

**Cape Elizabeth Zoning Ordinance
Shoreland Zoning Amendments**

Shaded text is recommended adjustments from the state guidelines

SEC. 19-1-3. DEFINITIONS

SEC. 19-8-3. RESOURCE PROTECTION PERFORMANCE STANDARDS

**ALL OR A PORTION OF THIS SECTION WILL NEED TO BE DELETED ONCE THE
TIMBER REGULATION OPTION IS SELECTED.**

F. Timber Harvesting Standards

1. Notification and Plan

a. Notification

The owner of the land to be harvested shall give the Code Enforcement Officer written notice at least five (5) working days prior to the start of any timber harvesting activities.

b. Forest Management and Timber Harvesting Plan

Prior to timber harvesting that involves more than fifty (50) cords in any five (5) year period, a Forest Management and Timber Harvesting Plan prepared by a professional forester licensed in the State of Maine in accordance with 36 M.R.S.A. § 573 (3-A) shall be submitted to the Code Enforcement Officer. In addition to the minimum requirements, the Forest Management and Timber Harvesting Plan shall include a map of the area to be harvested drawn to scale with a tie-in to an accepted town road, north arrow, property lines, name of the property owner, names of the abutting property owners, and the location of the Wetland Upland Edge as defined in this Ordinance based on the forester's best assessment.

2. Wetland Buffer Overlay Surrounding Great Pond

a. Within the Resource Protection 1 Critical Wetland Buffer Overlay surrounding Great Pond, there shall be no timber harvesting within the strip of land extending seventy-five (75) feet inland from the Wetland

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Deleted: 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 a 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. (Effective October 15, 2009)¶

¶

Disruption of Shoreline Integrity: The alteration of the physical shape, properties, or condition of a shoreline at any location. 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 vase of flowing waters, a profile and character altered from natural conditions. (Effective October 15, 2009)¶

¶

Functionally water-dependent uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, 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 aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. (Effective October 15, 2009)¶

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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 ...

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D. Shoreland Zoning Enforcement Reporting¶

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Within the Shoreland Performance Overlay District and the Resource Protection Districts, the Code Enforcement Officer shall keep a complete record...

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1 Upland Edge surrounding Great Pond except to remove safety
2 hazards.

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4 b. At a distance of greater than seventy-five (75) feet from the Wetland
5 Upland Edge surrounding Great Pond, selective cutting of no more than
6 forty percent (40%) of the basal area on any lot within a ten (10) year
7 period shall be permitted in the Resource Protection 1 Critical Wetland
8 Buffer Overlay. There shall be no clear-cut openings and a well
9 distributed stand of trees and other vegetation, including existing
10 ground cover, shall be maintained.

11
12 3. Other Resource Protection 1 Critical Wetlands

13
14 a. Within seventy-five (75) feet of any Wetland Upland Edge in the RP1 CW
15 District other than the Wetland Upland Edge surrounding Great Pond,
16 selective cutting of no more than forty percent (40%) of the basal area on
17 any lot within a ten (10) year period shall be permitted in the Resource
18 Protection 1 Critical Wetland Buffer Overlay. There shall be no clear-cut
19 openings and a well distributed stand of trees and other vegetation,
20 including existing ground cover, shall be maintained.

21
22 b. At a distance of greater than seventy-five (75) feet from any Wetland
23 Upland Edge in the RP1 CW District other than the Wetland Upland Edge
24 surrounding Great Pond, selective cutting of no more than forty percent
25 (40%) of the basal area on any lot within a ten (10) year period shall be
26 permitted in the Resource Protection 1 Critical Wetland Buffer Overlay.
27 In addition, clear-cut openings not to exceed ten thousand (10,000) square
28 feet in the forest canopy shall be permitted. Where clear-cut openings
29 exceed five thousand (5,000) square feet, they shall be at least one
30 hundred (100) feet apart.

31
32 4. Resource Protection 2 – Wetland Protection District

33
34 Within the Resource Protection 2 Wetland Protection District, selective cutting
35 of no more than forty percent (40%) of the basal area on any lot within a ten
36 (10) year period shall be permitted. There shall be no clear-cut openings and a
37 well distributed stand of trees and other vegetation, including existing ground
38 cover, shall be maintained.

39
40 5. Additional Timber Harvesting Standards (Effective October 15, 2009)

41
42 a. Slash treatment. Timber harvesting and related activities shall be
43 conducted such that slash or debris is not left below the upland edge of
44 a wetland.
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- or
1. Slash actively used to protect soil from disturbance by equipment to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 2. No accumulation of slash shall be left within 50 feet of the wetland upland edge.
 3. Between 50 feet and 250 feet of the wetland upland edge, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
 4. Between 75 feet and 250 feet of the normal high water line of Great Pond, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- b. Skid trails, yards, and equipment operation. This requirement applies to the construction maintenance, and use of skid trails and yards in wetland areas.
1. Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
 2. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
 3. Setbacks.
 - (i) Equipment must be operated to avoid the exposure of mineral soils within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
 - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the wetland. Such techniques may include the installation of

1 sump holes or settling basins, and/or the effective use of
2 additional ditch relief culverts and ditch water turnouts
3 placed to avoid sedimentation of the wetland.
4

5 c. Land Management Roads. Land management roads must be designed,
6 constructed, and maintained to prevent sediment and concentrated water
7 runoff from directly entering the wetland. Surface water on or adjacent to
8 water crossing approaches must be diverted through vegetative filter strips
9 to avoid sedimentation of the wetland. Because roadside ditches may not
10 extend to the resource being crossed, vegetative filter strips must be
11 established in accordance with the setback requirements in Subsection c.3.
12 above.

- 13
- 14 1. Land management roads and associated ditches, excavation, and
15 fill must be set back at least 100 feet, horizontal distance, from the
16 upland wetland edge;
17
- 18 2. The minimum 100-foot setback specified in Subsection c.3. above
19 may be reduced to no less than 50 feet and the 50-foot setback
20 specified in Subsection c.3. above may be reduced to no less than
21 25 feet, horizontal distance, if, prior to construction, the landowner
22 or the landowner's designated agent obtains a variance from the
23 Zoning Board of Appeals, and includes in its variance application
24 evidence that no reasonable alternative exists, and that appropriate
25 techniques will be used to prevent sedimentation of the water
26 body, tributary stream, or wetland. Such techniques may include,
27 but are not limited to, the installation of settling basins, and/or the
28 effective use of additional ditch relief culverts and turnouts placed
29 to avoid sedimentation of the wetland.
30
- 31 3. On slopes of 10 percent or greater, the land management road
32 setback must be increased by at least 20 feet plus an additional 10
33 feet for each 5 percent increase in slope above 10 percent.
34
- 35 4. New land management roads are not allowed within the shoreland
36 area along Significant River Segments as identified in 38 M.R.S.A.
37 section 437, nor in a Resource Protection District, unless, prior to
38 construction, the landowner or the landowner's designated agent
39 makes a clear demonstration to the Planning Board's satisfaction
40 that no reasonable alternative route exists outside the wetland, and
41 that the new road must be set back as far as practicable from the
42 wetland upland edge and screened from the river by existing
43 vegetation.
44
- 45 5. Ditches, culverts, bridges, dips, water turnouts and other water
46 control installations associated with roads must be maintained on a

