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TOWN OF SULLIVAN ORDINANCE

Regulating the Establishment/Operation of Junk Yards/Automobile Grave Yards and the Storage/Disposal of Garbage and Junk

Adopted: June 14, 1995

Amended: June 28, 2004

Section IV, subsection 3 Amended: June 27, 2005

I. Title

This Ordinance shall be known as "An Ordinance pertaining to the establishment/operation of junk yards/automobile graveyards and the storage/disposal of garbage and junk".

II. Purpose

The purpose of this ordinance is to promote the general health and welfare of the Town of Sullivan, to assure a continuous upgrading of the community's appearance, and to protect property values.

III. Authority

This ordinance is enacted pursuant to the Home Rule provisions of the Constitution of the State of Maine and authority vested to the Sullivan Board of Selectmen via the town meeting process.

IV. Definitions

1. **"Garbage"** means all animal and vegetable waste and all decayable matter including waste resulting from the handling, sale, storage, packaging, preparation, cooking and consumption of food and food products. For the purpose of this ordinance, garbage shall not mean or include organic matter contained in maintained compost piles or covered subsurface packaged garbage decomposing units so long as no health hazard or other nuisance is created, shall not include leaves, coniferous needles, grass clippings, tree trimmings or similar plant materials used for fill or mulching purposes, and shall not include agricultural wastes produced by a farm or farm operation conforming with best management practices as defined in 17 M.R. S. A. § 2805.

2. **"Junk"** means all rubbish and trash, including discarded, worn out or junked household appliances, furniture, plumbing and heating supplies; discarded scrap and junked lumber and wood products; old or scrap metal of any kind, including automotive remnants; paper products, bedding, glass, plastic, styrofoam, insulation, composition shingles, insulation, rags, rope, batteries and other scrapped or junked manufactured items and materials, but excluding garbage.

3. **"Automobile graveyard"** means an outdoor area with more than **two (2)** "unregistered or uninspected" motor vehicles, or parts thereof, such as bodies, motors, frames, tires, etc. A **Junker** is either an unregistered or an uninspected vehicle (i.e. a **vehicle must be both registered and inspected in order not to be considered "junk"**). The term shall not include a location used for temporary storage (not more than 180 days) **by a place of business** which is engaged primarily in doing automotive repairs for the purpose of making motor vehicles **serviceable**.

4. **“Junkyard”** means an area used for the storage of any and/all items listed in item #2, **“Junk”**.

V. Prohibition

1. Storage. It shall be unlawful to store any garbage and/or junk outside of a closed structure within 300 feet of any dwelling, retail or service establishment, or public road within the town, unless such garbage or junk is stored in closed, rigid containers that provide protection against animals, insects, wind and precipitation, except that:

(a) Garbage may be stored in sealed plastic bags outside a closed structure or containers for a period not to exceed ten (10) days, provided that such garbage will be removed from the premises with ten (10) days.

(b) Any item of junk that does not fit within a standard container may be stored outside a closed structure or containers for a period not to exceed twenty (20) days.

(c) Junk stored within a licensed junkyard or automobile graveyard may be stored within 300 feet of any structure used solely for the purpose of storing, processing, salvaging, or selling such junk, to the extent permitted by law.

(d) Junk which is to be salvaged or repaired may be stored for a period not to exceed 60 days within 300 feet of a repair establishment.

VI. Town Permit Required

No “automobile graveyard” and/or “junkyard” shall be established, or operated or maintained, or permitted by the owner or occupier of any land without first obtaining a nontransferable permit from the Town of Sullivan.

VII. Applications

Persons who now have or hereafter intend to establish, operate or maintain, an automobile graveyard or junkyard as herein defined shall file an application for a permit with the Selectmen. The Application shall contain information as will enable the Selectmen to determine: **(1)** the location; **(2)** the proximity to roadways and boundary lines; **(3)** the visual impact from roadways and adjoining properties; **(4)** the scope of operations, including the number of automobiles, amount of junk, area of land to be involved; **(5)** any method of indoor storage or screening proposed by the applicant; **(6)** the duration of operation of the automobile graveyard or junkyard; **(7)** the effect on ground water; and **(8)** the effect on traffic safety. The selectmen may require such additional information and documents as they may consider necessary to consider the foregoing factors.

VIII Hearings

Before issuing a permit to establish, operate or maintain an automobile graveyard or junkyard, the selectmen shall hold a public hearing, notice of which **shall be posted at least 7 days and not more than 14** days prior to said hearing in not less than **2** public places in the Town of Sullivan, and in the Ellsworth American or other newspaper of general circulation within the town. The municipal officers shall give such notices to the Maine Department of Transportation and other state agencies as shall be required by law.

IX. Requirements for Permits

The Selectmen shall issue a permit for the establishment, maintenance and operation of an automobile graveyard or junkyard when the applicant has satisfied them that (1) the location will not significantly diminish property values of the neighborhood; (2) the proximity to roadways complies with state law; (3) the proximity to adjoining boundary lines is not closer than 400 feet without consent of the adjoining landowner in writing; (4) the visual impact from roadways and adjoining properties does not significantly diminish the appearance of the neighborhood; (5) that items are stored indoors to the extent practical; (6) that items are screened by fence, building or natural vegetation from view from the road and adjoining landowners, unless such adjoining land owners consent in writing; (7) the duration of operation of the automobile graveyard or junkyard will not exceed one year, unless the permit is renewed; (8) ground water will not be contaminated; (9) traffic safety will not be diminished; and (10) the applicants meet other requirements imposed by State or Federal law. **NO Permit shall be issued for longer than one year.**

X. Fee

The Applicant shall pay with each application such fee as may be required by 30-A M. R. S. A. § 3756, as amended.

XI. Enforcement

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance are being violated, he shall notify in writing the person or persons responsible for such violations, stating in general terms the nature of the violations, and ordering that the violations cease.

XII. Penalties

Any person, including but not limited to a landowner, the landowner's agent, or a contractor who violates the provisions of the Ordinance is liable for civil penalties and remedies set forth in Maine Revised Statutes.

The minimum penalty for a specific violation is one hundred dollars (**\$100.00**) and the maximum penalty is twenty-five hundred dollars (**\$2,500.00**) A specific violation occurs on each day a violation continues to exist after written notice of violation has been sent to the land owner/occupier. Civil penalties may be assessed on a day basis and the violator may be held liable for all costs incurred by the Town of Sullivan in enforcing compliance with this Ordinance, including attorney's fees, filing costs, appraisals and costs of service.

XIII. Conflicts with other Ordinance & State or Federal Law.

The requirements of this Ordinance are in addition to those imposed by other Ordinances of the Town and by State and Federal Law. This Ordinance does not repeal, annul or in any way impair or remove the necessity of compliance with any other rules, regulations, bylaw, permit or provision of law.

Whenever any requirement of this Ordinance is inconsistent with any requirement of another Ordinance, the more restrictive provision shall apply.

Whenever any requirement of this Ordinance is inconsistent with State or Federal Law, then State or Federal Law shall apply.

XIV. Effective Date

This Ordinance takes effect immediately upon its enactment.

XV. Appeals

The Board of Appeals may upon written application of an aggrieved party, hear appeals from the determination of the Code Enforcement Officer.

Town of Sullivan

Board of Appeals Ordinance

Section 1. Authority; establishment

Pursuant to 30-A M.R.S.A. subsection 2691 and 3001, a board of Appeals is hereby established for the Town of Sullivan, Maine.

Section 2. Composition; appointment; qualifications; terms; removal; vacancies.

The Board shall consist of 5 regular and 2 associate members who shall be appointed by the municipal officers and who shall be registered voters of the Town of Sullivan. Neither a municipal officer nor the spouse of a municipal officer may be a member. Members shall serve for terms of (3) three years and shall continue in the office until their successors are appointed, except that initial appointments shall be staggered so that as nearly an equal number of terms shall expire annually. The municipal officers may remove a member for cause, after notice and hearing. Vacancies shall be filled within (60) sixty days by appointment of the municipal officers for the unexpired term.

Section 3. Officers; meetings; quorum; procedure.

The Board shall annually elect a Chairman and a Secretary from among its members. The Chairman shall call meetings as necessary or when so requested by a majority of members or the municipal officers. A quorum necessary to conduct business shall consist of at least a majority of members. The Chairman shall designate an associate member to serve in the place of a regular member who is absent or disqualified; associate members shall otherwise not be considered members for purposes of a quorum or voting. The Chairman shall preside at all meetings and shall be the official spokesperson of the Board. The Secretary shall maintain a permanent record of all proceedings and all correspondence of the Board which shall be a public record and shall be filed with the Town Clerk and may be inspected at reasonable times. The Board may adopt written rules of procedure governing the conduct of any hearing or proceeding, provided they are not inconsistent with any statute or ordinance, and provided further that the Chairman may waive any rule for good cause shown.

Section 4. Jurisdiction; appeals.

The Board shall have the jurisdiction to hear and decide appeals from any decision, action or failure to act by the following officials and in the following matters only:

- a. by the Code Enforcement Officer or the Planning Board, in the administration of the Shoreland Zoning Ordinance.
- b. by the Planning Board, in the administration of the Subdivision Ordinance or regulations and 30-A M.R.S.A. subsection 4401-4407 (subdivisions)

The Board may exercise jurisdiction only upon written appeal from a person aggrieved and filed within 30 days after the action causing complaint and stating the relief sought and the grounds therefor. The Board shall have no authority to act in any other matter except as expressly provided by ordinance or statute.

Section 5. Hearings; decisions; notice.

No appeal may be decided by the Board without first providing an opportunity for hearing. Notice of any hearing shall be given to the public by publication in a newspaper of general circulation at least (7) seven days before the hearing, to the appellant by mail at least 14 days before the hearing and to the Planning Board and other municipal officers by mail or hand delivery at least (14) fourteen days before the hearing. The Board may receive oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. All parties may present their cases by oral or documentary evidence, submit rebuttal evidence and cross-examine witnesses. The transcript of testimony, if any, and exhibits, together with all documents filed in the proceeding and the decision of the Board, shall constitute the record. In deciding any appeal, the Board shall be guided solely by the standards, criteria or requirements of the applicable statute, ordinance or regulations, and may reverse the decision of other officials only if it was clearly erroneous or not supported by substantial evidence in the record. All decisions shall include written findings and conclusions, as well as the reasons or basis therefor, upon all material issues of fact, law of discretion, and the appropriate order, relief or denial. Notice of any decision shall be mailed or hand delivered to the appellant, the Planning Board or other appropriate municipal officers within (7) seven days of the decision.

Section 6. Reconsideration.

The Board may reconsider any decision within 30 days after its prior decision and may conduct additional hearings and receive additional evidence, provided that notice of any hearing or decision to reconsider shall be given as provided herein for hearings and decisions generally.

Section 7. Appeals to Superior Court.

Any person aggrieved by a decision of the Board may appeal to the Superior Court in accordance with Rule 80B, Maine Rules of Civil Procedure, within (30) thirty days after the decision is rendered, except as otherwise provided by statute.

Section 8. Repeal of prior ordinances; ratification of prior board actions.

Any ordinance enacted or legislative act prior hereto and establishing or purporting to establish a board of appeals by that or another name, or governing or purporting to govern its membership, authority or procedure, is hereby repealed, it being the intent of this ordinance to abolish and replace any such board with a board of appeals lawfully established and authorized, among other things, to hear zoning appeals pursuant to 30-A M.R.S.A. subsection 4353. Any act prior hereto of that board commonly known as the board of appeals and abolished hereby is hereby ratified and confirmed.

Section 9. Severability

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision, which shall remain in full force and effect.

Section 10. Effective date.

This ordinance shall take effect on July 1, 2018 and remains in effect until amended or revoked.

TOWN OF SULLIVAN

BUILDING CODE ORDINANCE

Revised March 14, 1983

Amended June 23, 1986

Amended June 26, 1990

Amended June 26, 1995

Amended June 28, 2004

Amended June 24, 2013

Section 1. Scope

The provisions of the code shall apply to new construction, alterations and additions, relocation or replacement of any building, trailer, mobile home, or part thereof, as well as any site preparations.

Section 2. Code Enforcement Officer

The Selectmen shall appoint the Code Enforcement Inspector annually. Pending his appointment, the Selectmen's office will perform his duties or name a temporary inspector.

Section 3. Permit

A PERMIT IS NEEDED FOR ANY AND ALL ACTIVITIES INCLUDING SITE WORK. AN APPLICATION FOR A PERMIT **SHALL BE** initiated before any activities stated in **SECTION 1** are started. IF SUCH ACTIVITIES INCREASE THE VALUE OF THE STRUCTURE A PERMIT FEE SHALL APPLY. When the Code Enforcement Officer and/or Planning Board determines that the activities are routine maintenance, the fee may be waived.

- A. Application: An application must be made to the building Code Enforcement Officer for a permit.
- B. Approval or Refusal: The Code Enforcement Officer shall notify the applicant of his decision within 15 days and reasons for refusal shall be in writing.
- C. Life of Permit: All permits shall be void unless work is started within one year.
- D. Display of Permit: Permits must be displayed on the premises and be visible from the nearest road. The CEO shall be allowed on the premises during reasonable hours in order to inspect the job. IF VIOLATIONS EXIST, HE MAY STOP THE WORK.

Section 4. Fees

The fee shall be **\$25.00** for the first \$25,000.00 or part thereof, and **one dollar** for each additional \$1000.00 of proposed work. The permit fees are payable to the Town of Sullivan. **If work is started prior to obtaining a permit, the fees shall be double.**

Section 5. Size of Lot

No Building shall be construction upon, or moved to any lot with a **public road** frontage of less than **100** feet, nor on a lot of less than **20,000** square feet. Each building shall have a setback of at least **25** feet from the adjacent road right of way line, **100** feet from inland waters, (See Section 6-B for coastal shores) and not less than **12** feet from adjacent property lines. The Code Enforcement Officer shall grant certain exemptions involving the following:

- A. Irregular lots containing **20,000** square feet or over but not having **100** feet frontage as stated above.
- B. Existing lots of **less than 20,000** square feet provided safe and proper sewage disposal can be accomplished. Possible alternatives to individual septic tanks might be sealed privy faults, chlorination of drinking water entering the house, aerobic tanks, a mutual septic tank and pumping facilities for several residences, private or communal holding tanks.
- C. Present owners are exempt from the **12** foot property line requirement when a space is a problem.

Section 5-A Construction Standards

Any building constructed or renovated after July 1, 2004, must conform to the State of Maine Mandatory standards for residential construction. M.R.S.A. 10§ 1415-C. This section repealed June 24, 2013

Section 6. Environmental Aids:

- A. In order to prevent loss in value of neighboring real estate, mobile homes shall be permanently landscaped with grass, trees, shrubs and fencing, whichever are necessary in order to form an attractive setting.
- B. On coastal shores there shall be an environmental buffer zone of 75 feet between high water mark and any building. This zone shall be landscaped where deemed necessary by the Code Enforcement Officer, and when there is natural growth in this zone it shall be sparingly cleared in order to retain its environmental quality. Boat houses, wharves and commercial fishing structures shall be excepted if the locations are approved by the building inspector.
- C. The Code Enforcement Officer may require clustering of houses in subdivisions and a wide buffer zone if the subdivision is on the shore of any waters.
- D. No person shall access any public way, including Town Roads, unless the proposed access is approved by the Code Enforcement Officer and/or Road Commissioner. Entrances shall meet state standards of Minimum of 24' wide to a Maximum of 32' wide for Residential and Minimum of 32' wide to a Maximum of 40' wide for a Business, and a Minimum of 50' to 55' wide for Municipal use, such as Fire Station, Salt/sand Building road and/or Schools. If the Code Enforce Officer and/or Road Commissioner requires the installation of a culvert to access a public way or town road, the culvert (s) shall meet the state Minimums of 15 inches for intermittent flow and for Big Water Flowage an 18 inch culvert shall be required unless the depth needed for same is unobtainable. **The culvert (s) shall be new.** If a Black Plastic

Section 7 Exterior Finish

The exterior walls shall be finished with a covering of clapboards, exterior plywood, wood or metal siding, wood, asphalt or asbestos shingles, or with masonry, brick or stone. Such covering shall be completed within two years after the start of the foundation construction. The Code Enforcement Officer shall exempt certain utility buildings such as small tool sheds, animal shelters, work shops, etc. And special use camps for hunting, fishing, etc., not used for normal living purposes, provided they do not adversely affect the general health and welfare of the area.

Section 8. Roof Covering

The roof shall be covered with non-combustible or fire resistant material, except that a dwelling or other structure which is separated by at least (12) twelve feet from the building may be roofed with wooden shingles.

Section 9. Chimneys

Every dwelling shall have a chimney constructed of brick, masonry units or reinforced concrete and lined with approved fire clay or tile flue. Quality prefabricated chimneys will be approved when they meet heat output standards. When all heat equipment is electrical, chimneys are not necessary.

Section 10. Sewage disposal

Sewage disposal systems and installations shall conform with the State Plumbing Code and EIC regulations.

Section 11. Wiring

Reference should be made to the State Electrical Code in order to insure safe wiring and prevention of fire. This section repealed June 24, 2013

Section 12. Demolition

A PERMIT (from the Town of Sullivan) shall be required at least five (5) working days prior to removal for all buildings regardless of by demolition or burning. Maine DEP must be notified five (5) working days prior to demolishing any building (except single-family homes and related structures such as sheds and barns) even if the building does not contain asbestos.

Any building or structure, which due to lack of care, has become so dilapidated that it is unfit for any use due to being unsafe, unsanitary, a fire hazarded or otherwise a hazard to health or safety may be demolished and removed by town authorities.

Prior to demolition, a complete inspection shall be made by the Code Enforcement Officer, fire chief and two town officers. The owner shall also be allowed an opportunity to repair and restore it to a safe condition and with materials required in the building code.

Section 13. Appeals

The selectmen will hear appeals or may appoint a separate appeals board under Title 30 MRSA 2441. Variances may be granted to avoid undue hardships provided there is no substantial departure from the intent of the ordinance.

Section 14. Amendments

On petition, or on recommendation of the Town Planning Board, or on their own motion, the Selectmen may present warrants for consideration of the Town to amend the regulations and provisions of this ordinance at a regular or special town meeting. A majority vote of the legal voters present is required.

Section 15. Violations

Any violation of the provisions of the Ordinance shall be considered a nuisance and any person found guilty of violating may be fined **\$25.00** to **\$100.00**. Each day of violation may be considered a separate offense. T 30 2151E MRSA.

Section 16. Validity

If any section, subsection, paragraph, sentence, clause, or phase of the Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and to this and the provisions are declared to be severable.

Section 17. Certificate of Occupancy Required (Adopted June 26, 1990)

No Building shall be occupied or used after or during construction, conversion to another use, or relocation until a Certificate of Occupancy is issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said certificate within fourteen (14) days after notification by the applicant that all of the permitted construction has been completed and the examination shows that all work was performed and completed in compliance with the provisions of this code and all other applicable local ordinances, state and federal codes.

DEMOLITION PERMIT APPLICATION

TOWN OF SULLIVAN
1888 US HIGHWAY 1
SULLIVAN, ME 04664

PERMIT APPLICATION DATEPERMIT NO.....

CLASS OF BUILDING OR TYPE OF STRUCTURE TO BE DEMOLISHED

LOCATION: Street/Road Name.....TAX MAP.....LOT.....

IF A MOBILE HOME YEAR.....MAKE.....SIZE.....

COLORS.....SERIAL NUMBER.....

OWNER'S NAME AND ADDRESS

.....

.....

OWNER'S TELEPHONE #

TO BE DEMOLISHED / REMOVED BY

OR BURNED BY

ALL REAL ESTATE TAXES PAID THROUGH20....TAX YEAR

OTHER BUILDINGS ON SITE IF ANY

Owners of the property requesting this permit gives the Code Enforcement Officer of the Town of Sullivan
Permission to enter said property for the purpose of Inspection to ensure compliance with all the Building
Codes and Ordinances.

SIGNATURE OF OWNER.....

PERMIT GRANTED

SIGNATUREDATE.....

Code Enforcement Officer

TOWN OF SULLIVAN CABLE TELEVISION RATE REGULATION ORDINANCE

ARTICLE 1: GENERAL

1.1 Short Title

This Ordinance shall be known as the "Sullivan Cable Television Rate Regulation Ordinance" and will be referred to herein as "this Ordinance".

1.2 Purpose

The purpose of this Ordinance is to implement the authority conferred on cable television franchising authorities to regulate Basic Service Rates and Changes.

1.3 Authority

This Ordinance is enacted pursuant to the Cable Television and Consumer Protection and Competition Act of 1992, as amended; pursuant to regulations adopted by the Federal Communications Commission ("FCC"), including but not limited to the "FCC Rate Regulations" as defined herein; and pursuant to 30-A M.R.S.A. 3001, as amended.

1.4 Validity and Severability

The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provisions of this Ordinance.

1.5 Effective Date

This ordinance shall become effective immediately upon its approval by the municipal officers.

ARTICLE 2: DEFINITIONS

2.1 Basic Service Rates and Charges:

Basic Service Tier rates and the charges for related equipment, installation and services which, pursuant to federal laws and regulations, may be regulated by franchising authorities.

2.2 Basic Service Tier:

That tier of cable television service which contains, at a minimum, all local broadcast signals and the public, educational and governmental channels required by the franchise agreement. Provided that the contents of this tier meet this definition, the Cable Operator may, in its sole discretion, determine what (if any) additional service will be provided as part of this tier.

2.3 Benchmark Approach:

That theory of rate regulation which sets rates based upon "benchmarks" established by the FCC.

2.4 Cable Operator:

Any cable television system operating within the Town of Sullivan.

2.5 Cost-of-service Approach:

That theory of rate regulation, to be initiated only by the Cable Operator, which allows the Cable Operator to charge rates in excess of the FCC benchmark rates upon a showing that the cost of providing cable service exceeds the benchmark rate.

2.6 FCC: The Federal Communications Commission.

2.7 FCC Rate Regulations:

Report and Order, In the Matter of Implementation of Sections of Cable Television Consumer Protections and Competition Act of 1992: Rate Regulation, MM Docket 92.266, FCC 93-177 (released May 3, 1993), as amended.

2.8 Franchising Authority:

The Town of Sullivan, acting pursuant to its authority under federal, state and local laws and regulations to authorize and oversee the provision of cable television service in Sullivan.

