**Hazardous Waste**

Any substance identified under Chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, and any radioactive waste material. This means any



solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiation.

### **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.

### **Industrial Waste**

Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

### **Inert Fill**

Material placed on or into the ground as fill that will not react chemically with soil, geologic material, or groundwater.

### **Mining or Mineral Extraction**

Any operation within a 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 material removed, away from the extraction site.

### **Mulch**

A composted or man-made material used to help stabilize open, exposed areas of soil. This nutrient-rich substrate is used in control prevention plans to re-establish vegetation in cleared areas.

### **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.

### **Paving** (see construction)

### **Public Water System**

"Public Water System" means any publicly or privately owned system of pipes, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption. A public water system must serve at least 25 service connections used by year-round and/or seasonal residences. The term "public water system" is also any collection, treatment, storage or distribution pipes, structures or facilities under the control of the supplier of water. The "public water system" is used primarily in connection with such a system, and any collection or pretreatment storage facilities not under that control that are used primarily in connection with such a system. The system does not include the portion of service pipe owned and maintained by a customer of the public water system.

### **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 or Sand/Salt Piles (covered)**

Storage of salt or sand/salt mix intended for municipal, commercial or other use except for homeowner sidewalks, steps, or driveways beneath a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt.

**Salt or Sand/Salt Piles (uncovered)**

Storage of any amount of salt or sand/salt, for any purpose, without a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt.

**Service Connection**

A physical pipe connection to the water distribution system that serves one end user or customer.

**Solid Waste**

Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse.

**Structure**

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

It does not include driveways but does include paved parking areas.

**Subsurface Wastewater 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 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer or sewerage system. 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 MSRA Chapter 13, subchapter 1.

**Timber Harvesting (Logging Operations)**

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.

**Transfer Station; Recycling Facility**

Facility designed for temporary storage of discarded material intended for transfer to another

location for disposal or re-use; facility which processes discarded material for re-use.

**Utility Corridor**

Right-of way, easement, or other corridor for transmission wires, pipes or other facilities for conveying energy, communication signals, fuel, water, wastewater, etc.

**Waste Disposal, Industrial/Commercial** - (see industrial waste)

**Wastewater**

Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences together with any storm, surface or ground water as may be present.

**Wellhead**

The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

**Wellhead Protection Area**

An area, consisting of 2 zones, delineated according to Article I, Section C of the Ordinance.

**Well, Abandoned**

A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for the extraction or monitoring of ground water that has not been used for a period of two consecutive years.

**Well, Existing or New**

A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction, injection or monitoring of ground water.