1 regular basis to assure effective functioning. Drainage structures
2 shall deliver a dispersed flow of water into an unscarified filter
3 strip no less than the width indicated in the setback requirements
4 above. Where such a filter strip is impracticable, appropriate
5 techniques shall be used to avoid sedimentation of the water
6 body, tributary stream, or wetland. Such techniques may include
7 the installation of sump holes or settling basins, and/or the
8 effective use of additional ditch relief culverts and ditch water
9 turnouts placed to avoid sedimentation of the wetland. If, despite
10 such precautions, sedimentation or the disruption of shoreline
11 integrity occurs, such conditions must be corrected.
12

13 6. Road closeout and discontinuance. Maintenance of the water
14 control installations required above must continue until use of the
15 road is discontinued and the road is put to bed by effective
16 installation of water bars or other adequate road drainage structures
17 at appropriate intervals, constructed to avoid surface water flowing
18 over or under the water bar, and extending a sufficient distance
19 beyond the traveled way so that water does not reenter the road
20 surface.
21

22 7. Upgrading existing roads. Extension or enlargement of presently
23 existing roads must conform to the provisions for land
24 management roads. Any nonconforming existing road may
25 continue to exist and to be maintained as long as the
26 nonconforming conditions are not made more nonconforming.
27

28 8. Exception. Extension or enlargement of presently existing roads
29 need not conform to the setback requirements above if, prior to
30 extension or enlargement, the landowner or the landowner's
31 designated agent demonstrates to the Code Enforcement Officer's
32 satisfaction that no reasonable alternative exists and that
33 appropriate techniques will be used to prevent sedimentation of the
34 wetland. Such techniques may include, but are not limited to, the
35 installation of settling basins, and/or the effective use of additional
36 ditch relief culverts and turnouts placed to avoid sedimentation of
37 the wetland.
38

39 9. Additional measures. In addition to the foregoing minimum
40 requirements, persons undertaking construction and maintenance
41 of roads and river, stream and tributary stream crossings must take
42 reasonable measures to avoid sedimentation of the wetland.
43

44 d. Slope Table. Filter strips, skid trail setbacks, and land management road
45 setbacks must be maintained as specified above, but in no case shall be
46 less than shown in the following table.

Average slope of land between exposed Mineral soil and shoreline (feet along width of strip between exposed mineral soil surface of the ground) and the shoreline (percent)

0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

(Effective October 15, 2009)

ARTICLE XI. SHORELAND ZONING.

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

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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.).

3. Applicability. This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, [DELETE AND RETAIN EXISTING] normal high water line of tidal waters; or
- upland edge of a freshwater wetland,

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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 or located below the normal high-water line of a water body or within a wetland. [RETAIN EXISTING: The Official Zoning Map depicts the Shoreland Zoning Overlay District based on the best available information at a town wide scale. The actual boundaries of this district, however, shall be determined by the physical features present on the site that are included in this section above.]

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1 **4. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was
2 adopted by the municipal legislative body on _____, shall not be effective
3 unless approved by the Commissioner of the Department of Environmental Protection. A
4 certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the
5 Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner
6 fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her
7 receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.
8

9 _____ Any application for a permit submitted to the municipality within the forty-five (45) day
10 period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the
11 Ordinance, or Ordinance Amendment, is approved by the Commissioner.
12

13 **5. Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and
14 shall be accessible to any member of the public. Copies shall be made available to the public
15 at reasonable cost at the expense of the person making the request. Notice of availability of
16 this Ordinance shall be posted.
17

18 **6. Severability.** Should any section or provision of this Ordinance be declared by the courts to
19 be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
20

21 **7. Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or
22 is inconsistent with another provision of this Ordinance or of any other ordinance, regulation
23 or statute administered by the municipality, the more restrictive provision shall control.
24

25 **8. Amendments.** This Ordinance may be amended by majority vote of the legislative body.
26 Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the
27 Commissioner of the Department of Environmental Protection following adoption by the
28 municipal legislative body and shall not be effective unless approved by the Commissioner. If
29 the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt
30 of the amendment, the amendment is automatically approved. Any application for a permit
31 submitted to the municipality within the forty-five (45) day period shall be governed by the
32 terms of the amendment, if such amendment is approved by the Commissioner.
33

34 **9. Districts and Zoning Map**

35 **A. Official Shoreland Zoning Map.** The area to which this Ordinance is applicable is the
36 Shoreland Zoning Overlay District as shown on the Official Zoning Map which is made a
37 part of this Ordinance.
38

39 **B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less
40 than: 1 inch = 2000 feet. The Shoreland Zoning Overlay District boundary shall be
41 clearly delineated and a legend indicating the symbols for each district shall be placed on
42 the map.
43

44 **C. Certification of Official Zoning Map.** The Official Zoning Map shall be certified by the
45 attested signature of the Municipal Clerk and shall be located in the municipal office. In
46 the event the municipality does not have a municipal office, the Municipal Clerk shall be
47 the custodian of the map.
48

49 **D. Changes to the Official Zoning Map.** If amendments, in accordance with Section 8, are
50 made to the Shoreland Zoning Overlay District boundary on the Official Zoning Map.
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1 such changes shall be made on the Official Zoning Map within thirty (30) days after the
2 amendment has been approved by the Commissioner of the Department of Environmental
3 Protection.

4
5 **10. Interpretation of District Boundaries.** Unless otherwise set forth on the Official Zoning
6 Map, district boundary lines are property lines, the centerlines of streets, roads and rights of
7 way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as
8 to the exact location of district boundary lines, the Board of Appeals shall be the final
9 authority as to location.

10
11 **11. Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall
12 hereafter be used or occupied, and no building or structure or part thereof shall hereafter be
13 erected, constructed, expanded, moved, or altered and no new lot shall be created except in
14 conformity with all of the regulations herein specified for the district in which it is located,
15 unless a variance is granted.

16
17 **12. Non-conformance**

18
19 **A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that
20 non-conforming conditions that existed before the effective date of this Ordinance or
21 amendments thereto shall be allowed to continue, subject to the requirements set forth in
22 Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition
23 shall not be permitted to become more non-conforming.

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25 **B. General**

26
27 (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be
28 transferred, and the new owner may continue the non-conforming use or continue to
29 use the non-conforming structure or lot, subject to the provisions of this Ordinance.