ARTICLE 3, RATE SETTING PROCEDURES

3.1 Cable Operator Submission

Within 30 days of the date of the notice from the Franchising Authority to the Cable Operator, the Cable Operator shall file its rate justification with the Franchising Authority.

3.2 Franchising Authority Response

The Franchising Authority shall make a decision on the rate request within 30 days after the Cable Operator submits its rate justification. The rates proposed by the Cable Operator shall automatically take effect after that 30-day period unless the Franchising Authority issues a statement that it needs additional time to make its decision.

If the Franchising Authority decides that it needs longer than the initial 30-day period to consider the rate request, it may issue a statement to that effect. Such statement may provide for up to 90 additional days to review a rate request based upon a benchmark approach and up to 150 additional days to review a rate request based upon a cost of service approach.

If the Franchising Authority cannot reach a decision by the end of the extended period set forth in the preceding paragraph, the rates proposed by the Cable Operator shall go into effect, subject to refund. If the Franchising Authority intends to seek refunds, it shall issue an Order to the Cable Operator prior to expiration of the time period for response, notifying the Cable Operator to keep accurate records with respect to rates.

3.3 Public Hearing Required

A public hearing shall be held in connection with every rate setting proceeding. At least 10 days prior to the hearing date, the Sullivan Town Clerk shall publish a notice of the hearing in a newspaper of general circulation in the Town of Sullivan. The notice shall identify the name of the Cable Operator, indicate that a rate change has been requested, and identify the time and place of the public hearing.

3.4 Proprietary Information

The Franchising Authority may require the Cable Operator to furnish proprietary information in connection with any rate setting proceeding.

3.5 Calculation of Rates and Refunds

In setting Basic Tier Rates and Charges, and in setting any refunds, the Franchising Authority shall be governed by the FCC Rate Regulations as amended. The FCC Rate Regulations shall govern notwithstanding any different or inconsistent provisions in the Franchise Agreement.

3.6 Decision of Franchising Authority

The Franchising Authority shall issue a written rate decision with appropriate findings and conclusions if the Franchising Authority:

- a. disapproves, in whole or in part, the initial rate schedule or a proposed rate increase; or
- b. approves the initial rate or proposed rate increase over the objection of an interested party.

Public notice must be given of any such written decision, which shall include release of the text of the written decision to the public.

No written decision shall be required to approve an unopposed existing or proposed rate.

3.7 Appeals

The FCC shall have exclusive jurisdiction to hear appeals challenging whether the Franchising Authority's decision is consistent with the 1992 Cable Act or any applicable FCC rules. Any participant in a Franchising Authority's rate regulation proceeding may appeal the Franchising Authority's decision on such grounds to the FCC within 30 days of release of the public notice required under Article 4.6 of this Ordinance.

Appeals on grounds other than those stated in the preceding paragraph shall be made to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

ARTICLE 4: EXECUTION OF DOCUMENTS

4.1 Authority conferred

The First Selectman, or his or her designee, is authorize to execute on behalf of the Town of Sullivan and file with the FCC such certifications, forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the Town of Sullivan to regulate Basic Service Rates and Charges.

ARTICLE 5: AMENDFMENT

This Ordinance may be amended by the Municipal Officers following a public hearing.

ARTICLE 6: FEDERAL LAW PREEMPTION

To the extent that any provision of this Ordinance is inconsistent with federal law or regulations now in effect or which may be later adopted, federal law shall govern.

Approved by the Municipal Officer this 9th day of February 1994.

ORDINANCE, REGULATING INSTALLATION OF CULVERTS
TOWN OF SULLIVAN
Adopted March 14, 1983
Amended, June 26, 1995

Section 1. AUTHORITY

Pursuant to the authority of police power granted to municipalities in 30 M.R.S.A. 2151 and by authority of the home rule provisions of the Constitution of the State of Maine, Article VII-A as implemented by 30 M.R.S.A. Ch. 201-A, the town roads within the limits of the town.

Section 2. No person shall install a culvert, access any town road, unless he first files an application with the selectmen and obtain a permit.

Section 3. The permit shall provide the following information.

- A. A designation of the location of the proposed culvert and/or access way,
- B. The name or names of the owners of the land on which the culvert and/ or access way is to be installed/located.
- C. The diameter of the culvert and/or size of access way.
- D. The length of the culvert overall and the length of the culvert exposed on each side of the access way.
- E. A certification that the culvert to be installed is new and has not been previously used.
- F. Such additional information as may be required by the Selectmen under the circumstances to assure adequate drainage and/or vehicle passage.

Section 4. No permit shall be issued under any of the following circumstances;

- A. If the diameter of the proposed culvert is less than 12 inches.
- B. If written consent of one or more owners of each parcel of land on which the culvert and/or access way is located, is not obtained; said land not being owned by the applicants.
- C. If the culvert to be installed had been previously used.
- D. If it appears to the Selectmen that the proposed culvert and/or

access way will not provide the adequate drainage.

If all of the above requirements are not satisfied, the Selectmen shall issue a written denial of the permit.

- Section 5.** No culvert and/or access way shall be installed later than one year after the date the permit has been issued.
- Section 6.** Any person who shall violate this ordinance shall be punished by a fine of not less than \$250.00 for each offense. In addition, the Town may recover its costs of prosecution, including reasonable attorney's fees.
- Section 7.** Application filed and true copies of permits issued, or denials of such permits, shall be retained by the Town for not less than five years after the date of issuance or denial.

TOWN OF SULLIVAN

1888 US HWY 1

SULLIVAN, ME 04664

APPLICATION TO OPEN TOWN ROAD

NAME OF APPLICANT.....DATE:.....

ADDRESS OF APPLICANT.....

TELEPHONE # DAY.....EVENING.....

OFF TOWN ROADWAY NAMEDTAX MAP #.....LOT.....
SITE PLAN REQUIRED.

PROPOSED USE.....

PROPOSED LENGTH OF CULVERT?.....

PROPOSED DIAMETER OF CULVERT?.....

(see Requirements in Building Ordinance)

WORK TO BE DONE BY:.....

.....Telephone #.....

STARTING DATE:.....COMPLETION DATE:.....

UTILITIES IN AREA: Water & Sewer/Telephone/Power

Are there any known utilities in the area of this opening YES () NO ()

NOTICE TO APPLICANT

M.R.S.A. Title 23 Sec. 3360-A Protection of Underground Facilities requires:

- 1.. The contractor needs to notify DIG SAFE 1-888-DIG-SAFE at least 3 business days (72 actual hours) prior to opening roadway.

Your endorsement of this form certifies to the Board of Selectmen of the Town of Sullivan that DIG-SAFE will be notified in accordance with the requirements listed above.

STATE MENT OF AGREEMENT

I understand that the opening will be measured by the Road Commissioner, Code Enforcement Officer and/or Selectmen of the Town of Sullivan. I agree to be responsible for all FINAL RESTORATION of the affected area to the satisfaction of the Board of Selectmen and/or Road Commissioner of the Town of Sullivan

Signature of Applicant:_____

TOWN OF SULLIVAN
BARKING ORDINANCE
ADOPTED JUNE 30, 2003

No owner or keeper of any dog kept within the legal limits of the Town of Sullivan shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking, howling or other loud or unusual noises anytime day or night.

Upon written complaint by the person disturbed, signed and sworn to , any Constable, duly qualified law enforcement official, Animal Control Officer or person acting in that capacity of the Town of Sullivan, may investigate and give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint. Therefore, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of \$50.00 for the first offense. Each additional conviction after the first shall be punished by a fine of \$50.00. All fines so assessed and attorney fees shall be recovered for the use of the Town of Sullivan through District Court.

DOG BARKING COMPLAINT FORM

Date _____

I, _____ of _____ am making a written Complaint
to the Animal Control Officer of the town of Sullivan.

About Dog (s) barking on, _____ -at _____ AM/PM, THRU
(date) (time)

THRU _____ AM/PM.
(time)

The Dog (s) is at _____
(address of Barking Dog)

Owned by (if known) _____

I understand by filing this complaint, a summons may be issued to the
Defendant, which could result in me being subpoenaed to court to testify.

Signature: _____

Address _____

Telephone#: _____

911 Ordinance
Town of Sullivan
Adopted June 30, 1997
Amended, June 26, 2002

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 Sullivan.

Section 2 **Authority:**

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, 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 Officer, who shall be appointed by the Board of Selectmen, for a period of one (1) year. The Addressing Officer shall be authorized to, and shall assign names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Section 4 and 5 of the Addressing Guidebook. The Addressing Officer shall also be responsible for maintaining the following official records of this ordinance.

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 more or less permanent structure has been erected or could be placed. A road name assigned by the Town of Sullivan 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 (e.g., no Pine Road and Pine Lane).
- b. **No** two roads should have similar-sounding names (e.g., Beech Street and Peach Street).
- c. **Each** road shall have the same name throughout its entire length, unless found to be inappropriate.

Section 5 Number System:

Number shall be assigned every 50 (fifty) 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 frontage interval may vary, depending upon the proximity of the buildings, such as trailer parks, seasonal dwellings, over-night cabins, etc.)

The following criteria shall govern the numbering system:

- a. All number origins shall begin from the Sullivan end of the "Singing Bridge", (Hancock/Sullivan Bridge). 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 said structure.
- c. Every structure with more than one principle use or occupancy have a separate number for each use or occupancy. (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number such as 235 Maple Street, Apt 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 number (s) in the following manner:

- a. Number on the Structure or Residence: Where the residence or structure is clearly visible, within **50** (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure, preferably above the front door/entry point. If the residence or structure is within **50** (fifty) feet of the edge of the road right-of-way, but is **NOT** clearly visible, then paragraph "b", below would apply.
- b. Number at the Street Line: Where the residence or structure is over **50** (Fifty) feet from the edge of the road right-of-way, or the front door /entry point can not be clearly observed within **50** (fifty) feet of the edge of the road right-of-way (para. "a" above, the assigned number (s) shall be displayed on a post, fence, wall, the mail box (consult your delivery postmaster if you wish to use your mail box) or on some structure at the

Property line next to the walk or access driveway to the residence or structure. The number (s) must be attached in an appropriate manner as to allow the number (s) to be easily observed from an emergency vehicle. The Town recommend that there be a minimum height of 38-44 inches of clearance from the surface of the ground to the bottom of the number (s). If number (s) are being attached to a mail box which has yet to be installed, you must contact your Postmaster as to the proper installation requirements.

- c. Size and Color of Number (s): The number (s) shall be a minimum of 4 (four) inches in height and must be of a color which will contrast with material to which it is attached, such as black numbering on a white background, etc. All numbering shall be in accordance with **Section 6**, paragraphs “a” and “b”.
- d. Every person whose duty is to display the assigned number (s), shall remove any different number (s) that might be mistaken for, or confused with, the number (s) assigned in conformance with this ordinance.
- e. Interior Location: All residents and other occupants are requested to post the assigned number (s) and road name next to their telephone for emergency reference.

Section 7 New Construction and Subdivision:

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 (s) from the Addressing Officer. This shall be done at the time of the issuance of the building permit.
- b. New Construction: Any prospective subdivider shall show a proposed road name and lot numbering system of the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Addressing Officer, shall constitute the assignment of road names and number (s) 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 **50** (fifty) feet to aid in assignment of number (s) to structures subsequently constructed.

Section 8 Effective Date:

This ordinance shall be effective as of June 30, 1997. It shall be the duty of the Addressing Officer to notify by mail each property owner and the Post Office of a new address at least **30 (thirty)** 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 number (s), within **30 (thirty)** 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:

- A: Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not more than **\$100.00**, and each day such violation continues shall constitute a separate violation. Such fines shall be levied by the Selectmen.

- B. Theft of a town road sign (s) will result in a fine. Any person (s) found to be in possession of a town road sign (s) shall be liable to a fine of not less than **\$500.00** per incident.

SULLIVAN TOWN ORDINANCES
ARE AVAILABLE
FOR PUBLIC VIEWING

PLEASE ASK AT THE FRONT DESK

1. 911 ORDINANCE
2. ALEWIVE ORDINANCE
3. BARKING DOG
4. BUILDING CODE ORDINANCE
5. CABLE TELEVISION
6. CULVERT INSTALLATION
7. EMERGENCY MGMT RESPONSE
8. FLOODPLAIN MANAGEMENT
9. HARBOR MANAGEMENT
10. HEAVY LOAD ORDINANCE
11. JUNKYARD & AUTO GRAVEYARD
12. MUNICIPAL FIRE & RESCUE DEPARTMENT
13. MUNICIPAL PLANNING BOARD
14. PARKING & TRAFFIC CONTROL
15. NOISE, PROHIBITING UNNECESSARY
16. RV /CAMPGROUND/MOBILE PARK
17. REGIONAL SHELLFISH CONSERVATION
(FRENCHMAN BAY)
18. RENTAL HOUSING
19. SHORELAND ZONING
20. SIGN ORDINANCE
21. SOLID WASTE DISPOSAL
22. SPECIAL AMUSEMENT
23. SUBDIVISION REGULATION
24. TOWER ORDINANCE
25. WELL DRILLERS/PUMP INSTALLERS

**TOWN OF SULLIVAN
EMERGENCY MANAGEMENT RESPONSE
ORGANIZATION ORDINANCE
ADOPTED JUNE 30, 1997**

- A. There is created an Emergency Operating Preparedness Force entity in compliance and conformity with provisions of Title 37-B M.R.S.A., Section 701 et., Seq., hereinafter referred to as the Response Team.
- B. The Select Board shall be responsible for the Response Team's organization, administration and operation. The Select Board may employ such employees as they deem necessary and prescribe their duties.
- C. The Select Board shall designate the Fire Chief as the Emergency Response Team Leader. The Response Team leader shall coordinate activities of the town fire department and constables and maintain liaison with other civil preparedness agencies, Public Safety agencies and have such additional duties and responsibilities as may be prescribed by the Select Board.

Section 2-137 Rules and Regulations

The Fire Chief shall prepare, under the direction and control of the Select Board, such Policies as may be deemed necessary for the administration and operational requirements of the Response Team, which policies must be approved by the Select Board prior to becoming effective. The Select Board shall accept, amend, or reject same.

The Select Board shall have the power and authority, after consultation with the Fire Chief, to issue a proclamation that an emergency exists under conditions specified in Title 37-B M.R.S. A., Section 742. The proclamation may declare that an emergency exists in any or all sections of the Town. A copy of such proclamation shall be filed with the Town Clerk within 24 hours.

- A. Notwithstanding the above, when consultation would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the Fire Chief is authorized to take whatever actions are necessary to prevent the loss of life and property in the Town.
- B. The Select Board has the authority to proclaim an emergency state for or within the Town.

Duties and Emergency Powers

- A. During any period when an emergency or disaster exists or appears imminent, the Select Board, in consultation with the Fire Chief, when possible, may promulgate such regulations as necessary to preserve and protect life and resources with the town. Such regulations may include but shall not be limited to the following:
 - 1. Regulations prohibiting or restricting the movement of vehicles or to facilitate the movement of persons from areas within or without the city.
 - 2. Regulations pertaining to the movement of persons from areas deemed hazardous to them.

3. Such other regulations necessary to preserve public peace, health and safety.
- B. The Select Board shall be authorized to request aid and/or assistance from county and/or state agencies and shall render assistance to other areas under provisions of Title 37-B M.R.S.A.
 - C. It is proclaimed and ordered that during a local emergency, the functions and duties of the Response Team shall be those prescribed by state law, town ordinances and Select Board promulgations.
 - D. The provisions of the above subsections will terminate at the ending of the declared emergency.

Emergency Operating Preparedness Force

Emergency Operating Preparedness Force shall mean the Town employees, the Sullivan Fire Department, and the various Boards/Committees that have been appointed by the Select Board, and any volunteer personnel, including town owned equipment and facilities, and those contributed by or obtained from volunteer sources.

No Municipal or Private Liability Immunity From Liability Shall be Set Forth in Title 37-B M.R.S.A., Section 882, Compensation for Injuries

All members of the Emergency Operating Preparedness Force shall be deemed to be employees of the State when engaged in training for or on duty, and shall have the rights of state employees under the Worker's Compensation Act and as specified in Title 37-B M.R.S.A., Section 823.

Right of Way; Penalty; Jurisdiction

Personnel and equipment required to respond to an emergency or disaster shall have the right-of-way over all public ways and roads and anyone failing to grant said right-of-way shall suffer penalties as specified under Title 37-B M.R.S.A., Section 828.

Violators of Regulations

It shall be unlawful for any person to violate any of the provisions of this article or of the regulations issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay and member of the Emergency Operating Preparedness Force as herein defined in the enforcement of the provisions of this article or any regulation issued thereunder.

Violators of the Above are Guilty of Class E Crime

Saving Clause

Should any section or part thereof in this article be declared invalid by the Court the same shall not effect the validity of the article as a whole or any part thereof, other than the part so declared to be invalid.

MUNICIPAL FIRE AND RESCUE DEPARTMENT ORDINANCE
SULLIVAN, Maine

Revised at Town Meeting June 25, 2012

ARTICLE I
TITLE, PURPOSE, AUTHORITY, DEFINITION

SECTION 101. TITLE

This ordinance shall be known as the Town of Sullivan Fire and Rescue Department Ordinance.

SECTION 102. PURPOSE

The purpose of this ordinance is to establish in the manner provided by law a municipal fire and rescue department and to define the powers and duties of the chief and assistant chief of the department. The further purpose of this ordinance is to provide the maximum legal protection available to the department's chiefs and municipal firefighters and rescue personnel, and to best protect the health, safety, and welfare of the residents of Sullivan.

SECTION 103. AUTHORITY

This ordinance is enacted pursuant to 30-A, M.R.S.A. 2001 et seq., 3001 et seq. and 3151 et seq.

SECTION 104. DEFINITIONS

104.1 MUNICIPAL FIRE AND RESCUE DEPARTMENT

A municipal fire and rescue department means an organized firefighting unit and rescue unit established pursuant to this ordinance.

104.2 MUNICIPAL FIREFIGHTERS

A municipal firefighter shall mean an active member, whether full-time, part-time or on call, of a municipal fire department; who aides in the extinguishment of fires or an individual who receives compensation from the municipality for aiding in the extinguishment of fires and is at least 18 years of age.

104.3 MUNICIPAL RESCUE PERSONNEL

Municipal rescue personnel shall mean an active member, whether full-time, part-time or on call, of a municipal rescue department, who aids in providing first aid, emergency treatment and rescue assistance and is qualified to render such aid under current Maine Department of Human Services regulations governing rescue and ambulance personnel.

ARTICLE II
MUNICIPAL FIRE AND RESCUE DEPARTMENT

SECTION 201. ESTABLISHMENT

There shall be a Municipal Fire and Rescue Department, which is hereby established by this ordinance.

SECTION 202. DUTIES

The Municipal Fire and Rescue Department shall provide firefighting and first aid emergency treatment and rescue assistance to persons in need of such assistance within the Town of Sullivan and elsewhere as provided by mutual aid or other contractual agreement approved by the municipal officers.

SECTION 203. FIRE CHIEF AND ASSISTANT CHIEF

203.1 APPOINTMENT

The leadership of the Municipal Fire and Rescue Department shall be the Fire Chief, Assistant Chief and EMS Director. These leadership positions will be appointed by the selectman for two (2) year terms upon the recommendation, by vote, of the department membership.

203.2 TERMS, COMPENSATION

The compensation of the fire chief and assistant chief and EMS director shall be established by the selectmen.

203.3 POWERS AND DUTIES

(a) The Fire Chief and Assistant Chief shall have the powers and duties established by 30 A, M.R.S.A. 3153 as amended, except that administrative rules and regulations promulgated by the Fire Chief or Assistant Chief shall not be effective until approved by the Selectmen.

(b) The Fire Chief shall work with the Assistant Chief and EMS director to establish rules and regulations concerning activities which involve both units.

(c) The Fire Chief shall submit a written monthly report on the activities of the department and shall discharge such other duties as may be required by the Selectmen.

(d) The Assistant Chief shall have the following powers and duties:

(1) To act on the Chief's behalf in his/her absence.

(e) The EMS director shall have the following powers and duties.

(1) To control all rescue apparatus belonging to Town.

(2) to see to the maintenance of technical proficiency of rescue personnel

(3) to establish rules and regulations concerning the discipline, good order, proper conduct, care and management of the Rescue Unit. Such rules or regulations shall not become effective until approved by a motion of the Board of Selectmen.

203.4 POWERS AND DUTIES

Municipal firefighters shall have the powers and duties set forth in 30 A, M.R.S.A.- 3151 et seq. and set forth in any rules and regulations adopted pursuant to Section 203.3 (3) above.

203.5 PRIVILEGES, IMMUNITIES

Members of the Municipal Fire and Rescue Department shall enjoy the privileges and immunities provided by the Maine Tort Claims act when acting in their capacity as firefighters and/or rescue persons.

ARTICLE III SEVERABILITY

SECTION 301 SEVERABILITY

The invalidity of any portion of this ordinance shall not invalidate any other part thereof.

EFFECTIVE DATE

These revisions to the ordinance shall be effective on its adoption at Town Meeting held June 25, 2012

Note: The ordinance was enacted on June 28, 2003

HARBOR MANAGEMENT ORDINANCE

FOR THE

TOWN OF SULLIVAN



Adopted June 28, 1993

Revised & Adopted June 25, 2012

Amended June 29, 2015

Amended June 27, 2016

Amended June 28, 2017

Amended June 24, 2019

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JULY 1, 201924

Article 1 Introduction

1.1 Authority

This ordinance is adopted under the authority granted in Titles 12, 17, 30, 30-A and 38 of the Maine Revised Statutes Annotated (M.R.S.A.) as amended.

1.2 Purpose

The purpose of this ordinance is to provide for the just and orderly operation and regulation of marine activities on and within the harbors, shores, waterways and tidal waters of the Town of Sullivan, Maine, in order to ensure safety to persons and property, to promote availability and use of a valuable public resource, and to create a fair and efficient framework for the administration of that resource.

1.3 Jurisdiction

The provisions of this Ordinance shall govern all maritime activities on and within the tidal & inland waters located within the boundaries of the Town of Sullivan, Maine and to all land areas at an elevation below the normal high water mark and to all piers, parking lots, beaches and other public facilities serving the maritime resource (Amended June 26, 2017.) For inland waters, the Harbor Master shall have jurisdiction only on matters regarding houseboats and floating houses. (Amended June 24, 2019.)

1.4 Conflicts with Other Ordinances

Should any section or provision of this Ordinance be found to be in conflict with any ordinance, regulation, or statute administered by the town, the more stringent section or provision shall prevail.