30
31 (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal
32 upkeep and maintenance of non-conforming uses and structures including repairs or
33 renovations that do not involve expansion of the non-conforming use or structure,
34 and such other changes in a non-conforming use or structure as federal, state, or local
35 building and safety codes may require.

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36
37 **C. Non-conforming Structures**

38
39 (1) **Expansions.** All new principal and accessory structures, excluding functionally
40 water-dependent uses, must meet the water body, tributary stream, or wetland setback
41 requirements contained in Section 15(B)(1). A non-conforming structure may be
42 added to or expanded after obtaining a permit from the same permitting authority as
43 that for a new structure, if such addition or expansion does not increase the non-
44 conformity of the structure and is in accordance with subparagraphs (a) and (b)
45 below.

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46
47 (a) Expansion of any portion of a structure within 25 feet of the normal high-water
48 line of a water body, tributary stream, or upland edge of a wetland is prohibited,
49 even if the expansion will not increase nonconformity with the water body,
50 tributary stream or wetland setback requirement. Expansion of an accessory
51 structure that is located closer to the normal high-water line of a water body,

1 tributary stream, or upland edge of a wetland than the principal structure is
2 prohibited, even if the expansion will not increase nonconformity with the water
3 body, tributary stream, or wetland setback requirement.

4
5 (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming
6 principal structure is entirely located less than 25 feet from the normal high-water
7 line of a water body, tributary stream, or upland edge of a wetland, that structure
8 may be expanded as follows, as long as all other applicable municipal land use
9 standards are met and the expansion is not prohibited by Section 12(C)(1).

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10
11 (i) The maximum total footprint for the principal structure may not be expanded
12 to a size greater than 800 square feet or 30% larger than the footprint that
13 existed on January 1, 1989, whichever is greater. The maximum height of the
14 principal structure may not be made greater than 15 feet or the height of the
15 existing structure, whichever is greater.

16
17 (c) All other legally existing nonconforming principal and accessory structures that
18 do not meet the water body, tributary stream, or wetland setback requirements
19 may be expanded or altered as follows, as long as other applicable municipal land
20 use standards are met and the expansion is not prohibited by Section 12(C)(1) or
21 Section 12(C)(1)(a), above.

22
23 (i) For structures located less than 75 feet from the normal high-water line of a
24 water body, tributary stream, or upland edge of a wetland, the maximum
25 combined total footprint for all structures may not be expanded to a size
26 greater than 1,000 square feet or 30% larger than the footprint that existed on
27 January 1, 1989, whichever is greater. The maximum height of any structure
28 may not be made greater than 20 feet or the height of the existing structure,
29 whichever is greater.

30
31 (ii) For structures located less than 100 feet from the normal high-water line of a
32 great pond classified as GPA or a river flowing to a great pond classified as
33 GPA, the maximum combined total footprint for all structures may not be
34 expanded to a size greater than 1,500 square feet or 30% larger than the
35 footprint that existed on January 1, 1989, whichever is greater. The
36 maximum height of any structure may not be made greater than 25 feet or the
37 height of the existing structure, whichever is greater. Any portion of those
38 structures located less than 75 feet from the normal high-water line of a water
39 body, tributary stream, or upland edge of a wetland must meet the footprint
40 and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

41
42 (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that
43 are legally nonconforming due to their location within the Resource
44 Protection District when located at less than 250 feet from the normal high-
45 water line of a water body or the upland edge of a wetland, the maximum
46 combined total footprint for all structures may not be expanded to a size
47 greater than 1,500 square feet or 30% larger than the footprint that existed at
48 the time the Resource Protection District was established on the lot,
49 whichever is greater. The maximum height of any structure may not be made
50 greater than 25 feet or the height of the existing structure, whichever is
51 greater, except that any portion of those structures located less than 75 feet

1 from the normal high-water line of a water body, tributary stream, or upland
2 edge of a wetland must meet the footprint and height limits in Section
3 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

4
5 (d) An approved plan for expansion of a nonconforming structure must be recorded
6 by the applicant with the registry of deeds, within 90 days of approval. The
7 recorded plan must show the existing and proposed footprint of the non-
8 conforming structure, the existing and proposed structure height, the footprint of
9 any other structures on the parcel, the shoreland zone overlay district boundary
10 and evidence of approval by the municipal review authority.

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12 (2) Foundations. Whenever a new, enlarged, or replacement foundation is constructed
13 under a non-conforming structure, the structure and new foundation must be placed
14 such that the setback requirement is met to the greatest practical extent as determined
15 by the Zoning Board of Appeals, basing its decision on the criteria specified in
16 Section 12(C)(3) Relocation, below.

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

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28 In determining whether the building relocation meets the setback to the greatest
29 practical extent, the Zoning Board of Appeals or its designee shall consider the size
30 of the lot, the slope of the land, the potential for soil erosion, the location of other
31 structures on the property and on adjacent properties, the location of the septic
32 system and other on-site soils suitable for septic systems, and the type and amount of
33 vegetation to be removed to accomplish the relocation.

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

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

46
47 Other woody and herbaceous vegetation, and ground cover, that are removed or
48 destroyed in order to relocate a structure must be re-established. An area at least
49 the same size as the area where vegetation and/or ground cover was disturbed,
50 damaged, or removed must be reestablished within the setback area. The

1 vegetation and/or ground cover must consist of similar native vegetation and/or
2 ground cover that was disturbed, destroyed or removed.

3
4 (b) Where feasible, when a structure is relocated on a parcel the original location of
5 the structure shall be replanted with vegetation which may consist of grasses,
6 shrubs, trees, or a combination thereof.

7
8 (4) **Reconstruction or Replacement.** Any non-conforming structure which is located
9 less than the required setback from a water body, tributary stream, or wetland and
10 which is removed, or damaged or destroyed, regardless of the cause, by more than
11 50% of the market value of the structure before such damage, destruction or
12 removal, may be reconstructed or replaced provided that a permit is obtained within
13 eighteen (18) months of the date of said damage, destruction, or removal, and
14 provided that such reconstruction or replacement is in compliance with the water
15 body, tributary stream or wetland setback requirement to the greatest practical extent
16 as determined by the Zoning Board of Appeals in accordance with the purposes of
17 this Ordinance. In no case shall a structure be reconstructed or replaced so as to
18 increase its non-conformity. If the reconstructed or replacement structure is less than
19 the required setback it shall not be any larger than the original structure, except as
20 allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming
21 footprint of the reconstructed or replaced structure at its new location. If the total
22 footprint of the original structure can be relocated or reconstructed beyond the
23 required setback area, no portion of the relocated or reconstructed structure shall be
24 replaced or constructed at less than the setback requirement for a new structure.
25 When it is necessary to remove vegetation in order to replace or reconstruct a
26 structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

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27
28 Any non-conforming structure which is located less than the required setback from a
29 water body, tributary stream, or wetland and which is removed by 50% or less of the
30 market value, or damaged or destroyed by 50% or less of the market value of the
31 structure, excluding normal maintenance and repair, may be reconstructed in place if
32 a permit is obtained from the Code Enforcement Officer within one year of such
33 damage, destruction, or removal.