1.5 Effective Date

The effective date of this ordinance is 15 days after initial enactment by a properly held Sullivan Town Meeting.

1.6 Amendment

Any amendment to this ordinance may be adopted by the registered voters in the Town of Sullivan after a warrant article proposed by the Board of Selectmen.

Article 2 Definitions

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

2.1 BOAT - Boat shall include vessels of all sizes powered by sail, machinery or hand, floats, rafts, scows, canoes, kayaks, dredges, lobster, crab and shellfish cars, houseboats and crafts of any kind.

- 2.2 ANCHORAGE - An area of the harbor set aside for permanent moorings or for the temporary anchoring of boats or vessels.
- 2.3 AUXILIARY - A vessel having both sails and either an inboard or outboard motor and which may be propelled by its sails or by its motor, or both.
- 2.4 BERTH - A place where a boat lies when at anchor, at a mooring, or at a wharf.
- 2.5 BOUY, NO-WAKE – A marker defining an area beyond which no wake is allowed.
- 2.6 BOUY, NAVIGATION – A marker defining a channel or other navigable waters.
- 2.7 BOUY, HARBOR BOUNDARY – A marker defining the harbor boundary
- 2.8 CHANNEL - Areas of the harbor kept open for navigation or other purposes by rule or regulation of the Town of Sullivan, the Department of the Army Corps of Engineers, or other regulatory or Legislative body.
- 2.9 COMMERCIAL FISHING - Any activity involving the landing or processing of shellfish, finfish or other natural products of the sea or other activities directly related to landing or processing shellfish, finfish or natural sea products, including fueling, loading or selling these products. [Title 12 M.R.S.A. §1862]
- 2.10 COMMERCIAL VESSEL - Any vessel used for or engaged in any type of commercial venture, including but not limited to fishing or the carrying of cargo and/or passengers for hire, push-boats, tugs, and barges.
- 2.11 DOCK - The slip or waterway extending between two piers or projecting wharf or cut into the land for the reception of vessels.
- 2.12 FLOAT - A floating structure that is anchored, moored, or secured at or near the shore, used for landing, transfer of passengers, goods, or other purposes.
- 2.13 HARBOR - An area or areas as defined in Article 3.
- 2.14 HARBORMASTER - An official appointed by the Selectmen and employed by the Town of Sullivan to enforce the provisions of this ordinance and certain duties and responsibilities. [Title 38 M.R.S.A. §1-13]
- 2.15 LANDING - A place for landing or discharging person(s) or things from a vessel.
- 2.16 LOBSTER/SHELLFISH/FISH CAR – A floating temporary storage container built to store product before marketing. These floating units require a mooring and are moored in a mooring field.
- 2.17 MARINA - A dock or basin providing dockage for small vessels.
- 2.18 MOORING - An appliance used by a vessel for anchoring purposes, providing a permanent, adequate means of securing a vessel to the bottom in an anchorage, and which cannot be carried aboard such vessel, when such vessel is underway, as regular equipment.

2.19 PIER - A platform type structure contiguous with the shoreline and built there from over the water, supported by wooden or stone piles and used for the berthing, loading and unloading of vessels.

2.20 RESIDENT - Any person who is a registered voter or who owns or rents real estate in the Town of Sullivan and uses that property for his home for part of the year.

2.21 RIPARIAN OWNER - Shall mean an owner of a parcel of land located in the Town of Sullivan which borders upon the harbors with at least 100' shore frontage or was a pre-existing parcel prior to the date of this ordinance as described in Article 3 as follows.

2.22 SEAWORTHY VESSEL - A vessel in a fit state for travel or movement without extraordinary effort or assistance provided to affect such travel or movement.

2.23 SHALL/MAY – “Shall” is mandatory; “May” is permissive.

2.24 VESSEL - Vessel shall include boats of all sizes propelled by said machinery or hand, including scows, dredges, shellfish cars, and crafts of any kind.

2.25 WHARF - A structure of timber, masonry, cement, earth or other material, built on the shore of a harbor or the like, especially one extending parallel to the shoreline, so that vessels may lie close alongside to receive and discharge passengers and cargo.

2.26 WORKING WATERFRONT – A protected harbor providing access during any tide for mooring, loading and unloading of boat and catch, and space to work on gear, as well as on-shore access to public roads, parking for trucks and trailers, and maritime services. Working waterfront also includes clam flats.

2.27 HOUSEBOAT/FLOATING HOUSE: A raft, hull, barge, or vessel designed primarily to be used as a commercial establishment or living quarters, rather than navigation. (Amended June 2016.) (Amended June 24, 2019.)

Article 3 Harbors and Channels

The purpose of this article is to define the boundaries of the harbors of the Town of Sullivan and the channels within these harbors. Appendix A shows aerial views of Sullivan Harbor and Flanders Bay.

3.1 Harbor Limits - Sullivan Harbor

Beginning at a point so called Sullivan Falls with coordinates LAT 44° 31' 13" N and LON 68° 13' 8" W referenced to NOAA Coast and Geodetic Survey Chart # 13318 Frenchman Bay and Mount Desert Island, 16 Ed, March 7, 1992 and coursing into the waters of Sullivan Harbor along the boundary line common to the

Town of Hancock and Sullivan to the point of intersection with the boundary line common to the Towns of Sullivan and Sorrento, said point of intersection being shown at LAT 44° 30' 54" N and LON 68° 12' 24" W referenced to the afore cited chart and bearing 350.6°T 1,335 feet ± from CAN C"9" as plotted on the afore cited chart running thence generally easterly to the entrance of so called Long Cove at the afore cited Sullivan - Sorrento common boundary line at a point LAT 44° 30' 52" N and LON 68° 11' 44" W marking the easterly terminus of the perimeter herein above described.

3.2 Harbor Limits – Flanders Bay

Beginning at a point along the high water mark at the headwaters of so called Bass Cove with location LAT 44° 30' 3" N and LON 68° 9' 37" W referenced to the afore cited chart (#133180) running thence generally southeasterly into Flanders Bay, to the point being shown at LAT 44° 29' 38" N and LON 68° 9' 10" W referenced to the afore cited chart, deflecting thence easterly, running to a point intersecting the high water mark along the easterly shoreline at LAT 44° 29' 30" N and LON 68° 8' 31" W referenced to the afore cited chart marking the southeasterly terminus of the perimeter herein above described.

3.3 Taunton Bay

Taunton Bay shall not be considered part of Sullivan Harbor but the regulations within this ordinance shall apply to Taunton Bay as noted herein.

3.4 Channel Limits

For the purpose of this ordinance the channel limits shall be designated as a fairway three hundred feet wide, more or less, always running parallel to the Town lines forming the outer boundaries of Sullivan Harbor and Flanders Bay.

Article 4 Office of the Harbor Master

The Office of the Harbormaster, acting under the direction of the Sullivan Board of Selectmen, shall have full authority to enforce all regulations affecting the Harbor and Coastal Waters of Sullivan to the fullest extent permitted by law and to promote safety throughout the maritime environment. The geographical area of responsibility includes maritime waters from the mean high water mark seaward to the town line beaches, piers, launching areas, associated parking areas and waterfront right of ways with the Town of Sullivan.

The Harbormaster shall not make arrests or carry a weapon unless approved by the Sullivan Board of Selectmen and only after completion of the requisite course at the Maine Criminal Justice Academy (Deleted June 26, 2017.)

The Harbormaster shall be approved to make arrests and carry a weapon by the Sullivan Board of Selectmen, when certified as a Law Enforcement Officer by the Maine Criminal Justice Academy and copy of the Maine Harbor Masters Association certificate of completion is supplied to the Town. (Amended June 26, 2017)

4.1 Appointment

There shall be annually, in June, appointed by the Board of Selectmen, some suitable person to act as Harbor Master, who shall serve for the term of one year and thereafter until his successor has been appointed.

4.2 Duties

The duties and responsibilities of the Harbor Master are prescribed [Title 38 M.R.S.A.]. The Harbor Master shall have full authority in the interpretation and enforcement of all regulations affecting Sullivan Harbor, Taunton Bay, Flanders Bay and ~~Inland waters as well as all~~ waters adjacent to the shoreline of the Town of Sullivan to the fullest extent permitted by law (Amended June 26, 2017.)

The Harbor Master shall perform the following duties:

- (a) Promote order in the harbors and assure safety and use of the harbors for the general public
- (b) Regulate placement of moorings according to the approved mooring plan
- (c) Provide copies of all rules, regulations, ordinance, and other laws which pertain to the harbors, their use, and to vessels within the Town of Sullivan and to make available to person(s) using the harbors
- (d) Inspect moorings, docks, floats, piers, and wharves, from time to time as his judgment may dictate, in the geographic areas covered by this ordinance and give notice to the owner of such structures which have fallen into a state of disrepair or which create a dangerous condition or may interfere with safe passage
- (e) Oversee the Town's waterfront facilities to include but not limited to moorings, floats, docks, ramps and parking areas
- (f) The Harbor Master shall attend the meetings of the Harbor Committee.

4.3 Compensation

The Harbor Master shall receive an annual compensation as voted at the Town Meeting.

4.4 Deputy Harbor Master

Deputy Harbor Masters shall be appointed by the Board of Selectmen. They shall have full authority to enforce all harbor regulations.

4.5 Enforcement

The Harbor Master shall enforce the provisions of this ordinance. If the Harbor Master shall find any provision of this ordinance, or any rule or regulation promulgated pursuant to its authority, is being violated, he shall notify the person responsible for such violation indicating the nature of the violation and ordering the necessary action to correct it. Notification shall be verbal or written. A copy of written notices shall be maintained as a permanent record.

The Harbormaster shall have the authority and responsibility to enforce this Ordinance and provisions of Maine State Law [Title 38 M.R.S.A.]. All law enforcement officers of the State of Maine, including Harbormasters and their deputies, shall have the authority to enforce this Ordinance and, in the exercise thereof, shall have the authority to stop and board any vessel found in violation of this Ordinance. It shall be unlawful for any operator of such vessel to fail to stop upon request of such officer and violation shall be punishable [Title 38 M.R.S.A. §13].

Article 5 Harbor Committee

5.1 Membership

The Harbor Committee shall consist of not less than five (5) voting members appointed by the Board of Selectmen. Each member shall be a citizen of the Town of Sullivan and shall represent diverse interest in the harbors, i.e., recreational and commercial boat owners, abutting land owners, members of Town Boards and Committees and business owners. Members shall be appointed for two (2) year terms and may be reappointed. The terms shall overlap by one (1) year so that no more than three (3) new members are appointed in any one year. Each committee member shall serve without compensation.

5.2 Duties and Responsibilities

The Harbor Committee shall oversee the harbors and report to the Board of Selectmen. The duties of the Harbor Committee shall be as follows:

- (a) To advise as to the custody, care, and management of the harbors and their facilities
- (b) To recommend policies, rules and regulations
- (c) To make recommendations on the construction of piers, wharves or bulkheads within the harbors
- (d) To propose fees for consideration by the Board of Selectman
- (e) To develop short and long term harbor plans including a mooring plan
- (f) To review the qualifications of persons applying for Harbor Master or Deputy Harbor Master

The committee shall annually choose one of its members as chairman and a different member as secretary. The secretary shall keep a record of all proceedings and make a report at the close of each year for inclusion in the Annual Town Report.

Article 6 Moorings

6.1 Authority

The Harbor Master shall have absolute authority over all moorings and mooring locations in accordance with the terms of this ordinance and the laws of the State of Maine.

6.2 Applications

The Harbor Master shall register all moorings for the harbors of the Town of Sullivan, as shown in Appendix B, with the following information:

- (a) The applicant's name, address, telephone number and place of employment
- (b) The boat name, State and Federal registration number, the vessel description, length, type, i.e., sail or power, inboard or outboard, and boat use
- (c) The signature of the applicant and date.

The Harbor Master may deny an application due to insufficient information on the Mooring Application, failure to provide the required fee or reasons as specified by the Harbor Committee. He may also defer an application due to insufficient space for the desired mooring location or for other specified reason.

The Harbor Master shall keep a log of the assignment of moorings and submit the log to the Harbor Committee annually on or before November 1 of the current year.

6.3 Priority

The priority for enjoying the privilege of maintaining a mooring in the Town of Sullivan shall be in accordance with the following:

- (a) Riparian owners
- (b) Resident commercial fisherman owners
- (c) Resident pleasure vessel owners
- (d) Non-resident owners.

6.4 Permits

Mooring permits for the harbors of the Town of Sullivan shall be issued for one year. The annual registration fee as recommended by the Harbor Committee and approved by the Board of Selectmen shall be due and payable with the application. Riparian owners are not required to pay a fee for their first mooring but must register them annually. Non-residents may be charged a higher fee than residents. All fees may be used by the Harbor Committee to upgrade, maintain and supervise the Harbor, Bay and Town Landing areas and related facilities.

6.5 Mooring Locations

The Harbor Master shall annually assign locations to each mooring with the guidance of the mooring plan for pleasure or commercial fishing vessels and ensure its placement in the correct location. All moorings not located in the correct locations shall be moved by the owner at his expense in accordance with the instructions of the Harbor Master. Failure to do so shall result in the Harbor Master moving or removing the improperly located moorings; the cost shall be borne by the owner of the mooring.

6.6 Mooring Regulations

No person shall place, alter or shift a mooring or buoy of any type within the boundaries of the harbors without the permission of the Harbor Master. Use of a mooring is not transferable, except with the written permission of the Harbor Master.

No person shall permit or place more than one craft at a mooring unless such craft does not interfere with adjacent moorings and anchorage or other navigational conditions, or exceed the limits of the weight of the mooring as determined by the Harbor Master.

All moorings shall be numbered as assigned by the Harbor Master. The numbers shall be adequate size to be easily readable. They shall be placed on a floatable light and visible colored buoy attached to the mooring. Pole moorings shall not be permitted in the harbors.

All moorings shall consist of a granite block, mushroom anchor or such other anchor of sufficient weight to hold the vessel for which they are to be used. All moorings shall be approved and inspected by the Harbor Master before being placed. Boat and/or mooring owners may be liable for any damage caused by faulty, inadequate, or improperly placed moorings.

Hand mixed concrete blocks, old engine blocks and other miscellaneous weighted objects are not acceptable as mooring anchors in the harbors.

6.7 Mooring Size Specifications

The moorings shall have heavy bottom chain of a minimum of 1/2" for both power and sail boats to 20' feet in length; 5/8" minimum for both power and sailboats 20' to 35' inclusive; 3/4" minimum for both power and sailboats 35' to 50' inclusive. The mooring top chain shall be 3/8" for both power and sail boats to 30'; 1/2" for both power and sail boats from 30' to 45'; and 5/8" for both power and sail boats 45' to 50'. Boats over 50' shall be reviewed on an individual basis. Equivalent size nylon line shall also be acceptable in lieu of the top chain.

The length of the bottom chain shall be approximately 1.0 times the maximum depth of the water at high tide. The top chain shall be approximately equal to the water depth at maximum high water.

Each mooring must have at least one swivel at the top connection between the top chain or nylon line and the mooring ball. All swivels and shackles must be appropriate size for the chain or line size. All shackles shall be safety wired with .041" stainless steel safety wire or appropriately sized nylon zip ties.

Pendants connecting the mooring buoy to the moored boat shall be fastened to the lower eye of the mooring buoy above the swivel or at the top of a hard mooring buoy. The pendant shall consist of nylon line of length a minimum of three times the height of the bow off the water.

6.8 Mooring Maintenance

Despite dimension standards established herein, any part of a mooring showing excessive or obvious wear or any mooring which does not meet the minimum requirements of Sec. 6.7 shall not be permitted.

Every two (2) years permanent moorings shall be either lifted by the owner and his or her designee to be inspected at the owner's expense, or by a diver at the direction and expense of the owners. The Harbor Master shall maintain a file on each mooring listing the date of the last inspection and the name of the person who last inspected it.

6.9 Winter Mooring

With the exception of working Commercial Vessels moored in the Inner Harbor area, no moorings shall be occupied and no vessels shall be anchored in Sullivan Harbor during the winter mooring period from November

1 to March 31, without advance approval by the Harbor Master. The Harbor Master will grant approval for use of moorings and anchorages during the winter mooring period only if the boat owner can demonstrate the following: (1) the vessel to be moored or anchored is seaworthy; (2) the mooring or anchoring gear is adequate to withstand ice and other adverse winter conditions; and (3) the vessel owner has adequate access to the vessel in winter conditions in the event of an emergency. (Amended June 24, 2019.)

6.10 Restricted Mooring Locations

No moorings shall be permitted within 100 feet of Gordon's Wharf (Amended June 24, 2019.)

Article 7 Fees

The Board of Selectmen with the recommendation of the Harbor Master and Harbor Committee shall set applicable fees annually. The schedule of fees, for residents and non-residents, shall include but not be limited to, the following: (Deleted June 26, 2017.)

- (a) Mooring Fees including multi-use moorings and rental moorings
- (b) Waterproof Insulated Bait Box Storage
- (c) Boom Hoist (Winch) Use by Authorized Permit Holders
- (d) Commercial Pier Use
- (e) Commercial Tour, Passenger Watercraft and Watercraft Rental
- (f) Seafood Dealers (Class I, II, III)
- (g) Bait Dealers (Class I, II, III)
- (h) Floats, Inclines and Mooring Systems
- (i) Other Harbor Usage
- (j) Late Fees

The Town Office will bill for mooring fees no later than the ~~last Friday~~ of July. Mooring fees paid after the 30th of August are subject to late fees. Late fees for mooring permits shall be ~~double the billing amount set by the Selectmen annually~~. Non-payment of mooring fees by the 30th of August shall result in lost mooring privileges [Title 38 M.R.S.A. §3]. Other Harbor User Fees must be paid prior to harbor use for which a fee is required. Other late fees may be established annually by the Board of Selectmen. It shall be the responsibility of the Town Office to ensure that all fees are paid in full and the responsibility of the Harbor Master to ensure that harbor users have permits. The Town Office will issue Harbor Master approved permits and instructions for their proper display to all Harbor Users. (Amended June 26, 2017.)

Article 8 Harbor Rules

8.1 Harbor Master Responsibilities

The Harbor Master is hereby authorized to remove or cause to be removed any vessel or boat from any wharf in Sullivan Harbor and Flanders Bay when so requested by the owner of said wharf and whenever he shall deem it

necessary he may remove or cause to be removed any vessel, boat or raft which shall anchor or lie contrary to this Ordinance, rule, regulation or State of Maine Statute. Prior to taking such action the Harbor Master shall make a good faith effort to attempt to notify the owner or person having care of said boat, vessel, or raft, and to order said owner or person responsible for said boat in an expeditious manner, the Harbor Master may remove or cause said removal at the expense of the owner of said vessel. In the event that any person fails to comply, the Harbor Master may take action as provided in the Ordinance.

8.2 Abandoned Vessels

No person shall abandon any boat, vessel, cradle or raft within the defined harbors of the Town of Sullivan. Any such objects left within the confines of the harbors and unattended for a period of thirty (30) days shall be deemed to be abandoned at the discretion of the Harbor Master. The Harbor Master shall order the last owner (if known) to remove the abandoned property within ten (10) days. In the event that the last owner is unknown, or not reasonably available for notification or determination, the Harbor Master shall attach a notification to said abandoned property ordering the removal of the object within ten (10) days. In the event that the removal as ordered by the Harbor Master is not accomplished within said ten (10) day period, the Harbor Master shall remove the abandoned property at the expense of the last known owner of said property. If the abandoned property is not claimed and removal expenses are not paid by the following November 1st, the property shall be sold by the Town of Sullivan and all monies retained from said sale shall inure to the benefit of said Town of Sullivan.

Any tender, skiff, dory or dinghy left tied to a Town float or ramp that is sunk or awash for a period exceeding seven (7) days shall be deemed abandoned. The object may be impounded by the Harbor Master and may be disposed of in the same manner as described herein. The Town shall not be liable for any damages sustained by an impounded tender or skiff.

8.3 Unsafe Vessels

Any vessel or boat may be denied access to the Town ramp or floats if it is structurally unsafe, unseaworthy, or it emanates obnoxious fumes, fluids, oils, or other obnoxious substances.

8.4 Operation Within Harbor

Vessels shall be operated in the harbors of the Town of Sullivan in a reasonable manner so as not to endanger persons or property or to cause excessive wash. In no case shall speed exceed five (5) knots while operating in anchorage or mooring areas.

8.5 Refusal to Comply

No person shall refuse to obey a lawful order of the Harbor Master.

8.6 Anchoring Within Harbor

Boats or vessels may anchor in those areas and for the length of time permitted by the Harbor Master.

8.7 Navigation Buoys

No person shall moor, or cause to be moored, any vessel, boat, scow, or raft, to any buoy or beacon placed by the Town of Sullivan, the United States Government agency in the Harbors or Bays of Sullivan, nor shall any person make the same fast thereto in any manner, nor willfully destroy or injure a buoy or beacon.

8.8 Discharge Within Harbor

No person shall deposit, throw, sweep, or cause to be deposited or sweep from any vessel, wharf, dock, or any other place, into the waters of Sullivan Harbor, Flanders Bay or Taunton Bay, any gas or oil, or bilge water containing same, ashes, dirt, stones, gravel, mud logs, planks, or any other substance which will obstruct the navigation of said waters, reduce the depth of said waters or pollute the water thereto.

No person shall dump or dispose of any refuse or garbage upon any shore of the Town of Sullivan, between high and low water marks, or upon waters of the ocean.

8.9 Noise

No person shall cause or allow to cause an unreasonable noise in the Harbors.

8.10 Parking

All persons shall park their cars, trucks, and other vehicles when using the public ramp in an area set aside and marked by the Town of Sullivan in such manner as to assure free access to the harbor boat launch ramp or access to the waters.

8.11 Cradles and Trailers

All boat cradles and trailers shall be removed from the public areas when not in actual use.

8.12 Tenders

Boats used as tenders (not to exceed 12') shall be kept at designated locations and shall be properly cared for by the owner. All tenders shall display the owner's mooring number. Paddles and oars shall not be stored in the tender when the tender is not in active use.

8.13 Traps

Traps will be allowed in the mooring areas providing a short warp and tailor is employed. It shall be the responsibility of the trap owner to remove any trap entangled in a mooring.

8.14 Dragging

No dragging for marine resources shall be allowed within the harbor boundaries as defined for Sullivan Harbor and Flanders Bay.

8.16 Houseboat/Floating Houses

NO houseboats or floating houses are allowed anchored or moored in the inland and tidal waters of the Town of Sullivan. (June 27, 2016.) (Amended June 26, 2017.) (Amended June 24, 2019.)

Article 9 Gordon's Wharf Use Policies and Procedures

9.1 Purpose

The property known as Gordon's Wharf is provided by the Town of Sullivan for public use. It is the intent of the Town that the facility be available for leisure, educational activities and limited commercial activities that will make easily accessible the natural and historical features available at the site.

9.2 Recreation

Recreational activities include but are not limited to the following:

- Fishing
- Boating, kayaking, canoeing
- Picnics

9.3 Education

Education usage of the Gordon's Wharf and associated buildings is both welcomed and encouraged. Any activities shall be reviewed and approved by the Selectmen of the Town of Sullivan. Reimbursement shall be established on an event-by-event basis.

9.4 Commercial Fishing

Limited commercial fishing activities may be carried out at the wharf with the following stipulations:

- Activities shall be restricted to areas designated at the site
- On-loading and off-loading gear, bait and catch are allowed
- These items may not be stored on the site longer than 24 hours

9.5 Waste Disposal

Waste disposal is not allowed on the site. Users must observe “carry in-carry out” approach for all waste products.

9.6 Facility Rental

The Board of Selectmen have the authority to make rental agreements that are an advantage to the Town and users of the facility as follows:

- The building on the site may be leased to organizations, individuals or businesses for activities that are in keeping with the purposes of the use of the property as a whole
- Specific locations on the grounds may be leased as above with the same considerations

The Town does not intend to be in competition with businesses located in the community.

Article 10 Penalties

10.1 Monetary Penalties

The master or owner of any vessel or watercraft or any other person who violates any of the provisions of this ordinance, for which a specific penalty is not set forth herein, or for which a specific penalty is not otherwise provided by the laws of the State of Maine, shall be subject to the monetary penalties [Title 30-A M.R.S.A. §4452] which includes, without limitation, a minimum penalty for a specific violation in the amount of \$100 and a maximum penalty for a specific violation in the amount of \$2,500. The maximum penalty for a single incident is \$25,000.

10.2 Violations Subject to State Law

Violations of this Ordinance, which also constitute violations of State laws with regard to speed restrictions, reckless operation of a vessel or watercraft or operation of a vessel or watercraft under the influence of drugs or liquor shall be subject to the penalties set forth in state law [Title 38 M.R.S.A. §281 – 285].

10.3 Abatement

In addition to the monetary penalties set forth herein, a violator of this Ordinance shall also be subject to an order of abatement of the violation [Title 30-A M.R.S.A. §4452]; and that violator shall further be subject to an action by the Town of Sullivan, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violations of this Ordinance.

10.4 Regulations

The Office of the Harbor Master, in consultation with the Sullivan Harbor Committee, and upon the approval by the Board of Selectmen, shall promulgate rules and regulations governing the use of vessels or watercraft,

docks, piers, slips, (public) beaches, associated (public) parking facilities, (public) right of ways, floats, moorings, and marine activity within the tidal waters of Sullivan. Violations of the Maritime Regulations shall be considered a violation of this ordinance and carry such penalty as may be provided for therein.

A violation of this Ordinance shall be a civil violation [Title 38 M.R.S.A. §13] and may be prosecuted and relief, fees, fines and penalties granted and assessed [Title 30-A M.R.S.A. § 4452]. For purposes of this Section, each day that a violation continues shall be considered a separate offense.

Article 11 Appeals

11.1 Appeal Process

Any and all persons aggrieved directly or indirectly by a decision, order, rule or act, or failure to act by the Harbor Master, may appeal said decision, order, rule, act or failure to act, to the Board of Selectmen. In deciding an appeal, the Board shall hear and approve or approve with modifications of conditions, or disapprove the decision, order, rule, act or failure to act from which the appeal is taken.

Such appeals shall be made in writing to the Board of Selectmen within five (5) calendar days of the decisions, order, rule, act or failure to act from which the appeal is taken. The appeal must state with specificity the decision, order, rule, act or failure to act from which the appeal is taken and the reason for the appeal. The appeal shall be considered by the Board of Selectmen within thirty (30) days of notification of appeal.

11.2 Superior Court

An appeal may be taken by any party from a decision of the Board of Selectmen to the Hancock County Superior Court in accordance with Maine Rule of Civil Procedure 80B.

Article 12 Separability

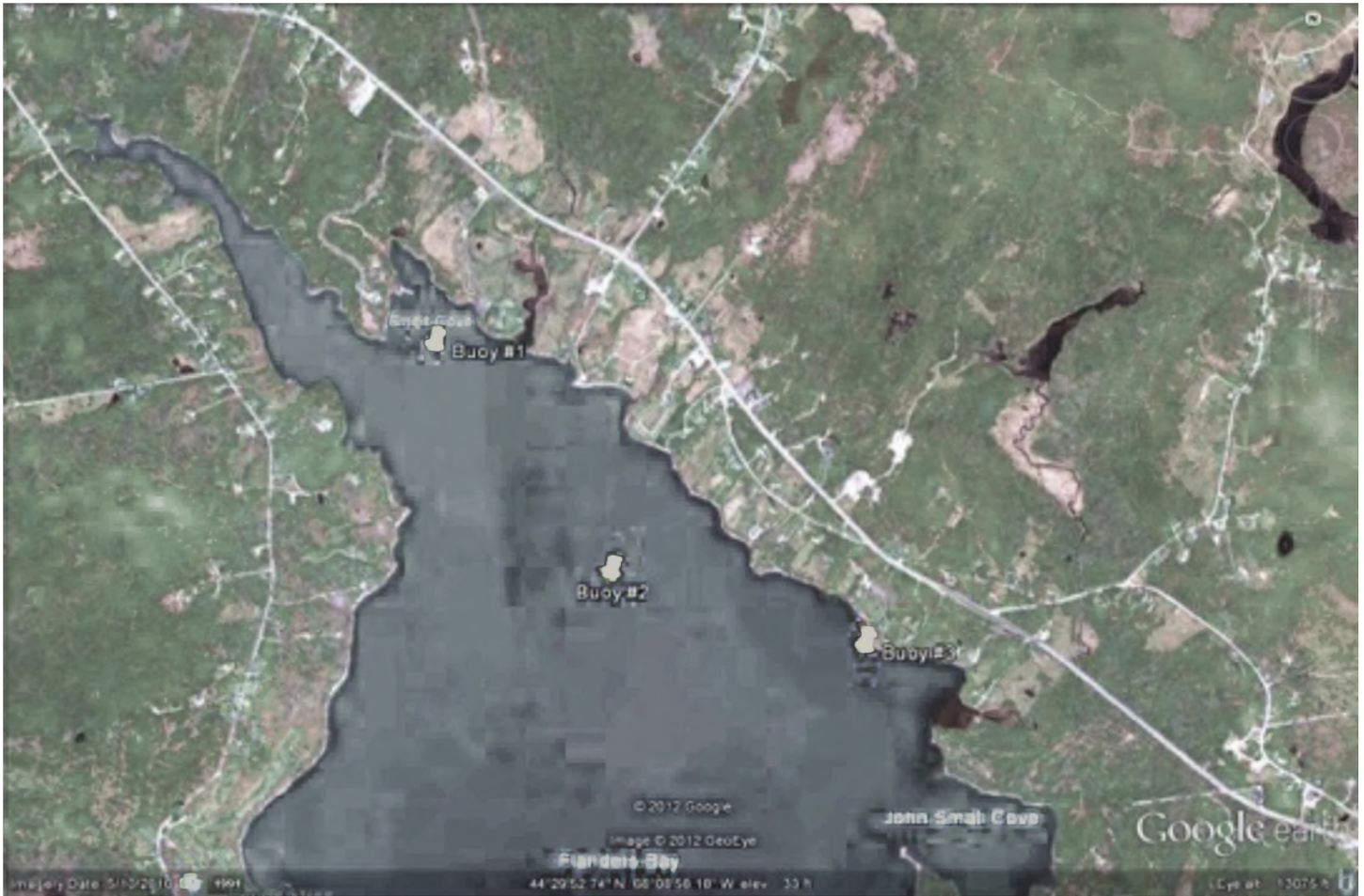
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Any prior Harbor regulation, rule, or ordinance of the Town of Sullivan is hereby repealed and all Ordinances and Parts of Ordinances in conflict with or inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to this Ordinance becoming effective.

Appendix A Maps of Sullivan Harbor and Flanders Bay



Sullivan Harbor showing harbor boundary markers



Flanders Bay showing harbor boundary markers



Sullivan Harbor and Flanders Bay

Appendix B Application & Permit for Boat Mooring

Mooring fees are due by AUGUST 30TH. Late fees will accrue after this date. (Amended June 26, 2017.)

JULY 1, 2019 THRU JUNE 20, 2020
TOWN OF SULLIVAN
PERMIT FOR BOAT MOORING LOCATION

FROM: Harbor Master, Town of Sullivan, Maine Date: _____

TO: _____
(print name) (address)

PERMISSION is hereby granted to you to set one boat mooring of the following type and size and location :

1. New mooring located at (check one) [] Sullivan Harbor [] Taunton Bay [] Flanders Bay

2. Mooring Number # _____ Type Of Buoy: _____

Boat Name _____

Registration # _____

Length overall _____ Beam _____

Draft _____ Type _____

Type of mooring to be used:

Granite [] Other [] Weight [#]

Length/Size of bottom chain _____ Length/Size of top chain/line _____

Size of Pendant _____ Length of Pendant _____ Type/Size of Buoy _____

I, the undersigned, agree to supply adequate mooring gear of not less than what is set forth in this permit and also to maintain my mooring as set forth by the Harbor Management Ordinance for the Town of Sullivan, Maine and State Statutes that apply. In the event of discontinuance of the mooring, the Harbor Master will be given notice of the same.

Signed _____
(owner)

FOR OFFICIAL USE ONLY

PERMIT GRANTED AND ISSUED, DATED _____ EXPIRES JUNE 30, 2020

26

MOORING NUMBER # _____ **LOCATED AT** _____

SIGNED _____ **HARBOR MASTER**

TOWN OF SULLIVAN

Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, ME. Const., art. VIII, pt. 2; and 30-A M.R.S.A. subsection 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. subsection 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. subsection 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the Code Enforcement Officer. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. subsection 4452.

Recreation Vehicle, Campground and Mobile Home Park Ordinance
of the
Town of Sullivan, Maine
Adopted June 13,1988

A. Purpose

This ordinance has been drafted with the purpose to define and regulate Mobile Home Parks, RV Parks and Campgrounds, to establish minimum standards governing the site requirements, construction, and maintenance of said uses; to establish minimum standards governing utilities and required facilities; and to establish the duties of owners and operators of said uses and to establish penalties for violations.

B. Jurisdiction

This ordinance shall have jurisdiction over all property within the boundaries of the Town of Sullivan

Section 1. Definitions

Person: as used in this ordinance, persons, partnerships, firms, company, corporations, owners, lessees or licensees or their agents.

Recreational Vehicle (RV): A vehicle primarily designed as temporary living quarters for Recreation, camping, or travel; either with its own motive power, or mounted on or towed by another vehicle. An RV is used as a temporary shelter, not placed on a foundation, or permanently hooked to utilities.

Mobile Home: A structure designed and intended as a dwelling unit for location on a permanent foundation, including those facilities customarily associated with a dwelling unit in a residence, with utility connections provided for attachment to outside systems; and designed after fabrication to be transported on its own wheels to the site of placement.

Mobile Home Park: Land defined as a lot with 2 or more contiguous lots owned by the same person upon which more than 2 mobile homes are parked and occupied or available for occupancy.

RV Park or Campground: Land upon which (2) two or more RV's are parked and occupied, or are available for occupancy, temporarily for recreational or camping purposes, or land upon which (2) two or more camping spaces are installed. A camping site or space incidental to a residence is excluded.

Park or Campground Space: The minimum prescribed dimension and area for each mobile home, RV, or campground space in this ordinance.

Access Road: A road constructed on the interior of a parcel which provides access to an RV, Mobile Home or Campground space, or service locations within the park or campground.

Section 2. Permits Required

A. Initial Permit: It shall be unlawful for any person to construct, maintain, operate, or alter a Mobile Home Park, RV Park, or Campground, without first obtaining a permit from the Sullivan Planning Board. An application for such a permit shall be reviewed under the requirements of this ordinance, and applicable State statutes or regulations.

B. Initial Permit Application: Applications for a permit shall be subject to a fee of **\$25.00** for each mobile home, RV or campground site. Fees shall be paid to the Building inspector.

C. Permit-Method of Application and Requirements: Applications for permits shall be in writing, signed by the applicant who shall file with the application proof of ownership of the premises or of a lease or written permission from the owner thereof together with a complete set of plans drawn to scale not less than **100"** to the inch showing the location of the proposed site, and which shall include:

1. The area and dimensions of the tract of land.
2. The maximum number, location and size of all mobile home, RV or campground spaces.
3. The location of any existing buildings and any proposed structures.
4. The location and width of roadways and walkways.
5. The location of wells, water and sewer lines and the sewerage disposal system.
6. Plans for landscaping a **25"** strip of land parallel to the public right of way and between the said right of way and the mobile homes or any roadway or access road. Trees and shrubs shall be include in these plans subject to the approval of the Planning Board.
7. Overlay of USGS contour lines on the plan of the parcel.

D. Existing Use

1. All lawfully existing mobile home parks, RV parks, or campgrounds at the date of adoption of this Ordinance shall be permitted to continue in their existing configuration with regard to size of park spaces, number of spaces authorized, setbacks, road locations and widths. Expansion shall comply with the requirements of this Ordinance. **A renewal permit shall be required annually.**

2. For existing mobile home and RV parks, the first annual renewal permit applied for shall have attached a plan drawn to scale not less than 1/4" to the inch of the entire parcel, the location of each space on the parcel, any structures or buildings and their use, and the setbacks from parcel property lines of all said spaces and buildings from all lot lines, and normal high watermarks. **Fees for renewal permits shall apply.**

E. Renewal Permits

Applications for renewal shall be made **no later than May 1** of each year to the Code Enforcement Officer. A renewal permit shall be issued contingent with compliance with all regulations in this ordinance. The applicant shall provide a written statement that no changes have been made to the most recently reviewed permit application or apply to the Planning Board for review of any changes proposed as a Special Exception before a renewal permit is due or issued.

F. Fees, Renewal Permits

Fees for renewal shall be **\$5.00** individual space or lot.

G. Permit Restrictions

No more than **15** (fifteen) permits for mobile home sites will be issued in a **12 (twelve)** month period commencing with the adoption of this ordinance.

H. Inspection

The Code Enforcement Officer is authorized and directed to make periodic inspection of all parks and campgrounds in order to determine compliance with this ordinance and the safeguarding of health, safety, and welfare of the occupants of said parks and campgrounds. He shall have the right to enter at reasonable hours any private or public property relating to uses governed by this ordinance in the pursuit of his responsibilities herein.

Section 3. Utility and Service Requirements in Mobile Home Parks

A. Roadways

For fire protection and prevention, every mobile home park shall have access to a public street by directly abutting thereon, or by means of a private hard surface road not less than eighteen feet wide. The roadways in a mobile home park shall have a minimum width of eighteen feet, with a right of way. Each mobile home shall have access to such a road. Any access road shall be continuous; or terminate with a turn-around of not less than **100** feet in diameter. Each roadway within a mobile home park shall have a minimum gravel base of **12** inches.

B. Sanitation

A potable, and safe water supply shall be piped underground to each space in sufficient volume to provide **200** gallons per day per space at an average pressure of **30 psi**. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the Building Inspector or Health Officer.

C. Plumbing

All plumbing in the mobile home park shall comply with State and local plumbing laws and regulations and shall be maintained in good operating condition.

D. Sewage Disposal

Mobile home parks shall be served by a public sewage system or by a private disposal system, which meets the requirements of local ordinances and State laws. Each mobile home space shall be provided with a satisfactory sewer connection. All sewage disposal apparatus including appurtenances thereto, shall be provided, maintained, and operated so as not to create a nuisance or health hazard.

E. Registration

Every mobile home park operator shall maintain a register containing a record of all mobile home occupants using the mobile home park. Such register shall be available to any authorized person inspecting the park, and shall be preserved for a period of at least one year.

F. Electrical Installation and Outlet Requirements

An electrical entrance supplying at least **100 Amps** shall be provided for each mobile home space. The installation shall comply with all State and local Electrical Codes and Ordinances. Such electrical outlets shall be weatherproof. No power lines shall be permitted to lie on the ground or to be suspended less than **12** feet above the ground.

G. Alterations and Additions

1. No addition or change may be made to a mobile home without a building permit. Any application for a building permit must be accompanied by written permission of the park owner indication approval of the proposed addition or change.
2. Skirting shall not permanently attach mobile home to the ground, and must be of hardboard or quality composition board or equivalent thereto.

H. Location of Park with Respect to Roads

Every mobile home park shall have access to a currently maintained Town road by abutting thereon, or by means of a privately constructed road.

I. Access Roads

1. Access roads shall have a travel way of not less than **18 feet** with **3 foot** shoulders. Extensions of shoulders shall be not less than **3:1 slope**. Each park space shall have access to such a road.
2. Access roads shall have a minimum gravel base of **12 inches**.

J. Parking Areas

Each mobile home site shall have a minimum of **two (2)** parking spaces. Each parking space shall have a dimension of not less than **9 feet wide by 18 feet long**. These may be provided on each mobile home space or within **50 feet** of a mobile home space in common parking areas. Parking on access roads will not be permitted to satisfy this requirement.

Section 4. Specific Regulations for Mobile Home Parks

A. Locations

Mobile home parks shall be located where permitted by Town Ordinances, subject to the approval of the Planning Board based upon compliance with this ordinance.

B. Site

The park shall be located on a site, graded to insure drainage of surface water, sub-surface water, sewerage and freedom from stagnant pools.

C. Minimum Lot Size

The minimum lot size of a parcel used as a mobile home park shall be **eight (8) acres**.

D. Set-Back Requirement

1. No mobile home in a mobile home park may be located within **100 feet** of any public right-of-way.
2. Setbacks of the mobile home or accessory structures from mobile home space lot lines shall be **35 feet** from the front lot line, **25 feet** from each side lot line.

E. Minimum Mobile home Space

Each mobile home space shall consist of an area of not less than **20,000** square feet, with a width measured at the setback to the line abutting an access road of not less than **100 feet**.

F. Trailers Excluded

No RV may be located in a mobile home park except by temporary town permit issued by the Building Inspector. Permits shall not be issued for a period greater than six **(6)** months.

G. Refuse and Garbage Disposal

The storage, collection, and disposal of refuse shall not create a health hazard, rodent Harborage, insect breeding areas, accident hazards, or odor. All such wastes shall Be stored in covered, watertight, and animal proof containers. Collection shall be sufficiently often to prevent overflowing of refuse. Central collection points shall have container racks, holders, or other means for containing the refuse until collection. Such central collection points shall be indicated on the plan. The provisions of this section shall remain the responsibility of the park owner.

H. Clearing of Vegetation and Buffer Strips

1. A buffer strip of **25** feet in depth of natural evergreen vegetation shall be maintained along any town road right-of-way abutting the mobile home park parcel, and along side and rear lot lines of the parcel.
2. Clear cutting prior to submission of the plan to establish a mobile home park is prohibited. Natural vegetation and trees shall be retained wherever possible consistent with permitted construction of spaces, roads and utilities. Buffer strips of trees and evergreen vegetation shall be maintained wherever possible between spaces.
3. All buffer strips shall be shown on the plan. The Planning Board as a part of its review may require landscaping to establish buffer strips.

Section 5. Specific Regulation for RV Parks and Campgrounds

A. Minimum RV or Campground Space

Each RV or campground space shall contain an average of **2,500** square feet exclusive of access roads or driveways.

B. Setbacks

Setbacks of any RV or campground space or structures on shall be **100 feet** from the normal high water mark of any lake, pond, stream, river or body of water. With regard to the exterior perimeter of the parcel, setbacks of any RV or campground space or structure shall be **100 feet** from side, rear and front lot lines.

C. Service Facilities

Service facilities which meet the following specifications shall be provided and continuously maintained in sanitary condition and in good operating order at all times when the RV Park or Campground is open for business.

1. A source for a continuous, safe, and potable supply of water adequate in volume for the number of spaces.
2. Not less than one toilet for each sex, operated by running water, and meeting the State Plumbing Code, for the first five **(5)** RV or campground spaces. Additionally, one toilet as above for each sex shall be provided for each additional ten **(10)** RV or campground spaces.
3. For any RV park or campground one service building containing lavatories and showers with hot and cold running water for each sex, is required for each ten **(10)** spaces or fraction thereof.

D. Interior Access Roads and Driveways

Access roads and driveways constructed to serve the interior of the parcel and spaces shall have a minimum travel way of **18 feet** and three **(3)** foot shoulders. Culverts will be placed at all points of water courses and collection points. Runoff shall be directed to areas where it can be absorbed by the ground and not discharged in any pond, lake, stream or river.

E. Refuse and Garbage Disposal

The storage, collection and disposal shall not create a health hazard, rodent harbor-age, insect breeding areas, accident hazards, or odor. All such wastes shall be stored in covered, watertight, and animal proof containers. Collection shall be sufficiently often to prevent overflowing of refuse.

G. Use of Park Spaces

1. Spaces in RV parks or campgrounds may be used by travel trailers, camping trailers, truck campers, pick-up covers, motor homes, tents, or equivalent facilities originally manufactured for camping purposes.

2. Mobile homes are specifically excluded.
3. No buildings, structure, or shelter may be constructed on a RV or campground space except tent platforms.
4. No RV or campground space shall be conveyed, leased, or rented in a manner which grants or effects rights of ownership or title in said space.
5. No recreation vehicle shall be permanently connected to a water supply or septic system, nor any RV or campground space occupied for dwelling purposes except temporarily for camping as provided for herein.

Section 6. Enforcement and Penalties

It shall be the responsibility of the Code Enforcement Officer to investigate and document alleged violations of this ordinance. He shall prescribe in writing to the persons owning or operating any park or campground under by review of this ordinance, their actions required to remedy the violation (s) and set time limits for compliance. Failure to correct said violations in the time and manner prescribed shall require further action and remedies provided by law. The Board of Selectmen are authorized and shall bring such actions in equity or law as are proper, either upon request of the Code Enforcement Officer or of their own volition, to restrain, correct, or punish violations of this ordinance.