34
35 In determining whether the building reconstruction or replacement meets the
36 setback to the greatest practical extent the Zoning Board of Appeals shall consider,
37 in addition to the criteria in Section 12(C)(3) above, the physical condition and
38 type of foundation present, if any.

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39
40 (5) **Change of Use of a Non-conforming Structure.** The use of a non-conforming
41 structure may not be changed to another use unless the Zoning Board of Appeals,
42 after receiving a written application, determines that the new use will have no greater
43 adverse impact on the water body, tributary stream, or wetland, or on the subject or
44 adjacent properties and resources than the existing use.

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45
46 In determining that no greater adverse impact will occur, the Zoning Board of
47 Appeals shall require written documentation from the applicant, regarding the
48 probable effects on public health and safety, erosion and sedimentation, water
49 quality, fish and wildlife habitat, vegetative cover, visual and actual points of public
50 access to waters, natural beauty, floodplain management, archaeological and historic

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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 **Zoning Board of Appeals**, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.

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(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 **Zoning Board of Appeals** may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

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(3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the **Zoning Board of Appeals**. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

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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.

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(2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

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

12
13 (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square
14 feet of lot area; or

15
16 (b) Any lots that do not meet the frontage and lot size requirements of Section
17 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least
18 100 feet of shore frontage and 20,000 square feet of lot area.

19
20 **13. Establishment of Districts**

21
22 **OR SEE 19-6-9**

23
24 **A. Resource Protection District.** The Resource Protection District includes areas in which
25 development would adversely affect water quality, productive habitat, biological
26 ecosystems, or scenic and natural values. This district shall include the following areas
27 when they occur within the limits of the shoreland zone, exclusive of the Stream
28 Protection District, except that areas which are currently developed and areas which meet
29 the criteria for the Limited Commercial, General Development I, or Commercial
30 Fisheries/Maritime Activities Districts need not be included within the Resource
31 Protection District.

32
33 (1) Floodplains along rivers and floodplains along artificially formed great ponds along
34 rivers, defined by the 100 year floodplain as designated on the Federal Emergency
35 Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard
36 Boundary Maps, or the flood of record, or in the absence of these, by soil types
37 identified as recent floodplain soils. This district shall also include 100 year
38 floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps
39 or Flood Hazard Boundary Maps.

40
41 (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

42
43 (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric
44 soils, which are not part of a freshwater or coastal wetland as defined, and which are
45 not surficially connected to a water body during the period of normal high water.

46
47 (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed
48 movement, and lands adjacent to tidal waters which are subject to severe erosion or
49 mass movement, such as steep coastal bluffs.

50
51 **B. Shoreland Zoning Overlay District**

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C. 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 are 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.

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

A. Minimum Lot Standards

	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Shore Frontage (ft.)</u>
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone		
Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone		
Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(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

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1 (c) Public and Private Recreational Facilities

2
3 (i) Within the Shoreland Zone Adjacent
4 to Tidal and Non-Tidal Areas 40,000 200

5
6 (2) Land below the normal high-water line of a water body or upland edge of a wetland
7 and land beneath roads serving more than two (2) lots shall not be included toward
8 calculating minimum lot area.

9
10 (3) Lots located on opposite sides of a public or private road shall be considered each a
11 separate tract or parcel of land unless such road was established by the owner of land
12 on both sides thereof after September 22, 1971.

13
14 (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal
15 distance, of the normal high-water line of a water body or upland edge of a wetland
16 shall be equal to or greater than the shore frontage requirement for a lot with the
17 proposed use.

18
19 (5) If more than one residential dwelling unit, principal governmental, institutional,
20 commercial or industrial structure or use, or combination thereof, is constructed or
21 established on a single parcel, all dimensional requirements shall be met for each
22 additional dwelling unit, principal structure, or use.

23
24 **B. Principal and Accessory Structures**

25
26 (1) All new principal and accessory structures shall be set back at least one hundred (100)
27 feet, horizontal distance, from the normal high-water line of great ponds classified GPA
28 and rivers that flow to great ponds classified GPA, and seventy-five (75) feet,
29 horizontal distance, from the normal high-water line of other water bodies, tributary
30 streams, or the upland edge of a wetland, except that in the General Development I
31 District the setback from the normal high-water line shall be at least twenty five (25)
32 feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District
33 there shall be no minimum setback. (DELETE) In the Resource Protection District the
34 setback requirement shall be 250 feet, horizontal distance, except for structures, roads,
35 parking spaces or other regulated objects specifically allowed in that district in which
36 case the setback requirements specified above shall apply.

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37
38
39 **In addition:**

40
41 (a) The water body, tributary stream, or wetland setback provision shall neither apply
42 to structures which require direct access to the water body or wetland as an
43 operational necessity, such as piers, docks and retaining walls, nor to other
44 functionally water-dependent uses.

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45
46 (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A.
47 section 437 (see Appendix A), shall be set back a minimum of one hundred and
48 twenty-five (125) feet, horizontal distance, from the normal high-water line and shall
49 be screened from the river by existing vegetation. This provision does not apply to
50 structures related to hydropower facilities.

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1 **THERE ARE NO SIGNIFICANT RIVER SEGMENTS IN CAPE, SO THIS**
2 **SHOULD BE DELETED.**

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3
4 (c) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

15 **NOTE:** A municipality may choose not to adopt subparagraph B(1)(d) below. However, if a municipality elects to adopt a provision similar to that subparagraph, it must be no less restrictive.

18
19 (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 standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

30 (2) Principal or accessory structures and expansions of existing structures **DELETED** district references shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

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

44 (4) With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, and Commercial Fisheries/Maritime Activities Districts, **DELETE** district references. Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

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In a General Development District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, or in a Commercial Fisheries/Maritime Activities District, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone. DELETE

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

NOTE: A municipality may choose not to adopt subparagraph B(5) below. However, if a municipality elects to adopt a provision similar to that subparagraph, it must be no less restrictive.

(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;
- (b) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
- (c) 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;

1 (ii)Vegetation plantings must be in quantities sufficient to retard erosion and
2 provide for effective infiltration of stormwater runoff;

3
4 (iii) Only native species may be used to establish the buffer area;

5
6 (iv) A minimum buffer width of 15 feet, horizontal distance, is required,
7 measured perpendicularly to the normal high-water line or upland edge of a
8 wetland;

9
10 (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the
11 buffer;

12
13 (6) Notwithstanding the requirements stated above, stairways or similar structures may be
14 allowed with a permit from the Code Enforcement Officer, to provide shoreline access in
15 areas of steep slopes or unstable soils provided: that the structure is limited to a maximum
16 of four (4) feet in width; that the structure does not extend below or over the normal high-
17 water line of a water body or upland edge of a wetland, (unless permitted by the
18 Department of Environmental Protection pursuant to the *Natural Resources Protection Act,*
19 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access
20 alternative exists on the property.