Penalties

Any person who violates any provision of this ordinance shall upon conviction be punished by a fine of **\$50.00 per day of violation**.

Section 7. Conflict of Ordinances and Validity

A. Conflict of Ordinances and Validity

In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the Town of Sullivan, Maine, existing on the effective date of this Ordinance, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

B. Validity

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 8. Amendment of this Ordinance

A. On petition, or on their own motion the Selectmen may present warrants for consideration of the town to amend the regulations and provisions of this ordinance at a regular or special town meeting, **a majority vote of the legal voters present is required.**

B. The municipal officers shall fix the time and place of a public hearing on the proposed amendments or amendment and cause notice to be given in accordance with the laws of the State of Maine.

Effective Date

This Ordinance is effective on its date of passage and repeals and superseded all prior ordinances for mobile home parks and recreational vehicle and campgrounds of the Town of Sullivan.

TOWN OF SULLIVAN
Ordinance Prohibiting Unnecessary Noises
Adopted March 14, 1983

SECTION 1. It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any other noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Town of Sullivan.

SECTION 2. The following acts, among others are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

- [1] Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the town, except as a danger warning. The use of any signaling device except one operated by hand or electricity, the use of any horn, and the use of any such signaling device when traffic is for any reason held up.
- [2] Radios, Phonographs, etc. The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of **eleven o'clock P.M.** to **seven o'clock A.M.** the following day in such a manner as to be plainly audible at a distance of fifty [50] feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- [3] Yelling, Shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of **11 PM** and **7 AM** or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- [4] Animals, Birds, etc. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- [5] Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or opening and destruction of bales, boxes, crates, and containers.

- [6] Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institutions, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indication that the same is a school, hospital or court street.
- [7] Hawkers, Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- [8] Drums. The use of any drum or other instrument or device for the purpose of attraction attention by creation of noise to any performance, show or sale.

SECTION 3. Penalties. Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$100.00

SIGN ORDINANCE

Town of Sullivan

Adopted July 12, 1972

Amended June 26, 2017

Section 1. Title. This ordinance shall be known and may be cited as the "Sign Ordinance of the Town of Sullivan, Maine".

Section 2. Purpose. The purpose of this local ordinance is to promote and protect the public health, welfare and safety by regulating outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of the Town.

Section 3. Definitions. As used in this ordinance:

- (a) The term "**sign**" shall mean any material, structure or device, or part thereof, composed of lettered or pictorial matter, or upon which lettered or pictorial matter is placed when used or located out of doors or outside or on the exterior of any building, including window display area, for display of an advertisement, announcement, notice, directional matter or name, and includes sign frames, billboards, sign boards, painted wall signs, hanging signs, illuminated signs, projecting signs or ground signs, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public. "A BUSINESS NAME ON BUILDING (S) SHALL NOT CONSTITUTE A SIGN as described above." added June 26, 2017
- (b) The term "**erect**" shall mean to build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign, and shall also include the painting of exterior wall signs.
- (c) The term "**person**" shall mean any person, firm, partnership, association, corporation, company, institution or organization of any kind.

Section 4. General Regulations.

- (a) After the effective date of this ordinance no commercial advertising signs shall be erected by any person in the Town of Sullivan unless they are erected for the advertising of local businesses or public activities. A permit from the Selectmen shall be required for the erection of such permitted signs. " The area of such permitted signs shall not exceed sixty-four square feet, but the Selectmen may limit them to smaller size depending upon the environmental impact." THIS IS IN DIRECT CONFLICT WITH (1) BELOW. REPEALED June 26, 2017
- (1) **NO** more than **6** signs may be permitted with the maximum total of **150** square feet. The maximum single face size of any sign may not exceed **32** square feet. Interior window signs are excluded.

- (b) The following signs shall be permitted in the Town of Sullivan without a permit from the Selectmen:
- (1) Signs advertising the sale, lease or rental of the premises upon which the sign is located, which sign shall not exceed **six** square feet in area.
 - (2) Professional name plates (doctors, dentists, Notaries Public, etc.) which shall not exceed **six** square feet in area.
 - (3) Signs pertaining to small-scale home sales and services (lawn sales, vegetable stands, etc.) which signs shall not exceed **six** square feet in area.
 - (4) Signs denoting the name and address of the occupants of the premises, which signs shall not exceed **six** square feet in area.
 - (5) Signs denoting the architect, engineer or contractor placed on premises which construction, repair or renovation is in progress, which signs shall not exceed **six** square feet in area.
 - (6) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, which signs or bulletin boards shall not exceed **sixty-four** square feet in area and shall be located on the premises of such institution. The maximum single face size of any sign may not exceed 32 square feet. Added June 26, 2017
- (c) **Signs may be illuminated only by shielded, non –flashing lights.**
- (d) Billboards and signs relating to goods and services not sold or rendered in the Town of Sullivan shall not be permitted.
- (e) Fees: The fees for a sign permit shall be **\$5.00** ~~\$25.00~~ for the first sign and **\$1.00** ~~\$5.00~~ for each additional sign if done at same time. Changes in fees will be recommended by Selectmen and voted at town meeting. Delete June 26, 2017
 Changed June 26, 2017

Section 5. Non-Conforming Signs. In the event a sign is erected prior to the effective date of this local law, which sign does not conform with the provisions and standards of this local law, the requisite permit, as provided herein, shall be granted for every such sign or other advertising structure for a period of time not exceeding the remaining or undepreciated useful life of such sign (as based on a depreciation formula recommended by the State Highway Department).

Section 6. Violations. Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not more than **\$100**, and each day such violation continues shall constitute a separate violation. Such fines shall be levied by the Selectmen.

Section 7. Amendments.

- (a) On petition or on recommendation of the Planning Board or on their own motion the Selectmen may present warrants for consideration of the Town to amend,

- (b) The Selectmen shall fix the time and place of a public hearing on the proposed amendments (s) and cause notice to be given in accordance with the laws of the State of Maine.

Russell O. Gordon,

John E. Guyton,

Ray H. Daley Jr.,

Signatures of the Selectman

supplement, or repeal the regulations and provisions of this ordinance.

TOWN OF SULLIVAN



APPLICATION FOR SIGN PERMIT

Name: _____

BUSINESS NAME: _____

Address: _____

SIGN SIZE: _____ MATERIALS: _____

LIGHTED _____ REFLECTIVE _____ PAINTED _____

Estimated Cost: \$ _____

Location of Sign: _____

Applicant's Signature

Application Fee:

\$25.00 for First Sign

\$5.00 each extra sign or flag or banner
at time of first request.

Date Approved by Selectman

TOWN OF SULLIVAN
1888 US HIGHWAY 1
SULLIVAN, ME 04664
207-422-6282 OR 422-6719
FAX 207-422-4785

**MUNICIPAL PLANNING BOARD ORDINANCE
TOWN OF SULLIVAN
ADOPTED JUNE 29, 1992
AMENDED JUNE 26, 2006**

1. Establishment. Pursuant VIII, pt 2, Section 1, of the Maine Constitution and 30 MRSA Section 2151-A, the town of Sullivan hereby establishes the Town of Sullivan Planning Board.

1. Appointment.

- A.** Board members shall be appointed by the municipal officers and sworn by the clerk or other person authorized to administer oaths.
- B.** The board shall consist of **5** members and **3** associate members. (amended June 26, 2006)
- C.** The term of each member shall be **5** years, except the initial appointments which shall be for **1** year respectively. The term of office of an associate member shall be **5** years, the initial term for each new appointee shall be **1** year.
- D.** When there is a permanent vacancy, the municipal officers shall within **60** days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member or associate, or when a member or associate ceases to be a legal resident of the town, or when a member or associate fails to attend four (**4**) consecutive regular meetings, or fails to attend at least **75%** of all meetings or workshops during the preceding twelve (**12**) month period. When a vacancy occurs, the chairperson of the board shall immediately so advise the municipal officers in writing. The board may recommend to the municipal officers that the attendance provision be waived for cause, in which case no vacancy will then exist until the municipal officers disapprove the recommendation. The municipal officers may remove members of the planning board by unanimous vote, for cause, after notice and hearing.
- E.** A municipal officer may not be a member or associate member.

3. Organization and Rules.

- A.** The board shall elect a chairperson and vice chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of all officers shall be 1 year with eligibility for re-election.
- B.** When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an associate member to sit in that member's stead.
- C.** An associate member must attend all meetings of the board and participate in its proceeding, but may vote only when he or she has been designated by the chairperson to sit for a member.

- D. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- E. The chairperson shall call at least one regular meeting of the board each month.
- F. No meeting of the board shall be held without a quorum consisting of 4 members or associate members authorized to vote. The board shall act by majority vote, calculated on the basis of the number of members present and voting.
- G. The board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

4. Duties: Powers.

- A. The board shall prepare or supervise the preparation of a Comprehensive Plan as defined by 30 MRSA Section 4960-C.
- B. The board shall perform such duties and exercise such powers as provided by the Sullivan ordinance and the laws of the State of Maine.
- C. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

5. Conflict of Ordinances and Validity.

- A. Conflict of Ordinances and Validity. In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the Town of Sullivan, Maine, existing on the effective date of this Ordinance, the provision which establishes the higher stand for the promotion and protections of the health and safety of the people shall prevail.
- B. Validity. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance are hereby declared to be severable.

6. Amendment of this Ordinance.

- A. On petition, or on their own motion the Selectmen may present warrants for consideration of the town to amend the regulations and provisions of this ordinance at a regular or special town meeting, a majority vote of the legal voters present is required.
- B. The municipal officers shall fix the time and place of a public hearing on the proposed amendments or amendment and cause notice to be given in accordance with the laws of the State of Maine.

SULLIVAN RENTAL HOUSING ORDINANCE
TOWN OF SULLIVAN
ADOPTED JUNE 24, 1991
AMENDED JUNE 26, 1995
AMENDED JUNE 24, 2002
AMENDED JUNE 29, 2009

TITLE, PURPOSE and DEFINITIONS:

TITLE: This Ordinance shall be known and will be cited as the Sullivan Rental Housing Ordinance.

PURPOSE: The purpose of this ordinance is to set forth performance and acceptability criteria for rental housing in order to protect the health and welfare of the residents domiciled in the Town of Sullivan, Maine.

DEFINITIONS:

Domicile — a person fixed, permanent and principal home for legal purposes.

Lessor — One that conveys property by lease or rental agreement

Lessee — One who holds real property under a lease or rental agreement.

(A) Sanitary Facilities

(1) Performance Requirement. The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(2) Acceptability Criteria. A flush toilet in a separate, private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

(B) Food Preparation and Refuse Disposal

(1) Performance Requirement. The dwelling unit shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary facilities and food wastes and refuse, including facilities for temporary storage where necessary.

(2) Acceptability Criteria. The unit shall contain the following equipment in proper operating condition: Cooking stove or range and refrigerator of appropriate size for the unit, supplied by either the Lessor or the Lessee and a kitchen sink with hot and cold running water. The Sink shall drain into an approved public or private waste system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g. garbage cans).

(C) Space and Security

(1) Performance Requirement The dwelling unit shall afford the Family adequate space and security.

(2) Acceptability Criteria A living room, kitchen area, and bathroom shall be present, and the dwelling unit shall contain at least one sleeping or living/ sleeping room of appropriate size for each two person. Exterior doors and windows accessible from outside the unit shall be lockable from the inside.

(D) Thermal Environment

(1) Performance Requirement The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

(2) Acceptability Criteria The dwelling unit shall contain safe heating facilities which are in proper operating condition and can provide adequate heat to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. **Unvented room heaters which burn gas, oil or kerosene are unacceptable.**

(E) Illumination and Electricity

(1) Performance Requirement Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliance while assuring safety from fire.

(2) Acceptability Criteria Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least three electric outlets one of which may be an overhead light, shall be present and operable in the living area and kitchen area. Each bedroom area shall have at least two electric outlets one of which may be an overhead light.

(F) Structure and Materials

(1) Performance Requirements The dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.

(2) Acceptability Criteria Ceiling, walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movements under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weather tight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding

or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling.

(G) Interior Air Quality

- (1) Performance Requirements** The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.
- (2) Acceptability Criteria** The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one open able window or other adequate exhaust ventilation.

(H) Water Supply

- (1) Performance Requirements** The water supply shall be free from contamination.
- (2) Acceptability Criteria** The unit shall be served by an approved public or private sanitary water supply.

(I) Access

- (1) Performance Requirements** The dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.
- (2) Acceptability Criteria** The dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties. The building shall provide an alternate means of egress in case of fire (such fire stairs or egress through windows).

(J) Site and Neighborhood

- (1) Performance Requirements** The site and neighborhood shall be reasonable free from disturbing noises and reverberations and other hazards to the health, safety, and general welfare of the occupants.
- (2) Acceptability Criteria** The site and neighborhood shall not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank backups or sewage hazards; abnormal air pollution, smoke or vehicular traffic; excessive accumulations of trash, vermin or rodent infestation; or fire hazards and obnoxious odors.

(K) Sanitary Conditions

(1) Performance Requirements The unit and its equipment shall be in sanitary condition.

(2) Acceptability Criteria The unit and its equipment shall be free of vermin and rodent infestation.

(L) ALL Rental properties will be inspected annually.

(M) No General Assistance requests for rent shall be paid until rental unit is inspected and passed.

(N) The CEO or their designee shall issue Occupancy certificates. There is a \$15.00 fee per unit for any inspection that can be paid by the property owner, renter or lessor.

(O) Conflicts with Other Ordinances and State or Federal Law.

1. The requirement of this ordinance are in addition to those imposed by other ordinances of the town and by the state and federal law. This ordinance does not repeal, annul or in anyway impair or remove the necessity of compliance with any other rules, regulations, bylaws, permit or provision of law.
2. Whenever any requirement of this ordinance is inconsistent with any requirement of another ordinance, the more restrictive provision shall apply.
3. **Whenever any requirement of this ordinance is inconsistent with State or Federal law, the more restrictive provision shall apply.**

**CHAPTER 57
FRENCHMAN BAY REGIONAL SHELLFISH CONSERVATION
ORDINANCE
CITY OF ELLSWORTH, MAINE**

A true copy –

Attest: Heidi-Noel Grindle
City Clerk



CITY HALL

Adopted by City Council April 19, 2010
Amended by City Council October 17, 2011
Amended by City Council July 15, 2013
Amended by City Council June 16, 2014
Repealed and Replaced by City Council April 17, 2017

**FRENCHMAN BAY
REGIONAL SHELLFISH CONSERVATION
ORDINANCE**

**For the Municipalities of:
Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton**

As adopted in 2010

Revised 2011/2012

Revised 2013

Revised 3/18/2014

Revised 5/27/2014

Revised 2/23/2017 (Master Copy)

Mission Statement: These municipalities shall act collaboratively as stewards to preserve, protect, manage and enhance the shellfish resources and ecological well-being of the Greater Frenchman Bay Region and to insure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

Management Partnership Team

Frenchman Bay Regional Shellfish Conservation Committee

&

Frenchman Bay Regional Shellfish Municipal Joint Board

**FRENCHMAN BAY REGIONAL SHELLFISH
CONSERVATION ORDINANCE**

Municipalities of Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton

Mission Statement: These municipalities shall act collaboratively as stewards to preserve, protect, manage and enhance the shellfish resources and ecological well-being of the Greater Frenchman Bay Region and to insure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

1. **Authority:** This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.
2. **Purpose:** To establish a shellfish conservation program for the participating municipalities, which shall insure the protection and optimum utilization of shellfish resources within its limits. These goals shall be achieved by means, which may include, but not be limited to:
 - A. Licensing.
 - B. Limiting the number of shellfish harvesters.
 - C. Restricting the time and area where digging is permitted.
 - D. Limiting the minimum size of clams taken.
 - E. Limiting the amount of shellfish taken daily by a harvester.
 - F. Intertidal Management Plan

3. **Administration**

3.1 The Frenchman Bay Regional Shellfish Conservation Committee: The Regional Shellfish Management Program for the participating municipalities shall be administered by the Frenchman Bay Regional Shellfish Municipal Joint Board (Municipal Joint Board) with technical input from the Frenchman Bay Regional Shellfish Conservation Committee (Conservation Committee). The Conservation Committee shall consist of one member and may include one alternate member for each participating municipality. A non-resident may be appointed by a municipality to represent that municipality on the Conservation Committee. Conservation Committee Members shall be commercial harvesters licensed under this Ordinance, if they are available and willing to serve, and shall be appointed by the municipal officers of the participating municipalities and in accordance with the procedures outlined in this document for terms of up to three (3) years. A quorum shall consist of a majority of the members.

- A. **Selection of Regional Shellfish Conservation Committee Members:** Selectmen/Council members of each of the participating municipalities shall appoint, and replace as necessary, Conservation Committee members according to their own policies and procedures.
- B. **Meetings:** The Chairman of the Shellfish Conservation Committee shall be elected at the first meeting of each calendar year by the members of the Conservation Committee. A quorum shall consist of a majority of the members of the Committee. Notice of all meetings of the Conservation Committee shall be given to each member of the Conservation Committee and the Chairman of the Municipal Joint

Board, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

C. Regional Shellfish Conservation Committee's Responsibilities shall include:

i. Keeping this Ordinance under review and making recommendations for its amendments.

ii. Recommending management actions to the Municipal Joint Board in conjunction with the Area Biologist of the Department of Marine Resources. Such actions may include, but are not limited to, re-seeding of defined shellfish flats, establishing conservation closures, and limiting and/or expanding harvesting activities.

iii. Recommending to the Municipal Joint Board enforcement actions for the protection of the resource.

iv. Submitting an annual report to the participating municipalities covering the aforementioned topics and other Committee activities by February 1.

v. Assist in identifying possible sources of pollution harmful to the intertidal habitat and the shellfish resources.

vi. By February 1 of each year submit an Annual Shellfish Management Review to the Municipal Joint Board for their review and approval, prior to submitting to the Department of Marine Resources by its April 1 deadline for review/approval.

vii. By April 1 of each year submit an Annual Shellfish License Sales and Lottery Procedure Plan to the Municipal Joint Board for approval. This plan shall outline in detail how many licenses are to be allocated on an annual basis and shall be consistent with 12 M.R.S.A Section 6671 (3-A) and DMR Regulation Chapter 7. After Municipal Joint Board approval, the Conservation Committee shall submit the Annual Shellfish License Sales and Lottery Procedure Plan to the Department of Marine Resources for approval. After receiving approval for license allocations from the Commissioner of Marine Resources, the Conservation Committee shall notify the Administrative Municipality, in writing, the number of shellfish licenses to be issued.

D. Attendance: Conservation Committee members shall make every effort to regularly attend Conservation Committee meetings. Any Committee member who misses more than two unexcused consecutive meetings may lose their seat on the Committee.

E. Convictions: Anyone convicted of violating this ordinance shall be removed from the Shellfish Conservation Committee.

3.2. FRENCHMAN BAY REGIONAL SHELLFISH MUNICIPAL JOINT BOARD:

Each of the participating municipalities shall appoint one municipal officer (Selectman/Council member), or a designee, as a member of the Municipal Joint Board to act as the municipality representative for all issues concerning this Ordinance. Each of the participating municipalities may also appoint one individual as an alternate member of the

Municipal Joint Board to represent the respective municipal officer during an absence at a Municipal Joint Board meeting. The designee, and alternate, must be a resident of the participating municipality and does not need to be a municipal officer (Selectman/Councilman). The person so appointed shall serve at the pleasure of the body that made the appointment and may be replaced thereby.

A. Meetings: The Chairman of the Municipal Joint Board shall be elected at the first meeting of each calendar year by the members of the Municipal Joint Board. A quorum shall consist of a majority of the members of the Board. Notice of all meetings of the Municipal Joint Board shall be given to each member of the Board and the Chairman of the Regional Shellfish Conservation Committee, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

B. Powers: The Municipal Joint Board is authorized to approve the number of shellfish harvesting licenses to be issued, approve license fees, open and close the flats, set times when harvesting is allowed, set permitted quantities that may be harvested, and to take such actions as authorized by the Board of Selectmen/Council of each of the participating municipalities, and subject to the Department of Marine Resources approval as noted in Section 6, based upon the recommendations of the Regional Shellfish Conservation Committee. These actions shall be described in an Annual Shellfish Management Plan submitted by the Regional Shellfish Conservation Committee.

4. Definitions

A. Resident: The term "resident" refers to a person being a Maine resident who has proof of being domiciled in at least one of the participating communities continuously for a minimum of six months prior to the time their claim of such residence is made and/or whom has paid real estate taxes in at least one of these participating communities continuously for at least five years. In order to determine resident eligibility new residents shall provide two forms of proof of residency from the list below. At least one shall be from Section 3 in the chart below. All licensed harvesters will provide proof of residency on an annual basis.

Section 1	Section 2	Section 3
*Copy of deed AND record of most recent mortgage payment *Copy of Lease AND record of most recent legal affidavit from landlord affirming tenancy. *Legal affidavit from landlord affirming tenancy AND record of	A utility bill or other work order dated within the past 60 days including: *Gas Bill *Oil Bill *Electric Bill *Telephone Bill *Cable or Satellite Bill Dated within the past year: *W-2 Form *Excise (vehicle) tax bill	*Any valid form of photo ID and proof of residency that may include: *A valid Maine Drivers License displaying physical address. *A valid Maine photo ID card displaying physical address.