21
22 **C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or**
23 **Below the Normal High-Water Line of a Water Body or Within a Wetland, and**
24 **Shoreline Stabilization**

25
26 (1) No more than one pier, dock, wharf or similar structure extending or located below the
27 normal high-water line of a water body or within a wetland is allowed on a single lot;
28 except that when a single lot contains at least twice the minimum shore frontage as
29 specified in Section 15(A), a second structure may be allowed and may remain as long
30 as the lot is not further divided.

31
32 (2) Access from shore shall be developed on soils appropriate for such use and constructed
33 so as to control erosion.

34
35 (3) The location shall not interfere with existing developed or natural beach areas.

36
37 (4) The facility shall be located so as to minimize adverse effects on fisheries.

38
39 (5) The facility shall be no larger in dimension than necessary to carry on the activity and
40 be consistent with the surrounding character and uses of the area. A temporary pier,
41 dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial
42 uses.

43
44 (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other
45 structure extending beyond the normal high-water line of a water body or within a
46 wetland unless the structure requires direct access to the water body or wetland as an
47 operational necessity.

48
49 (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is
50 clearly demonstrated to the Planning Board that a temporary pier or dock is not

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1 feasible, and a permit has been obtained from the Department of Environmental
2 Protection, pursuant to the *Natural Resources Protection Act*.

3
4 (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure
5 extending beyond the normal high-water line of a water body or within a wetland
6 shall be converted to residential dwelling units in any district.

7
8 (9) Except in the General Development Districts and Commercial Fisheries/Maritime
9 Activities District, structures built on, over or abutting a pier, wharf, dock or other
10 structure extending beyond the normal high-water line of a water body or within a
11 wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or
12 other structure.

13
14 (10) Vegetation may be removed in excess of the standards in Section 15(P) of this
15 ordinance in order to conduct shoreline stabilization of an eroding shoreline,
16 provided that a permit is obtained from the Planning Board. Construction equipment
17 must access the shoreline by barge when feasible as determined by the Planning
18 Board.

19
20 (a) When necessary, the removal of trees and other vegetation to allow for
21 construction equipment access to the stabilization site via land must be limited to
22 no more than 12 feet in width. When the stabilization project is complete the
23 construction equipment accessway must be restored.

24
25 (b) Revegetation must occur in accordance with Section 15(S).

26
27 (11) A deck over a river may be exempted from the shoreland setback requirements if it is
28 part of a downtown revitalization project that is defined in a project plan approved by
29 the legislative body of the municipality, and may include the revitalization of
30 structures formerly used as mills that do not meet the structure setback requirements,
31 if the deck meets the following requirements:

32
33 (a) The total deck area attached to the structure does not exceed 700 square feet;

34
35 (b) The deck is cantilevered over a segment of a river that is located within the
36 boundaries of the downtown revitalization project;

37
38 (c) The deck is attached to or accessory to an allowed commercial use in a structure
39 that was constructed prior to 1971 and is located within the downtown
40 revitalization project;

41
42 (d) The construction of the deck complies with all other applicable standards, except
43 the shoreline setback requirements in section 15(B); and

44
45 (e) The construction of the deck complies with all other state and federal laws.

46
47 **D. Campgrounds.** Campgrounds shall conform to the minimum requirements imposed
48 under State licensing procedures and the following:

49
50 (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not
51 including roads and driveways, for each site. Land supporting wetland vegetation, and

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1 land below the normal high-water line of a water body shall not be included in calculating
2 land area per site.

3
4 (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility
5 and service buildings shall be set back a minimum of one hundred (100) feet,
6 horizontal distance, from the normal high-water line of a great pond classified GPA
7 or a river flowing to a great pond classified GPA, and seventy-five (75) feet,
8 horizontal distance, from the normal high-water line of other water bodies, tributary
9 streams, or the upland edge of a wetland.

10
11 **E. Individual Private Campsites.** Individual private campsites not associated with
12 campgrounds are allowed provided the following conditions are met:

13
14 (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand
15 (30,000) square feet of lot area within the shoreland zone, whichever is less, may be
16 permitted.

17
18 (2) When an individual private campsite is proposed on a lot that contains another
19 principal use and/or structure, the lot must contain the minimum lot dimensional
20 requirements for the principal structure and/or use, and the individual private
21 campsite separately.

22
23 (3) Campsite placement on any lot, including the area intended for a recreational vehicle
24 or tent platform, shall be set back one hundred (100) feet, horizontal distance, from
25 the normal high-water line of a great pond classified GPA or river flowing to a great
26 pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal
27 high-water line of other water bodies, tributary streams, or the upland edge of a
28 wetland.

29
30 (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle
31 shall not be located on any type of permanent foundation except for a gravel pad, and
32 no structure except a canopy shall be attached to the recreational vehicle.

33
34 (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar
35 shelter in a Resource Protection District shall be limited to one thousand (1000)
36 square feet.

37
38 (6) A written sewage disposal plan describing the proposed method and location of
39 sewage disposal shall be required for each campsite and shall be approved by the
40 Local Plumbing Inspector. Where disposal is off-site, written authorization from the
41 receiving facility or land owner is required.

42
43 (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one
44 hundred and twenty (120) days per year, all requirements for residential structures shall
45 be met, including the installation of a subsurface sewage disposal system in compliance
46 with the State of Maine Subsurface Wastewater Disposal Rules unless served by public
47 sewage facilities.

48
49 **F. Commercial and Industrial Uses.** The following new commercial and industrial uses
50 are prohibited within the shoreland zone adjacent to great ponds classified GPA, and
51 rivers and streams which flow to great ponds classified GPA:

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- (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

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- (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 District 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.

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- (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.

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1
2 (b) Internal travel aisles: Approximately twenty (20) feet wide.

3
4 **H. Roads and Driveways.** The following standards shall apply to the construction of roads
5 and/or driveways and drainage systems, culverts and other related features.

6
7 (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal
8 distance, from the normal high-water line of a great pond classified GPA or a river
9 that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal
10 distance from the normal high-water line of other water bodies, tributary streams, or
11 the upland edge of a wetland unless no reasonable alternative exists as determined by
12 the Zoning Board of Appeals. If no other reasonable alternative exists, the road
13 and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal
14 distance, upon clear showing by the applicant that appropriate techniques will be
15 used to prevent sedimentation of the water body, tributary stream, or wetland. Such
16 techniques may include, but are not limited to, the installation of settling basins,
17 and/or the effective use of additional ditch relief culverts and turnouts placed so as to
18 avoid sedimentation of the water body, tributary stream, or wetland.

19
20 On slopes of greater than twenty (20) percent the road and/or driveway setback shall
21 be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in
22 slope above twenty (20) percent.

23
24 Section 15 (H)(1) does not apply to approaches to water crossings or to roads or
25 driveways that provide access to permitted structures and facilities located nearer to
26 the shoreline or tributary stream due to an operational necessity, excluding temporary
27 docks for recreational uses. Roads and driveways providing access to permitted
28 structures within the setback area shall comply fully with the requirements of Section
29 15(H)(1) except for that portion of the road or driveway necessary for direct access to
30 the structure.

31
32 (2) Existing public roads may be expanded within the legal road right of way regardless
33 of their setback from a water body, tributary stream or wetland.

34
35 (3) New permanent roads are not allowed within the shoreland zone along Significant
36 River Segments except:

37
38 (a) To provide access to structures or facilities within the zone; or

39
40 (b) When the applicant demonstrates that no reasonable alternative route exists
41 outside the shoreland zone. When roads must be located within the shoreland
42 zone they shall be set back as far as practicable from the normal high-water line
43 and screened from the river by existing vegetation.

44
45 (4) New roads and driveways are prohibited in a Resource Protection District except that
46 the Planning Board may grant a permit to construct a road or driveway to provide
47 access to permitted uses within the district. A road or driveway may also be approved
48 by the Planning Board in a Resource Protection District, upon a finding that no
49 reasonable alternative route or location is available outside the district. When a road or
50 driveway is permitted in a Resource Protection District the road and/or driveway shall

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1 be set back as far as practicable from the normal high-water line of a water body,
2 tributary stream, or upland edge of a wetland.

3
4 **NEED SOME ALIGNMENT WITH TOWN RP DISTRICT STANDARDS**

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5
6 (5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one
7 (1) vertical, and shall be graded and stabilized in accordance with the provisions for
8 erosion and sedimentation control contained in Section 15(T).

9
10 (6) Road and driveway grades shall be no greater than ten (10) percent except for
11 segments of less than two hundred (200) feet.

12
13 (7) In order to prevent road and driveway surface drainage from directly entering water
14 bodies, tributary streams or wetlands, roads and driveways shall be designed,
15 constructed, and maintained to empty onto an unscarified buffer strip at least (50)
16 feet plus two times the average slope, in width between the outflow point of the ditch
17 or culvert and the normal high-water line of a water body, tributary stream, or upland
18 edge of a wetland. Surface drainage which is directed to an unscarified buffer strip
19 shall be diffused or spread out to promote infiltration of the runoff and to minimize
20 channelized flow of the drainage through the buffer strip.

21
22 (8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be
23 installed in a manner effective in directing drainage onto unscarified buffer strips
24 before the flow gains sufficient volume or head to erode the road, driveway, or ditch.
25 To accomplish this, the following shall apply:

26
27 (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced
28 along the road, or driveway at intervals no greater than indicated in the following
29 table:

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

30
31
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33
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38
39
40
41 (b) Drainage dips may be used in place of ditch relief culverts only where the grade
42 is ten (10) percent or less.

43
44 (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall
45 be placed at approximately a thirty (30) degree angle downslope from a line
46 perpendicular to the centerline of the road or driveway.

47
48 (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to
49 allow for effective functioning, and their inlet and outlet ends shall be stabilized
50 with appropriate materials.

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1
2 (9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control
3 installations associated with roads and driveways shall be maintained on a regular
4 basis to assure effective functioning.

5 **I. Signs.** The following provisions shall govern the use of signs in the Resource Protection,
6 **Stream Protection, Limited Residential and Limited Commercial Districts:**

7 **NEED TO ALIGN WITH OVERLAY DISTRICT AND CURRENT SIGN REGS**

8
9
10 (1) Signs relating to goods and services sold on the premises shall be allowed, provided
11 that such signs shall not exceed six (6) square feet in area and shall not exceed two
12 (2) signs per premises. In the Limited Commercial District, however, such signs shall
13 not exceed sixteen (16) square feet in area. Signs relating to goods or services not
14 sold or rendered on the premises shall be prohibited. ~~DELETE~~

15
16 (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per
17 premises, and shall not exceed twelve (12) square feet in the aggregate.

18
19 (3) Residential users may display a single sign not over three (3) square feet in area
20 relating to the sale, rental, or lease of the premises.

21
22 (4) Signs relating to trespassing and hunting shall be allowed without restriction as to
23 number provided that no such sign shall exceed two (2) square feet in area.

24
25 (5) Signs relating to public safety shall be allowed without restriction.

26
27 (6) No sign shall extend higher than twenty (20) feet above the ground.

28
29 (7) Signs may be illuminated only by shielded, non-flashing lights.

30
31 **J. Storm Water Runoff**

32
33 (1) All new construction and development shall be designed to minimize storm water
34 runoff from the site in excess of the natural predevelopment conditions. Where
35 possible, existing natural runoff control features, such as berms, swales, terraces and
36 wooded areas, shall be retained in order to reduce runoff and encourage infiltration of
37 stormwaters.

38
39 (2) Storm water runoff control systems shall be maintained as necessary to ensure proper
40 functioning.

41
42 **K. Septic Waste Disposal**

43
44 (1) All subsurface sewage disposal systems shall be installed in conformance with the
45 State of Maine Subsurface Wastewater Disposal Rules, and the following:

46
47 a) clearing or removal of woody vegetation necessary to site a new system and
48 any associated fill extensions, shall not extend closer than seventy-five (75)
49 feet, horizontal distance, from the normal high-water line of a water body or
50 the upland edge of a wetland and

51
52 b) a holding tank is not allowed for a first-time residential use in the shoreland
53 zone.

1 **L. Essential Services**

2
3 (1) Where feasible, the installation of essential services shall be limited to existing public
4 ways and existing service corridors.

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5
6 (2) The installation of essential services, other than road-side distribution lines, is not
7 allowed in a Resource Protection or Stream Protection District except to provide
8 services to a permitted use within said district, or except where the applicant
9 demonstrates that no reasonable alternative exists. Where allowed, such structures
10 and facilities shall be located so as to minimize any adverse impacts on surrounding
11 uses and resources, including visual impacts.

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12
13 (3) Damaged or destroyed public utility transmission and distribution lines, towers and
14 related equipment may be replaced or reconstructed without a permit.

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

23
24 Mineral extraction may be permitted under the following conditions:

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25
26 (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a
27 permit is granted. Such plan shall describe in detail procedures to be undertaken to
28 fulfill the requirements of Section 15 (M)(4) below.

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29
30 (2) No part of any extraction operation, including drainage and runoff control features,
31 shall be permitted within one hundred (100) feet, horizontal distance, of the normal
32 high-water line of a great pond classified GPA or a river flowing to a great pond
33 classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal
34 high-water line of any other water body, tributary stream, or the upland edge of a
35 wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal
36 distance, of any property line without written permission of the owner of such
37 adjacent property.