<p>most recent rent payment.</p>	<p>*Property tax bill *Dated within the past 60 days: *Letter from approved government agency *Payroll Stub *Bank or credit card statement</p>	<p>*A current vehicle registration that displays a physical address.</p>
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- B. **Nonresident:** The term "nonresident" means anyone not qualified as a resident under this ordinance.
- C. **Shellfish, Clams and Intertidal Shellfish Resources:** When used in the context of this ordinance the words "shellfish", "clams", and "intertidal shellfish resources" mean soft shell clams (*Mya arenaria*), quahogs (*Mercenaria mercenaria*), razor clams (*Ensis directus*), and hen clams (*Spisula solidissima*).
- D. **Municipality:** Refers to the municipalities of Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton, Maine. Wherever the words "town" or "community" may be used, they are intended to mean municipality.
- E. **Administrative Municipality:** The municipality that administers this Ordinance and the directives of the Municipal Joint Board.
- F. **Annual Shellfish License Sales and Lottery Procedure Plan:** A plan written by the Conservation Committee and submitted to the Municipal Joint Board, by April 1 of each year, for approval. This plan shall outline in detail how licenses are to be allocated on an annual basis and shall establish priority status for the allocation of licenses as referred to in Section 5.3.
- G. **Annual Shellfish Management Review:** A detailed shellfish resource management plan written on an annual basis by the Frenchman Bay Regional Shellfish Conservation Committee and submitted to, and approved by, the Frenchman Bay Regional Shellfish Municipal Joint Board for submission to, and approval by, the Maine Department of Marine Resources. Said plan shall define actions to be taken regarding the number of licenses to be issued, re-seeding activities, conservation closures, limits on allowable harvest and harvesting days and times, and other measures taken to ensure a sustainable harvest of the resource.
- H. **Conservation Work:** The term Conservation Work or Conservation Time, as used in this ordinance, shall be broadly defined and shall include the time accrued for work spent performing, but is not limited to, such activities as shellfish reseedling, pollution abatement, predator eradication, shellfish surveying, information gathering, testing and sampling, and any other activity that the Shellfish Conservation Committee deems as supporting shellfish resource enhancement and the Frenchman Bay Regional Shellfish Management Program. All such Conservation Work activities must be approved by the Municipal Joint Board.
- I. **First-time Commercial License:** Is 1) a commercial license of any class issued to an individual who has never held a commercial license of any class, or 2) the

issuance of a commercial license of any class issued to an individual who has not held a commercial license of any class during the previous twelve (12) months, at time of application.

5. **LICENSING:**

A Frenchman Bay Regional Shellfish License is required to harvest shellfish in the jurisdiction of this Ordinance. It is unlawful for any person to dig or take shellfish from the shores and flats of the participating communities for the purpose of selling the shellfish without having a current commercial license issued by the Administrative Municipality as provided by this Ordinance. Additionally, a commercial harvester must have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources prior to harvesting shellfish for commercial purposes. It shall be unlawful for any individual whose State of Maine Commercial Shellfish License, or right to harvest, has been suspended by the State of Maine to harvest or possess shellfish without proof of purchase. Also, if such individual currently holds a municipal license, such license shall be suspended for the same period of time. Any restrictions on licenses regarding the harvest of shellfish as defined in this ordinance shall be outlined in the Annual Shellfish License Sales and Lottery Procedure Plan developed by the Regional Shellfish Conservation Committee and approved by the Municipal Joint Board.

Licensing Requirements: All license sales shall be conducted as described in the Annual Shellfish License Sales and Lottery Procedure Plan developed each year by the Frenchman Bay Regional Shellfish Conservation Committee.

5.1 Designation, Scope and Qualifications:

A. Resident Commercial Shellfish License: This license is available to residents of a municipality who are also State of Maine Residents and/or real estate tax payers in at least one of the participating municipalities, consistent with Section 4.A., above and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities.

B. Nonresident Commercial Shellfish License: This license is available to nonresidents of participating municipalities and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities.

C. Resident Junior Commercial Shellfish License: This license is available to residents of a participating municipality who are younger than age 19 at the time of license application and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities.

D. Nonresident Junior Commercial Shellfish License: This license is available to nonresidents of the participating municipalities who are younger than age 19 at the time of license application and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities.

E. Resident Senior Commercial License: This license is available to senior residents of a participating municipality who are over the age of 65 at the time of

license application and entitles the holder to dig and take any amount of shellfish from the shore and flats of the participating municipalities.

F. Non-Resident Senior Commercial License: This license is available to nonresident seniors of the participating municipalities who are over the age of 65 at the time of license application and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities.

G. Residential Family/Individual Recreational Shellfish License: This license is available to Residents and Maine resident real estate taxpayers of the participating municipalities, consistent with Section 4.A., above, who do not hold a valid State of Maine Commercial Shellfish License and entitles the family to dig and take no more than one peck of shellfish or 3 bushels of “hen” or “surf” clams in any one day for the use of their self and their family. Residents with an Aquaculture Lease Permit shall be exempt and eligible for a recreational license.

H. Nonresident Family/Individual Recreational Shellfish License: This license is available to any person not a resident of one of the participating municipalities who does not hold a valid State of Maine Commercial Shellfish License and entitles the family to dig and take not more than one peck of shellfish or 3 bushels of “hen” or “surf” clams in any one day for the use of their self and their family. Nonresidents with an Aquaculture Lease Permit shall be exempt and eligible for a recreational license.

I. License must be signed: The licensee must sign the license to make it valid. License must be in possession when engaged in harvesting. By signing the license the harvester acknowledges that they must submit to inspection by the Municipal Shellfish Warden.

- 5.2 **Fees:** A schedule of fees shall be available at the Administrative Municipality offices. The fees for the licenses shall be determined annually by the Shellfish Conservation Committee and Municipal Joint Board. Licensees shall submit fees, in full upon issuance of license. Fees received for shellfish licenses shall be used by the Administrative Municipality to support the Frenchman Bay Regional Shellfish Conservation Ordinance. Sale of recreational licenses shall be the responsibility of each participating municipality. Any and all fees and license sales for recreational licenses shall be collected by the participating municipalities and sent to the Administrative Municipality quarterly, except for a \$3.00 agent fee per license that will be retained by the issuing municipality.

Applicants for a resident or non-resident renewal commercial shellfish harvester license and resident senior or non-resident senior renewal commercial shellfish harvester license may volunteer to perform shellfish conservation work in exchange for a reduction in the renewal commercial license fee as described in Section 5.4-B, below. Generally, each hour of conservation work performed will be credited at \$15 so those conservation hours worked, multiplied by \$15, may be deducted from the full renewal commercial license fee, **except** that Resident Junior Commercial renewal license and Non-resident Junior Commercial renewal licenses may be

purchased without performing any Conservation Work. A resident junior license shall be half the cost of a regular commercial resident license. A nonresident junior license shall be half the cost of a regular commercial nonresident license. A resident senior commercial license shall be half the cost of, and require only half of the voluntary conservation time necessary for, a regular commercial resident license. A non-resident senior commercial license shall be half the cost of, and require only half of the voluntary conservation time necessary for, a regular commercial non-resident license.

First-time commercial licenses will be sold at the lowest fee for each class of commercial license.

5.3 Application Procedure: Any person may apply to the municipal Clerk for the licenses required by this ordinance on forms provided by the Administrative Municipality. Notice of available commercial licenses shall be published in a trade or industry publication, or in a newspaper, or newspapers, or combination of newspapers with general circulation which the Municipal Joint Board considers effective in reaching persons affected, not less than ten (10) days prior to the period of issuance and shall be posted in the municipal offices of the participating municipalities until the period expires. Applications for commercial licenses must be received at the Town Office of the Administrative Municipality as required by the Annual Shellfish License Sales and Lottery Procedure Plan. No shellfish licenses may be reserved and licenses cannot be transferred.

A. Contents of Application: The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and any additional information the municipality may require, including photos.

B. Misrepresentation: Any person who intentionally gives false information on a license application shall cause the application to be removed from consideration, if a license is issued as a result of the false information, said license to become invalid and void.

C. Address change: A person holding a commercial shellfish license under this ordinance shall notify the town clerk of the Administrative Town within ninety (90) days of address change outside of the participating municipalities. Failure to do so will be considered and treated as misrepresentation.

5.4. License Allocation Procedures: License sales procedures shall be determined by the Shellfish Conservation Committee, approved by the Municipal Joint Board, and submitted to the Department of Marine Resources for their approval at least thirty (30) days prior to the licenses going on sale. Notice of the number of licenses to be issued and the procedure for application shall be defined by the Annual Shellfish License Sales and Lottery Procedure Plan.

A. The Clerk of the Administrative Municipality shall issue licenses to those residents and non-residents who have met the requirements of obtaining a

commercial license. The Town Clerk shall issue licenses and hold a lottery for nonresident commercial licenses by procedure described in the Annual Shellfish License Allocation Procedure Plan.

B. Optional Conservation Work may be completed prior to the renewal of a municipal commercial shellfish license to reduce the license cost in accordance with the Annual Shellfish License Sales and Lottery Procedure Plan. The performance of Conservation Work in order to accrue Conservation Time is optional and may be credited as described below:

- 1) Resident or non-resident commercial renewal shellfish licenses may be purchased without performing conservation work, however, the performance of Conservation Work will reduce a resident or non-resident renewal commercial shellfish license fee by \$15 for each hour worked, up to twelve (12) hours.
- 2) Resident junior or non-resident junior commercial renewal shellfish licenses may be purchased without performing conservation work.
- 3) Resident senior or non-resident senior commercial renewal shellfish licenses may be purchased without performing conservation work, however, the performance of Conservation Work will reduce a resident senior or non-resident senior renewal commercial shellfish license fee by \$15 for each hour worked, up to six (6) hours.
- 4) First-time commercial licenses may be purchased at the lowest fee for each class of commercial license.

C. Any license holder convicted of a violation of this ordinance shall forfeit seniority. Those who have held commercial licenses uninterrupted, from the first year of the Ordinance shall maintain seniority.

D. Details explaining how licenses will be issued will be described in the Annual Shellfish License Sales and Lottery Procedure Plan.

5.5 Limitation of Diggers: The number of commercial licenses may be limited and will be issued according to the Annual Shellfish License Sales and Lottery Procedure Plan.

A. If it is determined that Limited Licenses are necessary, the Administrative Community shall issue licenses to residents and nonresidents as described in the Annual Shellfish License Sales and Lottery Procedure Plan.

5.6 Open License Sales: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year;

A. The number of recreational licenses will not be limited. Recreational licenses shall be issued to residents or non-residents without restriction.

- 5.7 **License Expiration Date:** Each license issued under authority of this ordinance expires at midnight on June 30th of each year.
- 5.8 **Fee Waivers:** Recreational shellfish license fees are not required for individuals 65 years or older and younger than age 13 at the time of license application.
6. **Opening and Closing of Flats:** The Municipal Joint Board in conjunction with the Shellfish Conservation Committee, upon approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon concurrence of the Department of Marine Resources Area Biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Shellfish Conservation Committee and Municipal Joint Board may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Joint Board and Shellfish Conservation Committee made after the hearing shall be based on findings of fact.
7. **Minimum Legal Size of Soft Shell Clams:** It is unlawful for any person to possess soft shell clams within participating municipalities that are less than two (2) inches in the longest diameter except as provided by Subsection 7.2 of this section.
- 7.1 **Definitions:**
- A. **Lot:** The word "lot" as used in this ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.
- B. **Possess:** For the purpose of this section, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.
- 7.2 **Tolerance:** Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.
- 7.3 **Penalty:** Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. Section 6681.
8. **Penalty:** A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10) (10-A) (10-B).
9. **Effective Date:** This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the member municipalities provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.
10. **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.

11. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the member communities and any provisions of any other town ordinance, which is inconsistent with this ordinance, is hereby repealed.
12. **Use of Fees and Fines, Funding:** Fees for shellfish licenses shall be set forth in the Annual Shellfish Management plan and shall accompany the application for the respective license. Fees and fines received shall be used for costs incurred in the enforcement and management of this ordinance.
 - 12.1 **Non-lapse Provision:** Monies in the Municipal Shellfish Account shall not lapse at the end of the year but shall be carried over to the next year in that account.
 - 12.2 **Funding:** The Municipal Shellfish Program shall be self-supporting, to the extent possible. Funds for operating the Program may be generated by license fees, fines, and financial support from participating communities, fund-raising events, and charitable contributions.

13. **VIOLATIONS, SUSPENSION OF LICENSES, AND FINES:**

Any person who violates this Ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 and/or Section 6681. A violation of this Ordinance may result in a license suspension. A licensee whose shellfish license has been suspended pursuant to this Ordinance may request return of their license only after the suspension period has expired. A suspended license is not to be returned until the fine is paid in accordance with the court's decree. The suspension of a commercial license shall begin automatically, following conviction. Any licensee whose license has been suspended for a period of time greater than 30 days, pursuant to this Ordinance, shall be entitled to a hearing before the Municipal Joint Board upon the filing of a written request for a hearing with the Town Clerk of the Administrative Town within thirty (30) days of the effective date of the suspension.

13-A. Costs and Attorney's Fees: In addition to any penalty assessed for any violation of this ordinance, if the municipality is the prevailing party, the municipality shall be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Classifications of violations are categorized as follows:

- 13.1 **Stopping for inspection:** A person shall produce their license on demand of any certified Municipal Shellfish Conservation Warden in uniform and having "probable cause" to take such action. It is unlawful for the operator of a motor vehicle, boat, vessel, or conveyance of any kind, or any person:
 - A. To deliberately fail or refuse to stop immediately upon request or signal of any Certified Municipal Shellfish Conservation Warden.
 - B. After the person has stopped, to fail to remain stopped until the said Warden has reached his/her immediate vicinity and makes known to the operator the reason for his/her request or signal.
 - c. To fail or refuse to stand by immediately for inspection on request of said Warden.

- D. To throw or dump into any coastal waters or flats after having been requested or signaled to stop by a Certified Municipal Shellfish Conservation Warden any shellfish, or any pail, bag, hod or container before said Warden has inspected the same.
- E. To attempt to elude, disobey, or assault any Certified Municipal Shellfish Conservation Warden.

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

- 13.2 Harvesting Clams in any Closed Area:** It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by those 7 municipalities included in the Frenchman Bay Regional Shellfish Conservation Ordinance, namely the municipalities of Ellsworth, Lamoine, Trenton, Hancock, Franklin, Sullivan, and Sorrento, in accordance with DMR Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of the regional ordinance of these municipalities and is punishable under MRSA Title 12 §6671.

Boundaries of conservation closures are explicitly defined in the conservation closure application submitted on behalf of the seven (7) above-named municipalities to DMR and are part of the resulting permit issued by DMR. These permits are posted on the website of the City of Ellsworth, the administrative municipality for the seven (7) municipality regional ordinance, and also online at:

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

- 13.3 Minimum Legal Size of Shellfish:** It is unlawful for any person to violate minimum shellfish size regulation set forth in this Ordinance:

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

- 13.4 Harvesting without a license:** It is unlawful to harvest shellfish without a license.

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

- 13.5 Tagging:** The holder of a commercial shellfish license shall identify shellstock the license holder has taken by means of a harvester tag. The tag shall be in accordance with Maine Department of Marine Resources (DMR) rules.

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

13.6 Suspension: A person licensed under this ordinance who has had their State of Maine Commercial Shellfish License suspended shall forfeit their Frenchman Bay Regional Shellfish Conservation Ordinance license (Regional License) for the duration of the State of Maine Commercial Shellfish License suspension. Such a person in possession of shellfish must carry a receipt of purchase for said shellfish. Any shellfish licensee having three convictions for a violation of this ordinance within a three year period shall have their shellfish license suspended for a period of thirty (30) days.

13.7 (Intentionally left blank.)

13.8 (Intentionally left blank.)

14. ENFORCEMENT: This ordinance shall be enforced by the certified Municipal Shellfish Conservation Warden or any Municipal Shellfish Conservation Warden appointed by the Municipal Joint Board who, within one year of appointment, must be certified by the Commissioner of the Maine DMR. An enforcement action shall be filed in the name of the municipality where the violation was alleged to have occurred.

15. AMENDMENTS

15.1 Initiation: A proposal for an amendment to this Ordinance may be initiated by the following:

A. A written petition submitted with the number of voters in the participating municipalities equal to at least ten percent of the voters in the last gubernatorial election;

B. A recommendation of the Regional Shellfish Conservation Committee; or

C. A recommendation of the Municipal Joint Board.

15.2 Procedure:

A. Any proposal for an amendment shall be made to the Municipal Joint Board, in writing, stating the specific changes requested. All such proposals shall be transmitted to the Regional Shellfish Conservation Committee for their review and recommendation.

B. Within thirty (30) days of receiving a properly initiated amendment, the Municipal Joint Board shall hold a public hearing on the proposal. Notice of the hearing shall be posted and advertised in a newspaper of general circulation within the participating communities at least seven (7) days prior to the hearing. The notice shall contain the time, date and place of the hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the municipal Clerk's office shall be adequate notice.

15.3 Adoption: This Ordinance may be amended by a majority vote of the Municipal Joint Board, after proposed changes have been reviewed by the Department of Marine Resources. Note: Ellsworth's charter requires Council action.

15.4 Statute Law Changes: Any changes to referenced Statue Laws in this Ordinance shall automatically update in this Ordinance upon enactment.

Adoption:

WHEREAS: In consideration of all of the above, and IN WITNESS WHEREOF, the parties have by their duly authorized officers caused this Ordinance to be adopted in all parts this **23rd** day of **February, 2017**.

<u>Municipality</u>	<u>Signature</u>	<u>Name/Title</u>
Sorrento _____		Craig Clement, Joint Board Member
Sullivan _____		Gary Edwards, Joint Board Member
Franklin _____		Dana Smith, Joint Board Member
Hancock _____		Roger Dubois, Joint Board Member
Ellsworth _____		Stephen Beatham, Joint Board Member
Lamoine _____		Richard Fennelly, Joint Board Member
Trenton _____		Mike Hodgkins, Joint Board Member

**SHORELAND ZONING ORDINANCE
FOR THE
MUNICIPALITY OF SULLIVAN**

Adopted June 25, 1974
Amended November 24, 1992
Amended June 28, 2004
Amended June 29, 2009

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 accelerate erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 2. Authority

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.) In the event that an omission has occurred the minimum state standards shall apply. (Amended 2004)

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, river
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland.

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

Section 4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments.

This Ordinance, which was adopted by the municipal legislative body on 6-29-2009 shall not be effective unless approved by the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment it shall be automatically approved.

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

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

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

Section 5. Availability

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

Section 6. Severability

Should any section or provision of this Ordinance be declared by the 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 of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

Section 8. Amendments

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

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

Section 9. Districts and Zoning Map

A. Official Sullivan Shoreland Zoning Map

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

- 1. Resource Protection**
- 2. Limited Residential**
- 3. Limited Commercial**
- 4. General Development I**
- 5. General Development II**
- 6. Commercial Fisheries/Maritime Activities**
- 7. Stream Protection.**

B. Scale of Map.

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

C. Certification of Official Sullivan Shoreland Zoning Map.

The Official Sullivan Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

D. Changes to the Official Sullivan Shoreland Zoning Map

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Sullivan Shoreland Zoning Map, such changes shall be made on the Official Sullivan 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 Sullivan Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Section 11. Land Use Requirements

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

Section 12. Non-conformance.

A. Purpose

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

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. Repairs and Maintenance:** This Ordinance allows, with a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

- 1. Expansions:** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
 - a.** After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12 (C) (3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expended by 30% in floor area and volume since that date.

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

2. **Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (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 or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

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

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

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

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

3. **Reconstruction or Replacement:** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. 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 floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12 (C) (2) above.

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

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

4. **Change of Use of a Non-conforming Structure**

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

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

D. Non - conforming Uses

1. **Expansions:** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as **allowed** in **Section 12 (C) (1) (a)** above.
2. **Resumption Prohibited:** A lot, building or structure in or on which a non-conforming use is discontinued for a period **exceeding one year**, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to the time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding **five (5)** year period.
3. **Change of Use:** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in **Section 12 (C) (4)** above.

E. Non-conforming Lots

1. **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except **lot 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 single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law

(12 M.R.S.A. sections 4807-A through 4807-D and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or *NOVEMBER 24, 1992* and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least **100 feet of shore frontage and at least 20,000 square feet of lot area;** or
- (b) Any lots that do not meet the frontage and lot size requirements of **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, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

- 1. Areas within 250 feet, horizontal distance, or the upland edge of freshwater 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 the 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.

2. 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.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
5. Land areas along river 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.

B. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, 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, which should not be developed as intensively as the General Development Districts. 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. General Development I District

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

1. Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - a. Areas devoted to manufacturing, fabricating or other industrial activities;
 - b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - c. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

E. General Development II District

The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

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

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

F. 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 normal 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.

F. 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.

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 must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LR - Limited Residential

SP - Stream Protection

LC - Limited Commercial

GD - General Development I and General Development II

CFMA - Commercial Fisheries/Maritime Activities

DEPARTMENT OF ENVIRONMENTAL PROTECTION
TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT					
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>	<u>CFMA</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	yes	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes	yes	yes
5. Clearing of vegetation for approved Construction and other allowed uses	CEO	CEO1	yes	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes 2	yes 2	yes 2	yes 2	yes 2
10. Mineral extraction including sand and gravel extraction	no	PB3	PB	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes	yes
15. Principal structures and uses						
a. one and two family residential	PB4	PB9	CEO	CEO	CEO	no
b. Multi-unit residential	no	no	PB	PB	PB	no
c. Commercial	no	no10	no10	PB	PB	PB5
d. Industrial	no	no	no	no	PB	PB5
e. Governmental and Institutional	no	no	no	PB	PB	PB5
f. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB4	PB	CEO	CEO	CEO	PB5
16. Structure accessory to allowed uses	PB4	PB	CEO	CEO	yes	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland						
a. Temporary	CEO	CEO	CEO	CEO	CEO	CEO
b. Permanent	PB	PB	PB	PB	PB	PB5
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	no
19. Home occupations	PB	PB	PB	CEO	yes	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB6	PB6	PB	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower	CEO6	CEO6	yes12	yes12	yes12	yes12
B. Non-roadside or cross-county distribution lines involving ten poles or less in the shoreland zone	PB6	PB6	CEO	CEO	CEO	CEO
C. Non-roadside or cross-county distribution lines involving eleven or more poles in the shoreland zone	PB6	PB6	PB	PB	PB	PB

D. Other essential services	PB6	PB6	PB	PB	PB	PB
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>	<u>CFMA</u>
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO ⁵
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no ⁷	PB	PB	PB	no
26. Road construction	PB	no ⁸	PB	PB	PB	PB ⁵
27. Land management roads	yes	PB	yes	yes	yes	yes
28. Parking facilities	no	no ⁷	PB	PB	PB	PB ⁵
29. Marinas	PB	no	PB	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	CEO	yes	CEO	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO
32. Signs	yes	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

1 in RP not permitted within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards

2 Requires permit from the 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 not previous page)

6 See further restrictions in Section 15 (L)(2)

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

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 16E, 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.

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

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

Section 15. Land Use Standards

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

A. <u>Minimum Lot Standards</u>	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	40,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) <u>Governmental, Institutional, Commercial or Industrial per principal structure</u>		
(i) Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) <u>Public and Private Recreational Facilities</u>		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		
(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		

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

B. 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 classified GPA and rivers that flow to great ponds 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, except that in the General Development I District the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance and 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 stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- b. All principal structures along Significant River Segments as listed in **38 M.R.S.A. section 437** (see Appendix B), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- c. For principal structures, water and wetland setback measurement shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official (s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
- d. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or

tributary stream as practical and shall meet all other applicable standard, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Stream Protection **and Limited Commercial** Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
3. **The lowest floor elevation or opening of all buildings and structures, including basements, shall be elevated at least one (1) foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. 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. The total **footprint** area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers **that** do not flow to great ponds classified GPA, and in the commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
5. **Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:**
 - a. **The site has been previously altered and an effective vegetated buffer does not exist;**
 - b. **The wall (s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;**
 - c. **The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative planting;**
 - d. **The total height of the wall (s), in the aggregate, are no more than 24 inches;**
 - e. **Retaining walls are located outside of the 100-year floodplain on rivers, streams coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent 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 must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation planting must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15 (p) (2) (a), may traverse the buffer;
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 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.

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

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. 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 temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line or a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
8. Except, in the General Development District and Commercial Fisheries/Maritime Activities District, no structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

D. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures, and the RECREATIONAL VEHICLE, CAMPGROUND AND MOBILE HOME PARK ORDINANCE OF THE TOWN OF SULLIVAN, MAINE 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) horizontal distance feet 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. 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 classified GPA or 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.
3. Only one Recreational vehicles shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. **When** a recreational vehicle, tent or similar shelter is placed on –site for more than one hundred twenty (120) days per year all requirements for residential structures shall be met, including the installation of a sub-surface sewage disposal system, in compliance with the State of Maine Sub-surface 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 classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (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

- (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 and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet horizontal distance from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the General Development I District and 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 stormwater 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 and driveways shall be set back at least one-hundred (100) feet horizontal distance from the normal high-water line or a great pond classified GPA or a river that flows 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 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) (1) does not apply to approaches to water crossing 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) (1)** except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.
3. **New permanent roads are not allowed with the shoreland zone along Significant River Segments except:**
 - (a) To provide access to structures or facilities within the zone; or
 - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
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 (Q)**.

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 (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize 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 (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40
 - b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
9. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveway shall be maintained on a regular basis to assure effective functioning.

I. Signs

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

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
2. Name signs allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be allowed without restriction as to number, provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be allowed without restriction.
6. No sign shall extend higher than twenty (20) feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

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

K. Septic Waste Disposal

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

L. Essential Services

1. Where feasible, the installation of essential services shall be limited to 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 impact.

M. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M) (4) below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet horizontal distance, of 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 fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
3. Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
4. When 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, grades, and soil stabilization shall be established in accordance with the following:

- a. All Debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
5. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on **November 1, 2001**, and the Nutrient Management Law (**7 M.R.S.A. section 4201—4209**).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas with the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
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 classified GPA; 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 high-water line of a great pond classified GPA; 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 on going farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. **SECTION O DELETED**

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

1. In a Resource Protection District 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 hazards.

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 that district.

2. Except in areas as described in **Section P (1)**, above, and except to allow for the development of permitted uses, 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, and 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 shall be preserved as follows.
 - a. There shall be no cleared opening greater than **250** square feet in the forest canopy (or other existing woody vegetation, if a forest canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a clear 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, shall be defined as maintaining a rating score of **24** or more in each 25-foot by 50-foot square 1250 square feet) area as determined by the following rating system.

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

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 square 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 (2) trees

between 4 and 8 inches in diameter, and three (3) trees between 8 and 12 inches in diameter, and two (2) trees over 12 inches in diameter, the rating score is:
 $(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 4) = 36$ points

Thus, the 25-foot by 50 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:

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

For the purposes of Section 15 (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 at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath 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, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

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

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

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

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of **Section 15 (P)**.

Q. Erosion and Sedimentation Control.

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

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

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

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

Commission prior to rendering a decision on the application.

Note: Municipal officials should 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 by July 1st.

2. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

3. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued 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 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures

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

C. Permit Application

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

D. Procedure for Administering Permits

Within **35** days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in **Section 14**, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within **35** days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within **35** days after the first available date on the Planning Board's agenda following receipt of the completed application, or within **35** days of the public hearing, if one is held. Permits shall be approved if the proposed use of structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation 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.

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

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 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** flood-plain along rivers and artificially formed great ponds 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 building, including basements, are elevated at least one foot above the **100-year** flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown of the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the **100-year** flood-plain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, 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 shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit

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

G. Installation of Public Utility Service

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

H. Appeals

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

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

2. **Variance Appeals**

Variance may be **granted** only under the following conditions:

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - (1) The proposed structure or use would meet the provisions of **Section 15** except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (2) The strict application of the terms of this Ordinance would result in undue hardship. The term “**undue hardship**” shall mean:
 - (i) Than the land in question cannot yield a reasonable return unless a variance is granted;
 - (ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (iii) That the granting of a variance will not alter the essential character of the locality; and
 - (iv) That the hardship is not the result of action taken by the applicant or a prior owner.
- d. Notwithstanding **Section 16 (H)(2)(C)(ii)** above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. **The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.** The term “structures necessary for access to or egress from the dwelling shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to 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

variances as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

- f. A copy of all variances 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 reviews a decision of the Code Enforcement Officer

4. Appeal Procedure

a. Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Such appeal 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 it should be granted.
 - (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on the administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purposes of deciding an appeal.
- (ii) The person filing the appeal shall have the burden of proof.
- (iii) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (iv) 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 with 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.

I. Enforcement

1. Nuisances

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

2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. Copies of such notices shall be submitted to the municipal officers and the Planning Board 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 of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

(3) Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the 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 impositions of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to

public health and safety or will result in substantial environmental damage.

4. Fines

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

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

Section 17. Definitions

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

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

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

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

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

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

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

Bureau - State of Maine Department of Conservation's Bureau of Forestry.

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

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

Coastal wetland - all tidal and subtidal 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.

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

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

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

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

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

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

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

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two

single-family dwellings or one two-family dwellings, or less.

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

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

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

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

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

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

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

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

Forest 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 including but not limited to basements, slabs, sills, posts or frost walls.

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

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

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

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

Great pond - any inland body of water which is 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.

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 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.

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

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

Institutional - An enterprise for the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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.

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 with any twelve (12) month period which removes more

than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

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

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

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

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

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

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

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

Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland -

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

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

Principal Structure - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same

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

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

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

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

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

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

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

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family 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.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes or 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.

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

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

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

1. In the case of electric service
 - a. the placement of wires and/or 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 on 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, or 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, or 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 B 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, eg., treetops and branches, left on the ground after a timber harvest.

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 edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

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 anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

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

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

Tidal waters - all waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or

removal of trees shall be regulated pursuant to Section 15 (P), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

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

Tributary stream - means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and or the 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) tall or taller.

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

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

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

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

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, waterlines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossing for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

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

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

1. Appendix A:

ALTERNATIVE TO 30% EXPANSION RULE PURSUANT TO 38 M.R.S.A. SECTION 439-A SUBSECTION 4-A

Section 12.C. Non-conforming Structures

- (1) Expansions. A non-conforming structure may be added to or expended after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.
 - (a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.
 - (i) Expansion of any portion of a structure within **25** feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
 - (ii) 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 or wetland setback requirement.
 - (iii) For structures located less than **75** feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within **75-foot** distance is **1,000** square feet, and the maximum height of any portion of a structure that is within **75** feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is **20** feet or the height of the existing structure, whichever is greater.
 - (iv) For structures located less than **100** feet, horizontal distance, 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 floor area for all portions of those structures within that **100-foot** distance is **1,500** square feet, and the maximum height of any portion of a structure that is within **100** feet, horizontal distance, of a great pond is **25** feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than **75** feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12 (C) (1) (a), a basement is not counted toward floor area.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback 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) (2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.**

APPENDIX B

38§437. Significant river segments identified

For purpose 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 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 1/4 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.E., 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.** 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 in Amherst to the outlet of Great Pond in the Town of Great Pond.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)

EFFECTIVE DATE: January 13, 1988 (Filed as 06-101, Ch. 1)

AMENDED: March 24, 1990 (Filed as 06-096, Ch. 1000)
June 19, 1991 - Sections 15 and 17
July 14, 1992 - Sections 4, 8, 9, 12, 15, 16 & 17
August 7, 1994 - Sections 3, 14 & 16

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

NON-SUBSTANTIVE CORRECTIONS:

December 29, 1997 - minor spelling and formatting.
April 1, 1998 - minor renumbering and formatting.

AMENDED: February 6, 1999
February 13, 2000
May 1, 2006
June 29, 2009

This is a true copy of Ordinance adopted at the
Town of Sullivan's town meeting June 29, 2009.

Kristine M. Guyton, Town Clerk

TOWN OF SULLIVAN SOLID WASTE DISPOSAL ORDINANCE

ADOPTED 6-26-1995

AMENDED 12/24/2018

ARTICLE 1. PREAMBLE

1.1 This ordinance is adopted under the authority granted in Title 38 of the MRSA Annotated.

ARTICLE 2. PURPOSE

2.1 The purpose of this ordinance is to provide for the just and orderly operation of the Solid Waste Disposal Transfer Station, the collection and disposal within the Town of Sullivan, in order to ensure the safety to persons and property, to promote the availability and use of a public resource, and to create a fair and efficient regulation for the administration of this resource.

ARTICLE 3. DEFINITIONS

3.1 The term "REFUSE" is a broad term and is synonymous with "SOLID WASTE" and shall be defined as any variety of solid materials, as well as some liquids in containers, which are discarded or rejected as being spent, useless, worthless, or in excess. In order to be more specific, solid waste will be classified in one of the following sub-classifications of refuse.

3.2 AGRICULTURE SOLID WASTE - Waste produced from raising of plants and animals for food, including manure, plant stalks, hulls and leaves.

3.3 COMMERCIAL SOLID WASTE - Waste that originate in wholesale, retail or service establishments, such as store, restaurants, or garages.

3.4 CONSTRUCTION WASTE - Waste produced from the construction of homes, schools, garages, etc. The materials usually include used lumber, metal parts, cans, boxes, electrical wire, bricks, glass, etc.

3.5 DEMOLITIONS WASTE - Waste produced from the destruction of buildings, roads, sidewalks, etc. These wastes usually include large broken pieces of concrete, pipe, radiators, duct work, electrical wire, bricks, glass, etc.

3.6 HAZARDOUS WASTE - Waste by their nature are inherently dangerous to handle or dispose of. These waste include flammable wastes and explosives, and/or as defined by the U.S. Environmental Protection Agency.

3.7 INDUSTRIAL WASTE - Waste generally discarded from industrial operations or derived from a manufacturing process.

3.8 MUNICIPAL WASTE - The combined residential and commercial waste generated in the Town of Sullivan.

3.9 RESIDENTIAL WASTE - Waste generated in homes, apartments, including paper, cardboard, beverage and food cans, plastics, food waste, glass containers and garden waste.

3.10 ASHES - Residue, including cinders and fly ash, from the burning of solid fuels for cooking and heating, and from on-site incineration of refuse materials.

3.11 GARBAGE - Putrescible waste derived from the preparation, cooking, and serving of foods, from the handling, processing, and storage in restaurants, fast food businesses, quick freeze industries, home, etc.

3.12 BULKY OBJECTS - Abandoned vehicles, stoves, refrigerators, large furniture, tree trunks, stumps, brush, etc.

3.13 SEWERGE TREATMENT WASTES - Screenings, scum, dirt, grease or contents of a septic tank.

3.14 DEAD ANIMALS - Anatomical and pathological waste, cats, dogs, rodents, fish, cattle, or horses.

3.15 COMMERCIAL HAULER - Any person, partnership or corporation, including d/b/a's who collect waste from any location and charges a fee for that service. Waste from any home business shall be considered residential waste.

ARTICLE 4. RULES AND REGULATIONS

4.1 GENERAL REQUIREMENTS - All refuse shall be disposed in accordance with this ordinance. The Board of Selectmen shall have the authority to restrict the disposal of all types and volume of refuse if deemed to be in the best interest of the Town of Sullivan.

4.2 The use of the Transfer Station during non-operating hours without the prior approval of the Board of Selectmen is prohibited.

4.3 No person, partnership or corporation shall deposit or leave refuse upon the approach or any part of the Transfer Station in East Sullivan.

4.4 All loads coming into the Transfer Station shall be covered. This includes commercial and residential vehicles. The following exceptions are permitted: Trees, stumps and brush if tied down; demolition or fill materials; large metal items, if secured.

4.5 DISPOSAL of refuse from other communities is prohibited.

4.6 All materials or containers of materials classified as HAZARDOUS by the Environmental Protection Agency (EPA) are prohibited.

4.7 Ashes at a combustible temperature are prohibited.

4.8 Trees, limbs of trees or tree trunks greater than 6" diameter and 3 foot lengths are prohibited.

ARTICLE 5. LICENES AND PERMITS

5.1 COMMERCIAL REFUSE HAULERS - EACH PERSON, PARTNERSHIP OR CORPORATION SHALL, before engaging in the business of the collection of refuse within the Town of Sullivan, obtain a license or permit from the Town of Sullivan.

5.2 Commercial refuse haulers, prior to disposing of any waste, including those that haul only residential waste, shall be charged in accordance with the fee schedule for the disposal of waste at the Transfer Station.

5.3 RESIDENTIAL USERS - All Sullivan residents and non-resident taxpayers shall "PAY- BY- BAG" for the use of the Transfer Station which may be obtained at the Municipal Office or from the attendant at the Transfer Station.

ARTICLE 6. FEES

6.1 FEES FOR THE USE OF THE SULLIVAN TRANSFER STATION shall be set by the Board of Selectmen.

	SEPARATED	UNSEPARATED
Container Bags (Not Allowed) 40 lbs	1.00	1.50
Delivery Truck or Pickup Truck	10.00	20.00
3 axle (one forward) Back Body	15.00	25.00
Truck 4 to 7 axle Body	20.00	30.00
Truck 12 to 20 axle Body	30.00	40.00
Prepared Truck	100.00	150.00
Passenger Truck or Small Truck Tire	2.00	
Truck Tire	10.00	
Oil Motor Fuel or Tires		
Driver Goods (TV, VCR, etc.)	2.00	
Waste Goods	20.00	
Polymers, Resins, Air Conditioners		
Wet Composites		
Wet Goods	5.00	10.00
Waxers, Dryers and Oil Seal Mats		
Site Charge (Water, Sludge)	5.00	10.00
(W. Propane and Gasoline)		

ARTICLE 7. PENALTIES

7.1 In the event of an alleged violation, the Board of Selectmen shall schedule a hearing for the alleged violator.

7.2 The penalty for any violation of these regulations shall be as follows:

Commercial Hauler:	First Offense	Up to 30 days suspension
	Second "	30-59 days suspension
	Third "	60 days or more include revocation

7.3 Except as otherwise specified in this ordinance, persons who continue to violate any provision of this ordinance after receiving notice of such violation shall be subject to a fine of not less than \$25.00 nor more than \$100.00 for each violation. Each day a violation is continued is a separate offense. All fines shall be payable to the Town of Sullivan.


Offense means number of offenses within 365 days of last offense. Days means calendar days.

ARTICLE 8 SEVERABILITY

8.1 Each of these sections shall be construed as separate. If any section, clause or phrase shall be invalid for any reason, the full remainder of that section and all other sections shall continue in full force.

Adopted by the Board of Selectmen on June 24, 2019

Attest:



Town Clerk

SPECIAL AMUSEMENT ORDINANCE

Effective Date May 15, 1979

Amended June 26, 1995

Article I. Title, Purpose and Definitions

Section 101. Title

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Sullivan, Maine.

Section 102 Purpose.

The purpose of this Ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor as required by 28 MRSA Subsection 702.

Section 103. Definitions:

103.1. Entertainment.

For the purpose of this Ordinance, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

103.2 Licensee

For purposes of this Section, "licensee" shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such licensee.

ARTICLE II. General.

Section 201. Permit Required

No licensee for the sale of liquor to be consumed on his premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the nature of his business; the location to be used; whether the applicant has ever had a license to

conduct the business therein described either denied or revoked and , if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any addition information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

The fee for a special amusement permit shall be **\$10.00** payable to the Town of Sullivan.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within **15 days** of the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinance, or rules and regulations, articles, or bylaws.

A permit shall be valid only for the license year of the applicant's existing liquor license.

Section 203. Suspension or Revocation of a Permit.

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this Ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates and municipal ordinances, articles, bylaws, or rules and regulations.

Section 205. Permit and Appeal Procedures.

205.1

Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (**15**) days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within **30** days after an application for a permit which has been denied.

205.2

Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within **30** days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in **30 MRSA Subsection 2411**. The municipal board of appeals may grant or reinstate

the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

Section 206. Admission

A licensed hotel, Class A. restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

ARTICLE III Penalty, Separability & Effective Date

Section 301. Penalty

Whoever violates any of the provision of this Ordinance shall be punished by a fine of not more than twenty-five (**\$25.00**) for the first offense, and up to fifty dollars (**\$50.00**) for the subsequent offenses, to be recovered on complaint, to the use of the Town of Sullivan.

Section 302 Separability3

The invalidity of any provision of this Ordinance shall not invalidate any other part.

Section 303. Effective Date.

The effective date of this Ordinance shall be **May 15, 1979**.

SUBDIVISION REGULATIONS

Town of Sullivan, Maine

Adopted June 8, 1971

Amended March 14, 1977

Amended June 26, 1995

Amended June 28, 2004

Amended June 29, 2009

Amended June 26, 2017 Major Revision

- Section 1. Authority** This ordinance is adopted pursuant to the provisions of, Title 30-A of the Revised Statutes of Maine (M.R.S.A.) Part 2: Municipalities, Subpart 6-A: Planning and land use Regulation, Chapter 187 Planning and Land Use Regulations, Subchapter 4: SUBDIVISION as may be amended. Unless otherwise defined, all state minimum standards shall apply.
- Section 2. Title** This ordinance shall be known and cited as “Subdivision Regulations of the Town of Sullivan, Maine
- Section 3. Purpose** The purpose of this ordinance shall be to promote the general health and welfare of the Town of Sullivan; to assure, in general, the wise development of areas in harmony with the community; to assure proper arrangement and coordination of streets; to assure provision of adequate streets and utilities by the subdivider, to prevent unsound and unsafe development of land by reason of the lack of water supply, drainage, sewage disposal, transportation or other public services and to promote the amenities of the town through provisions for parks, playgrounds, and other recreation areas, preservation of trees and natural features in the Town of Sullivan.
- Section 4. Definitions:** As used in this (
1. **Dwelling unit.** “Dwelling unit” means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.
 2. **Subdivision (4401)** All this section in red is new language to be amended June 26, 2017 Defined. “Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, building 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 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

[1] Both dividings are accomplished by a sub divider who has retained one of the lots for the sub divider's own use as a single-family residence that has been the sub divider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

[2] The division of the tract or parcel is otherwise exempt under this subchapter.

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 subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by as subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

[2] When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 acres or more acres as lots for the purpose of this subchapter 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 purpose of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-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.

D-3 A division accomplished by order of court does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-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 ½ the assessed value of the real estate.

D-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.

D-6 A division accomplished by the transfer of any interest in land to the owners of land abutting that land 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 municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. Repealed

H-1. 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 20, 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.

J. New structure or structures. "New structure or structures" includes 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 subchapter.

K. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, except 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 after September 22, 1971.

L. **Outstanding river segments.** In accordance with Title 12, Ssection 402, "outstanding river segments" means: NO outstanding river segments in or around the Town of Sullivan. Does not apply.

3. **LOT:** A lot as defined by the Ordinance shall mean a piece or parcel of land whose area is not less than 40,000 square feet, a builder's acre, so called. (Effective June 13, 1988)
4. **STREET:** public and private ways such as alleys, avenues, boulevards, highways, roads and other right-of-ways, as well as areas on subdivision plans designated as right-of-way.

Street Classification:

- a. **Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. For example the following roadways shall be considered arterial streets. US Route 1, Route 183 "Tunk Lake Road", Route 200 "Bert Gray Road", North Sullivan Road, ie "Taunton Drive"
- b. **Collector Street:** A street servicing at least fifteen (15) lots or fifteen (15) dwelling units, or streets which serve as feeder to arterial streets, and collectors of traffic from minor streets.
- c. **Minor Street:** A street servicing less than fifteen (15) lots or fifteen (15) dwelling units.
- d. **Private Right-of-way.** A vehicular access way serving no more than five (5) lots or five (5) dwelling units, which is not intended to be dedicated as a public way.
- e. **Reserve (ed) Strip:** Shall mean and include any area for which public use is intended for street connection or for pedestrian ways.
- f. **Re-Subdivision:** Shall mean the division of an existing subdivison or any change of lot size therein or the relocation of any street or lot line in as subdivision.

Section 5. Jurisdiction:

1. This ordinance shall pertain to all land within the boundaries of the Town of Sullivan.
2. This ordinance shall be in effect from the time of its adoption by the vote of a majority of the members present at a Town Meeting.
3. In the case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance, regulation, coed or covenant in effect in the Town of Sullivan, the provision which imposes the higher standard or the more restrictive shall apply.
4. The invalidity of any section, sub-section, paragraph, sentence, clause, phrase or work of this ordinance shall not be held to invalidate any other section, sub-section, paragraph, sentence, clause, phrase or word of this ordinance.

Section 6. Administrative Regulations;

1. The Planning Board of the Town of Sullivan, hereinafter called the Board, shall administer this ordinance.
2. Whenever any subdivision is proposed or before any contract for the sale of or offer to sell such subdivision or any part thereof shall have been negotiated and before any permit for the erection of a structure shall be granted, the subdividing owner or his agent shall apply in writing to the Board for approval of such subdivision.
3. **No Transfer** of ownership shall be made of any land in a proposed subdivision until a **Final Plan** of such subdivision has been approved by the Board nor until a duly approved copy of such **Final Plan** has been filed with the Town Clerk.
4. Where strict conformity of the Subdivision Regulation would cause undue hardship or Injustice to the owner of land and a subdivision plan is substantially in conformity with the requirements of this ordinance, the Board may consider waiver of some aspects of this ordinance provided that the spirit of the regulations and public convenience, health, and welfare will not be adversely affected.
5. The Register of Deeds shall not record any plot of a proposed subdivision until it has been approved by the Board and approval is attested by the signatures of a majority of the members of the Board on the Original Tracing of the Final Plan of such subdivision.