38
39 (3) Developers of new gravel pits along Significant River Segments shall demonstrate
40 that no reasonable mining site outside the shoreland zone exists. When gravel pits
41 must be located within the zone, they shall be set back as far as practicable from the
42 normal high-water line and no less than seventy-five (75) feet and screened from the
43 river by existing vegetation. DELETE

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44
45 (4) Within twelve (12) months following the completion of extraction operations at any
46 extraction site, which operations shall be deemed complete when less than one
47 hundred (100) cubic yards of materials are removed in any consecutive twelve (12)
48 month period, ground levels and grades shall be established in accordance with the
49 following:

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50
51 (a) All debris, stumps, and similar material shall be removed for disposal in an
52 approved location, or shall be buried on-site. Only materials generated on-site
53 may be buried or covered on-site.

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

2
3 (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be
4 reseeded and stabilized with vegetation native to the area. Additional topsoil or
5 loam shall be obtained from off-site sources if necessary to complete the
6 stabilization project.

7
8 (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such
9 conditions as are necessary to minimize the adverse impacts associated with mineral
10 extraction operations on surrounding uses and resources.

11 **N. Agriculture**

12
13
14 (1) All spreading of manure shall be accomplished in conformance with the *Manure*
15 *Utilization Guidelines* published by the former Maine Department of Agriculture on
16 November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-
17 4209).

18
19 (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal
20 distance, of a great pond classified GPA or a river flowing to a great pond classified
21 GPA, or within seventy-five (75) feet horizontal distance, of other water bodies,
22 tributary streams, or wetlands. All manure storage areas within the shoreland zone
23 must be constructed or modified such that the facility produces no discharge of
24 effluent or contaminated storm water.

25
26 (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000)
27 square feet in surface area, within the shoreland zone shall require a Conservation
28 Plan to be filed with the Planning Board. Non-conformance with the provisions of
29 said plan shall be considered to be a violation of this Ordinance.

30
31
32 (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal
33 distance, of the normal high-water line of a great pond classified GPA; within
34 seventy-five (75) feet, horizontal distance, from other water bodies and coastal
35 wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams
36 and freshwater wetlands. Operations in existence on the effective date of this
37 ordinance and not in conformance with this provision may be maintained.

38
39 (5) Newly established livestock grazing areas shall not be permitted within one hundred
40 (100) feet, horizontal distance, of the normal high-water line of a great pond classified
41 GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and
42 coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary
43 streams and freshwater wetlands. Livestock grazing associated with ongoing farm
44 activities, and which are not in conformance with the above setback provisions may
45 continue, provided that such grazing is conducted in accordance with a Conservation
46 Plan that has been filed with the Planning Board.

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1 **NOTE RELATING TO TIMBER HARVESTING STANDARDS:**

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2
3 Title 38 M.R.S.A. section 438-A provides that, notwithstanding other provisions of the
4 Mandatory Shoreland Zoning Act, the regulation of timber harvesting and timber harvesting
5 activities in shoreland areas must be in accordance with section 438-B and rules adopted by the
6 Maine Forest Bureau pursuant to Title 12, section 8867-B. Section 438-B establishes three
7 options from which each municipality may choose as the State implements a set of statewide
8 timber harvesting standards in shoreland areas.

9
10 **Option 1:** The first option available to a municipality is the complete repeal of timber harvesting
11 provisions from the shoreland zoning ordinance. Under this option the Bureau of Forestry
12 will administer the regulation of all forestry activities within the municipality. Section 438-
13 B(2) states:

14
15 A municipality may choose to have the statewide standards apply to timber harvesting and
16 timber harvesting activities in that municipality by authorizing the repeal of all provisions
17 within the municipal shoreland zoning ordinance that regulate timber harvesting and timber
18 harvesting activities in shoreland areas and notifying the (Director of the Bureau of Forestry
19 within the Department of Agriculture, Conservation and Forestry) of the repeal. The
20 authorization must specify a repeal date. When a municipality accepts the statewide standards
21 in accordance with this subsection, the (Director of the Bureau of Forestry) shall administer
22 and enforce the statewide standards within that municipality beginning on (January 1, 2013)
23 or the municipal repeal date specified in the notification received under this subsection.

24
25 Section 438-B(6) provides that, notwithstanding any provision in a local ordinance to the
26 contrary, beginning January 1, 2013 rules adopted by the Bureau of Forestry under Title 12,
27 section 8867-B will apply in all municipalities that have accepted the statewide standards in
28 accordance with Option 1.

29
30 If a municipality chooses option 1, completely repealing the municipal regulation of timber
31 harvesting activities in the shoreland zone and deferring the regulation of timber harvesting
32 activities to the Bureau of Forestry, the repeal should include all references to timber harvesting
33 regulations, including:

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- 34
35 1. Section 14, Table 1, *Land Uses in the Shoreland Zone*, Item 3 (forest management
36 activities except for timber harvesting & land management roads), Item 4 (timber
37 harvesting), and Item 27 (land management roads) of the Table;
38
39 2. Section 15(O) in its entirety (Section 15(O-1) would not have been adopted by those
40 municipalities that had elected to retain section 15(O), so there would be no need to
41 repeal section 15(O-1)); and
42
43 3. All definitions in Section 17 pertaining to timber harvesting and forest management
44 activities, including the terms: Cross-sectional area, DBH, Disruption of shoreline
45 integrity, Forest management activities, Forest stand, Harvest area, Land management
46 road, Licensed forester, Residual basal area, Residual stand, Skid road or skid trail, Slash,
47 Timber harvesting and related activities, and Wind firm.

48
49 **Option 2:** The second option available to the municipality is the adoption of timber harvesting
50 standards that are identical to the statewide standards. This option allows the municipality to
51 retain some local control over the administration and enforcement of timber harvesting in the

1 shoreland zone, while receiving assistance and expertise from staff of the Bureau of Forestry.
2 Section 438-B(3) states:

3
4 A municipality may adopt an ordinance to regulate timber harvesting and timber harvesting
5 activities that is identical to the statewide standards. A municipality that adopts an ordinance
6 under this subsection may request the director (of the Bureau of Forestry) to administer and
7 enforce the ordinance or to participate in joint administration and enforcement of the
8 ordinance with the municipality beginning on the effective date of the statewide standards
9 (January 1, 2013) or within 60 days of the director's receiving a request. When a municipality
10 requests joint responsibilities, the director and the municipality shall enter into an agreement
11 that delineates the administrative and enforcement duties of each. To continue to receive
12 administrative and enforcement assistance from the (Bureau of Forestry) under this
13 subsection, a municipality must amend its ordinance as necessary to maintain identical
14 provisions with the statewide standards.