Section 7. Penalties:

Any person who conveys or agrees to convey and land by reference to a plot which has not been approved as required by this ordinance and recorded by the proper Register of Deeds, shall be punished by a fine of not more than \$1,000 for each lot conveyed or agreed to be conveyed, except that nothing herein contained shall be deemed to bar any legal or equitable action to restrain or enjoin any act in violations of these regulations.

Section 8. Preliminary Plan:

1. A tentative request for approval of a subdivision shall be accompanied by a Preliminary Plan, not more than 24" x 30" maximum, which shall show existing streets and boundary lines and shall be at a scale of not less than 100 feet to the inch (100'"). Except that any supplementary maps showing the relationship of the parcel of land to be subdivided to other properties and roads may be at a scale of not more than 500 feet to the inch (500'"). If, in the opinion of the Board, a topographic map is necessary for determining the most suitable layout of the tract to be subdivided such a topographic map may be required by the Board.

2. An application for approval of a **Preliminary Plan** shall be considered at a regular meeting of the Board within **30** days of receipt of such application. The Board shall after such consideration and within **30** days of receipt of an application and **Preliminary Plan**, issue a written statement informing the subdivider or his agent of approval, disapproval or conditional approval and of any changes required and the character and extent of required public improvements.
3. Within not more than 12 months after issuance of such Preliminary approval, the subdivider or his agent shall submit a **Final Plan** and street profiles. Such plans shall meet the **911 Ordinance** requirements of **Section 7., subsection b.** New Construction. Any prospective subdivider shall a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the **911 Addressing Officer** 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 **50** (fifty) feet to aid in assignment of number(s) to structures subsequently constructed. (Amended June 28, 2004)

Section 9. Final Plan

1. A request for final approval of a subdivision shall be accompanied by a Final Plan of such subdivision legibly and clearly drawn in ink at a scale of not less than **(100)** one hundred feet to the inch **(100'/'')** on stable base translucent material suitable for reproduction and three dark line copies. Size of sheets shall not measure more than **24" by 30"**.
A Final Plan shall show:
 - A. The name of the subdivision, location and boundaries of the land to be subdivided, scale, north arrow, name and address of the recorded owner, subdivider and designer.
 - B. Street lines, lot lines and reservations for public purposes including Public utilities and drainage easements.
 - C. All dimensions in feet and decimals of feet.
 - D. Lot numbers and lot letters in accordance with prevailing policy on existing tax maps.
 - E. Prominent reference monuments on all street corners and angles and street lines wherever, in the opinion of the Board such monuments are necessary to properly determine the location on the ground.
 - F. Designation of the location, size, planting and landscaping of such parks, esplanades and open spaces as are required by the Board.
 - G. The seal of a licensed designer or certification by a land surveyor attesting that such Final Plan is substantially correct.
2. A Final Plan shall be accompanied by certification either by a duly authorized

Engineer or by the Building Inspector of the Town of Sullivan or by both, as required by the Board, that the design of sewer and water facilities and streets and utilities in the proposed subdivision conform to the requirements of this ordinance. The cost of Inspection shall be borne by the developer or subdivider.

3. The subdivider shall file with the Board at the time of submission of the Final Plan a bond in an amount sufficient to cover the cost of the construction of streets, approved as to form and surety by the Sullivan Town Attorney, and conditioned upon the completion of such streets within two years of the date of such bond.

The Board may at its discretion waive the requirement to post bond and grant conditional approval providing that no lots shall be sold until specified streets together with the necessary sanitary improvements are satisfactorily constructed within (3) three years of the date of such conditional approval. A release of conditions shall be executed and delivered to the subdivider following satisfactory completion of the specified streets and other required improvements.

4. The Board shall consider a Final Plan at a regular meeting within thirty (30) days of submission of such Final Plan.
5. The Board may before final approval or disapproval of a Final Plan hold a public hearing on such a plan.
6. The approval of a Final Plan shall be attested on the original tracing and three (3) copies by the signature of a majority of the members of the Board.
7. Failure of the Board to issue approval or conditional approval within thirty (30) days constitutes disapproval.
8. The original tracing of a Final Plan as amended shall be retained by the Board, two (2) copies shall be delivered to the subdivider and one (1) copy shall be delivered to the County Registry of Deeds.
9. If the Board shall have approved the Preliminary Plan of the entire area of subdivision, the developer may improve the streets in a portion of the subdivision and the Board may approve only that portion so improved as shown on the Final Plan.
10. **Fee.** A fee of \$25.00 plus \$10.00 per acre, payable to the Town of Sullivan, or fraction thereof over 2 ½ acres shall be submitted with the Final Plan.

Section 10. General Regulations.

1. Any proposed subdivision shall in the opinion of the Board be suitably located with respect of community facilities such as schools, playgrounds, and parks.
2. Land susceptible to flooding, and land not suitable for housing or street development, and land which may be hazardous to life, health, or property shall not be accepted as part of a subdivision

for residential purposes but may be used, with the approval of the Board, for playgrounds, parks or other-space purposes.

3. Any subdivision shall be so designed that every lot has access to the public street system at a point where access is permissible.
4. Any natural drainage ways and their easements shall be so incorporated that no flooding occurs and all storm water can properly be disposed of.
5. The Planning Board may require that a proposed subdivision layout show respect for such natural features as trees, streams, water courses and scenic assets. Extensive land grading and filling shall be avoided if possible.
6. Street trees, esplanades and open green spaces may be required at the discretion of the Board and when such improvements are required they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.

Section 11. Streets:

1. All streets in any subdivision shall meet minimum standards as follows:

Description	Arterial	Collector	Minor	Private Right of Way	Industrial Commercial
Minimum Right of Way Width*	80'	50'	50'	50'	60'
Minimum Pavement Width*	35'	24'	20'	18'	30'
Minimum Graded Width	30'	18'	14'	10'	30'
Sidewalk Width	5'	5'	5'	n/a	8'
Roadway Crown	¼-ft	¼-ft	¼-ft	¼-ft	¼-ft
Minimum angle of street Intersection**	90 deg	90 deg	75 deg	75 deg	75 deg
Maximum grade with 75 ft of intersection	10%	10%	10%	10%	10%
Minimum slope of shoulders	3 to 1	3 to 1	3 to 1	3 to 1	3 to 1
Minimum Width of shoulders (each side)	5'	3'	3'	3'	3'
Minimum gravel base	18"	15"	12"	12"	18"
Minimum 1" minus surface gravel	3"	3"	2"	n/a	3"
Bituminous paving/base course	2"	1 ½"	1 ½"	n/a	2"
Bituminous paving/surface course	1"	1"	1"	n/a	1"

*The Centerline of the roadway shall be the centerline of the right-of-way.

**Street intersections angle shall be as close to 90 degrees as feasible but not less than the listed angle.

1. New streets shall be so laid out as to accommodate the continuation of the principal streets in adjoining subdivision or for their proper protection when adjoining property is not subdivided.
2. Dead-end streets shall not exceed one thousand (1000) feet in length and shall be equipped at the closed end with a turn-around roadway of which the minimum radius for the right-of-way shall not be less than fifty (50) feet.
3. Street intersections and curve shall be so designed as to permit adequate visibility for both pedestrians and vehicle traffic. Curves in general shall have a minimum radius of one hundred (100) feet and no interchange shall be acceptable at less than 60 degrees. Property lines on corners shall reserve a twenty (20) foot curve radius.
4. Whenever the Board finds need for the reservation of one or more right-of-way or one or more reserve strips such reservations shall be made before final approval of a subdivision plan.
5. No street shall be recommended for acceptance until it has been properly graded and approved by the Board in accordance with this ordinance.
6. Bridges must be able to support a minimum of fifteen (15) tons.

Section 12. Amendment.

On petition, or on recommendation of the Town Planning Board, or on their own motion, the Selectmen may present warrants for consideration of the Town to amend the regulations and provisions of this ordinance at a regular or special town meeting. A majority vote of the legal voters present is required.

WIRELESS
TELE COMMUNICATIONS
FACILITIES SITING
ORDINANCE
OF THE
TOWN OF SULLIVAN
(Sullivan, Maine)

Proposed May 2001

Voting on Ordinance
May 3, 2001
Sullivan Special Town Meeting
Adopted May 3, 2001

WIRELESS TELECOMMUNICATIONS FACILITIES
SITING ORDINANCE OF THE TOWN OF SULLIVAN

SECTION 1 TITLE AND EFFECTIVE DATE

1.1 Title

This Ordinance shall be known as the Wireless Telecommunications Facilities Ordinance of the Town of Sullivan, Maine (hereinafter referred to as this "Ordinance")

1.2 Effective Date

This Ordinance becomes effective May 3, 2001 upon town voters approval at May 3, 2001, Special Sullivan Town Meeting

SECTION 2 AUTHORITY

This Ordinance is adopted, pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provision of Title 30-A, M.R.S.A., Section 3001 (Home Rule), the provisions of Title 30-A, M.R.S.A., Section 4351 (Zoning Ordinances) and the provisions of the Planning and Land Use Regulation Act, Title 30-A, M.R.S. A., Section 4312 *et seq.*

SECTION 3 PURPOSE

The purpose of this ordinance is to provide a process and set of standards for the construction and location of Wireless Telecommunications Facilities in order to; implement a municipal policy concerning the provision of wireless telecommunication services, and the siting of their facilities. Ensure that all telecommunications carriers providing facilities or services within the Town of Sullivan comply with the ordinances of the Town of Sullivan; ensure that the Town of Sullivan can continue to fairly and responsibly protect the public health, safety, welfare, and village/residential areas, encourage co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community, and to enable the Town of Sullivan to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development. The purpose of this Ordinance is also to provide an environment where the citizens want to live and work, to protect the citizens of the town, the esthetic values, property values, community character, and to prevent adverse impact on residential and village areas with the Town of Sullivan.

SECTION 4 APPLICABILITY

This Ordinance shall apply to all construction and expansions of a wireless telecommunications facilities, new or pending applications, except as provided in Section 4.1.

4.1 Exemptions

The following are exempt from the provisions of this ordinance:

A. Emergency Wireless Telecommunications Facility. Temporary wireless telecommunications facilities for emergency communications by public officials.

B. Amateur (Ham) Radio Stations. Amateur (Ham) radio stations licensed by the Federal Communications Commissions (FCC) or CB Radio Antennas.

Section 4 Applicability (continued)

C. Parabolic Antenna. Parabolic antennas less than seven (7) feet in diameter that are an accessory use of the property.

D. Maintenance and Repair. Maintenance and repair of a wireless telecommunications facility and related equipment provided that there is no change in the height or any other dimension of the facility.

E. Antenna as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

SECTION 5 REVIEW AND APPROVAL AUTHORITY

5.1 Approval Required

No person shall construct or expand a wireless telecommunications facility without approval of the Planning Board (**PB**) in accordance with the provisions of this Ordinance as follows:

A. Expansion of an Existing Facility and Co-Location. Approval by the **PB** is required for any expansion of an existing wireless telecommunications facility; accessory use of an existing wireless telecommunications facility; or co-location on an existing wireless telecommunications facility.

B. New Construction. Approval of the **PB** is required for the construction of a new telecommunications facility, within the allowed areas of Town.

5.2 Approval Authority

In accordance with Section 5.1 above, the **PB** shall review all applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with the provision of this Ordinance.

SECTION 6 APPLICATION PROCESS

6.1 Pre-application Meeting

A pre-application meeting shall be held with the Code Enforcement Officer (**CEO**), **PB**, and applicant or their representative to review the process.

6.2 Application

All persons seeking approval of the **PB** under this Ordinance shall submit an application in accordance with Building Code Ordinance (**BCO**) and as follows below. The **CEO/PB** shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

6.3 Application for Planning Board Approval

An application for approval by the **PB** must be submitted to the **CEO**, who then will place it on the agenda for the next **PB** meeting. The application must include the submission requirements contained in the Building Code Ordinance and the following information:

A. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.

Section 6 application process (continued)

B. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above one hundred fifty (150) feet in height above ground level, except antennas located on rooftops, with a five (5) mile radius of the proposed facility, unless this information has been previously made available to the Town of Sullivan. This requirement may be met by submitting current information (within thirty (30) days of the date the application is filed) from the FCC Tower Registration Database.

C. Site Plan

1. Prepared and certified by a professional engineer registered in the State of Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting, land uses means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes.
2. Certification by the applicant that the proposed facility complies with all FCC standards for radio emissions *is* required; and

D. A scenic assessment consisting of the following:

1. Elevation drawings of the proposed facility, and any other proposed structures, showing the height above ground level.
2. A landscaping plan indicating the proposed placement of the facility on the site; location of existing Structures, trees, and other significant site features; the type and location of plants proposed to screen the facility, the method of fencing; the color of the structure; and the proposed lighting method.
3. Photo simulations of the proposed facility taken from perspectives determined by the PB, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
4. A narrative discussing:
 - a. the extent to which the proposed facility would be visible from or within a designated scenic resource.
 - b. the tree line elevation of vegetation within one hundred (100) feet of the facility, and
 - c. the distance to the proposed facility from the designated scenic resource's noted viewpoints.

E. A written description of how the proposed facility fits into the applicant's telecommunications network; this submission requirement does not require disclosure of confidential business information.

F. Evidence demonstration that no existing building, site or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:

1. Evidence that no existing facility are located within the targeted market coverage area as required to meet the applicant's engineering requirements,
2. Evidence that existing facilities do not have sufficient height or cannot

Section 6 application process (continued)

- be increased in height at a reasonable cost to meet the applicant's engineering requirements.
3. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
Specifically:
 - a. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities and these existing facilities cannot be reinforced to accommodate the new equipment.
 - b. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - c. Existing or approved facilities do not have space on which planned equipment can be placed so it function effectively.
 4. For facilities existing prior to the effective date of this Ordinance, the fees costs, or contractual provision required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance.
 5. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access.

G. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5),36 CER 60 and 800.

H. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:

1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
4. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but in not limited to a pro rata share of the cost of site selection, planning project administration, land cost, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment of accommodate a shared user with out causing electro magnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate over the useful life span of the facility.

Section 6 application process (continued)

I. A form of surety approved by the PB to pay for the costs of removing the facility if it is abandoned.

J. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

6.4 Submission Waiver

Where the Planning Board makes written findings of fact that there are special circumstances of a particular application, it may waive portions of the submission requirements, unless otherwise indicated in this SECTION, provided that the applicant has demonstrated that the standards of this Ordinance have been or will be met, the public health, safety and welfare are protected, and providing the waivers do not have the effect of nullifying the intent and purpose of the Town of Sullivan Building Code Ordinance and this Ordinance.

6.5 Fees

1. Application Fee. An application fee (s) shall be in accordance with Section 4 of the Building Code Ordinance plus the actual cost of publishing the notice of application in a local newspaper.

SECTION 7 STANDARDS OF REVIEW

7.1 Planning Board Approval Standards

An application for approval by the PB under Section 5.1 shall meet the following standards.

A. Priority of Locations.

New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.

1. Co-location on an existing wireless telecommunications facility
2. A new facility on public or private property in the Town of Sullivan

B. Design for Co-location.

A wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three (3) additional wireless telecommunications facilities or providers. However, the PB may waive or modify this standard where the height limitation effectively prevents future co-location.

C. Height

A new wireless telecommunications facility must be no higher than two hundred (200) feet in height.

D. Setbacks

A new or expanded wireless telecommunications facility must comply with the applicable setback requirement of the Town of Sullivan, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside of the property boundaries if secured by an easement.

Section 7 Standards of Review (continued)

The following exemptions apply:

1. The setback may be reduced by the **PB** upon showing that the facility is designed to collapse in a manner that will not harm other property.
2. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon the abutting property.

E. Landscaping.

A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

F. Fencing.

A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

G. Lighting.

A new wireless telecommunications facility shall be illuminated at the top of the facility by an FAA approved lighting apparatus as deemed necessary by the height of said tower. Security lighting may be used as long as it is shielded to be down directional to retain lighting within the boundaries of the site, to the maximum extent practicable.

H. Color and Materials.

A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

I. Structural Standard

A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (**EIA/TIA**) 222 Revision Standards entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

J. Visual Impact.

The proposed wireless telecommunications facility will have no reasonable adverse impact upon designated scenic resources within the Town of Sullivan, as identified by a State or Federal agency.

1. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the **PB** shall consider the following factors:
 - a. the extent to which the proposed wireless telecommunications facility is visible above the tree line, from the viewpoint (s) of the impacted designated scenic resource.
 - b. the type, number, height and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

Section 7 Standards of review (continued)

- c. the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint (s);
- d. the amount of vegetative screening;
- e. the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and
- f. the presence of reasonable alternatives that allow the facility to function consistently with its purpose.
- g. the harmonious relationship to established building (s) and their surroundings.

K. Historic and Archaeological Properties.

The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure, which is currently listed on, or eligible for listing on the National Register of Historic Places.

L. Location Within The Town.

No Wireless Telecommunications Tower (s) shall be located within the 250' Shoreland Zoning District as defined in the Sullivan Shoreland Zoning Ordinance or within the 100 year Flood Plain Area as designated by Federal Flood Plain Plan.

SECTION 7.2

STANDARD CONDITIONS OF APPROVAL

The following standard conditions of approval shall be a part of any approval or conditional Approval issued by the **PB**. Where necessary to ensure that an approved project meets the criteria of this Ordinance and the Town of Sullivan Building Code Ordinance, the **PB** can impose additional conditions of approval. Reference to the conditions or approval shall be clearly noted on the final approved site plan and shall include:

A. The owner of the wireless telecommunications facility and his or her successor and assigns agree to:

1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
4. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the cost of adapting the tower or equipment to accommodate a shared use without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

B. Upon request by the Town of Sullivan, the applicant shall certify compliance with all applicable **FCC** radio frequency emission regulations.

SECTION 8 AMENDMENT TO AN APPROVED APPLICATION

Any changes to an approved application must be approved by the PB in accordance with Town of Sullivan Building Code Ordinance and this Ordinance.

SECTION 9 ABANDONMENT

A wireless telecommunications facility that is not operated for a continuous period of one **(1)** year shall be considered abandoned. The **CEO** shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety **(90)** days of receipt of the written notice. The owner of the facility shall have thirty **(30)** days from the receipt of the notice to demonstrate to the **CEO** that the facility has not been abandoned.

If the owner fails to show that the facility is in active operation, the owner shall have sixty **(60)** days to remove the facility. If the facility is not removed within this time period, the Town of Sullivan may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return this site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the Town of Sullivan for removal of the facility, the owner of the facility may apply to the **PB** for release of the surety when the facility and related equipment are removed to the satisfaction of the **PB**.

SECTION 10 APPEALS

Any person aggrieved by a decision of the **PB** under this Ordinance may appeal the decision to the Selectmen or Board of Appeals as provided by **Section 13**, of the Building Code Ordinance.

SECTION 11 ADMINISTRATION AND ENFORCEMENT

The **CEO**, as appointed by the Board of Selectmen, shall enforce this Ordinance. If the **CEO** finds that any provision of this Ordinance has been violated, the **CEO** shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The **CEO** shall order correction of the violation and may take any other legal action necessary to ensure compliance with the Ordinance.

The Board of Selectmen, or their authorized agent, is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreement shall not allow a violation of this Ordinance to continue unless:

There is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith, the removal of the violation will result in a threat to public health and safety, abutting property de-valuation, or substantial environmental damage.

SECTION 12

PENALTIES

Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A, M.R.S.A., Section 4452. Each day such violation continues after notification by the **CEO** shall constitute a separate offense.

SECTION 13

CONFLICT AND SEVERABILITY

13.1 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, the more restrictive provision shall apply.

13.2 Severability

The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

SECTION 14

AMENDMENTS TO TOWER ORDINANCE

A. On written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election, or on the recommendation of the Selectmen who may present warrants for consideration by the Town to amend, supplement, or repeal the regulations and provisions this Ordinance.

B. After a public hearing on proposed amendment (s), this Ordinance may only be amended by a majority vote of an Annual Town Meeting.

SECTION 15

DEFINITIONS

The terms used in this Ordinance shall have the following meanings:

Abutter: means any land owner abutting the property that the tower or facility will be located on.

Antenna: means any system of poles, panels, rods, reflecting disc or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna Height: means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if mid highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade or the facility site. If the support structure is on a sloped grad then the average between the highest and lowest grades shall be used in calculating the antenna height.

Co-location: means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Section 15 Definitions (continued)

Expansion: means the addition of antennas, towers, or other devices to an existing structure.

FAA: means the Federal Aviation Administration, or its lawful successor

FCC: means the Federal Communications Commission, or its lawful successor

Height: means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other buildings accessory features usually erected at a height greater than the main roofs of buildings.

Historic or Archaeological Resources: means resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. 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;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic pre programs that have been verified by the Secretary of the Interior through the Maine Historic Preservation Commission; or
5. 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 of Sullivan's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Historic Landmark: means any improvement, building or structure of particular historic or architectural significance to the town relating to its heritage, cultural, social, economic or political history, or which exemplifies lust ode personages or important events in local, state or national history identified in the Town of Sullivan's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

Line of Sight: means the direct view of the object from the designated scenic resource.

Parabolic Antenna: (also known as a satellite dish antenna) means an antenna which is bowl shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific direction pattern.

Principal Use: means the use other than the one which is wholly incidental or accessory to another use on the same premises.

Section 15 Definitions (continued)

Public Recreational Facility: means a regionally or locally significant facility, as defined and identified either by State statute or in the Town of Sullivan's comprehensive plan, designed to serve the recreational needs of municipal property owners.

Designated Scenic Resource: means the specific location, view, or corridor, as identified as a scenic resource in the Town of Sullivan's comprehensive plan or by a State or Federal agency, that consists of;

1. A three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skylight or a mountain range, resulting in a panoramic view corridor; or
2. Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Targeted Market Coverage Area: means the area which is targeted to be served by this proposed telecommunications facility.

Unreasonable Adverse Impact: means that the proposed project would produce an end result, which is;

1. Excessively out-of-character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resource; and
2. Would significantly diminish the scenic value of the designated scenic resource.
3. Would impact the health, welfare, or safety of surrounding buildings, residents, and their properties, including but not limited to health, financial, or property values.

Viewpoint: means the location which is identified either in the Town of Sullivan's Comprehensive plan or by a State or Federal agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

Wireless Telecommunications Facility: means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services and personal (PCS) or pager services.