15
16 Section 438-B(6) provides that, notwithstanding any provision in a local ordinance to the
17 contrary, beginning January 1, 2013 rules adopted by the Bureau of Forestry under Title 12,
18 section 8867-B will apply in all municipalities that have adopted an ordinance identical to the
19 statewide standards in accordance with Option 2.

20
21 For those municipalities that choose option 2, these Guidelines contain timber harvesting
22 standards that are based on the June 15, 2005 Bureau of Forestry Chapter 21 statewide
23 standards (Section 15.O-1). Provisions for culvert sizing in this section 15.O-1 have been
24 updated to comply with current NRPA standards, and a reference to Bureau of Forestry
25 definitions for terms used in this section has been added. However, before a municipality
26 adopts or amends this section they should consult with the Bureau of Forestry to get the latest
27 version of Chapter 21. A municipality amending their own forestry standards, whether under
28 Option 2 or Option 3, is required to coordinate with the Bureau of Forestry through the Title
29 12, section 8869, subsection 8 process to ensure that any local amendments are consistent
30 with the statewide standards in effect at the time of the local ordinance amendments.

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31
32 **Option 3: The third option available to the municipality is to retain its current timber harvesting**
33 **standards. Section 438-B(4) states:**

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34
35 A municipal ordinance regulating timber harvesting and timber harvesting activities that is in
36 effect and consistent with state laws and rules in effect on December 31, 2005 continues in
37 effect unless action is taken in accordance with (Option 1 or Option 2 above). A municipality
38 that retains an ordinance with provisions that differ from the statewide standards shall
39 administer and enforce that ordinance unless the municipality requests that the director (of the
40 Bureau of Forestry) administer and enforce the ordinance and the director agrees with the
41 request after reviewing the ordinance. The director may not administer or enforce any
42 ordinance that is more stringent than or significantly different from the requirements of
43 section 438-B(3). A municipality may not amend a municipal ordinance regulating timber
44 harvesting and timber harvesting activities unless the process established in Title 12, section
45 8869, subsection 8 is followed. Beginning on (January 1, 2013), a municipality may not
46 amend an ordinance regulating timber harvesting and timber harvesting activities in a manner
47 that results in standards that are less stringent than or otherwise conflict with the statewide
48 standards (Section 438-B(4)).

49
50 Option 3 municipalities may also amend their timber harvesting ordinances in accordance
51 with section 15.O-1, but before a municipality amends their ordinance they should consult

1 with the Bureau of Forestry to get the latest version of Chapter 21. A municipality amending
2 their forestry standards, whether under Option 2 or Option 3, is required to coordinate with
3 the Bureau of Forestry through the Title 12, section 8869, subsection 8 process to ensure that
4 any local amendments are consistent with the statewide standards in effect at the time of the
5 local ordinance amendments.
6

7
8
9
10 **O-1. Timber Harvesting – Statewide Standards**

11
12 (1) **Shoreline integrity and sedimentation.** Persons conducting timber harvesting and
13 related activities must take reasonable measures to avoid the disruption of shoreline
14 integrity, the occurrence of sedimentation of water, and the disturbance of water body
15 and tributary stream banks, water body and tributary stream channels, shorelines, and
16 soil lying within water bodies, tributary streams and wetlands. If, despite such
17 precautions, the disruption of shoreline integrity, sedimentation of water, or the
18 disturbance of water body and tributary stream banks, water body and tributary
19 stream channels, shorelines, and soil lying within water bodies, tributary streams and
20 wetlands occurs, such conditions must be corrected.

21
22 (2) **Slash treatment.** Timber harvesting and related activities shall be conducted such
23 that slash or debris is not left below the normal high-water line of any water body or
24 tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply
25 to minor, incidental amounts of slash that result from timber harvesting and related
26 activities otherwise conducted in compliance with this section.

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27
28 (a) **Slash actively used to protect soil from disturbance by equipment or to stabilize**
29 exposed soil, may be left in place, provided that no part thereof extends more
30 than 4 feet above the ground.

31
32 (b) **Adjacent to great ponds, rivers and wetlands:**

33
34 (i) **No accumulation of slash shall be left within 50 feet, horizontal distance, of**
35 the normal high-water line or upland edge of a wetland; and

36
37 (ii) **Between 50 feet and 250 feet, horizontal distance, of the normal high-water**
38 line or upland edge of a wetland, all slash larger than 3 inches in diameter
39 must be disposed of in such a manner that no part thereof extends more than
40 4 feet above the ground.

41
42 (3) **Timber harvesting and related activities must leave adequate tree cover and shall be**
43 conducted so that a well-distributed stand of trees is retained. This requirement may
44 be satisfied by following one of the following three options:

45
46 (a) **Option 1 (40% volume removal), as follows:**

47
48 (i) **Harvesting of no more than 40 percent of the total volume on each acre of**
49 trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume
50 may be considered to be equivalent to basal area;
51

- 1 (ii) A well-distributed stand of trees which is windfirm, and other vegetation
2 including existing ground cover, must be maintained; and,
3
4 (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers,
5 streams, and great ponds, and within 75 feet, horizontal distance, of the upland
6 edge of a freshwater or coastal wetlands, there must be no cleared openings. At
7 distances greater than 75 feet, horizontal distance, of the normal high-water
8 line of a river or great pond or upland edge of a wetland, timber harvesting and
9 related activities must not create single cleared openings greater than 14,000
10 square feet in the forest canopy. Where such openings exceed 10,000 square
11 feet, they must be at least 100 feet, horizontal distance, apart. Such cleared
12 openings will be included in the calculation of total volume removal. Volume
13 may be considered equivalent to basal area.

14
15 **(b) Option 2 (60 square foot basal area retention), as follows:**

- 16
17 (i) The residual stand must contain an average basal area of at least 60 square
18 feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of
19 which 40 square feet per acre must be greater than or equal to 4.5 inches
20 DBH;
21
22 (ii) A well-distributed stand of trees which is windfirm, and other vegetation
23 including existing ground cover, must be maintained; and,
24
25 (iii) Within 75 feet, horizontal distance, of the normal high-water line of water
26 bodies and within 75 feet, horizontal distance, of the upland edge of
27 wetlands, there must be no cleared openings. At distances greater than 75
28 feet, horizontal distance, of the normal high-water line of a river or great
29 pond, or upland edge of a wetland, timber harvesting and related activities
30 must not create single cleared openings greater than 14,000 square feet in the
31 forest canopy. Where such openings exceed 10,000 square feet, they must be
32 at least 100 feet, horizontal distance, apart. Such cleared openings will be
33 included in the calculation of the average basal area. Volume may be
34 considered equivalent to basal area.

35
36 **(c) Option 3 (Outcome based), which requires: An alternative method proposed in**
37 **an application, signed by a Licensed Forester or certified wildlife professional,**
38 **submitted by the landowner or designated agent to the State of Maine**
39 **Department of Conservation's Bureau of Forestry (Bureau) for review and**
40 **approval, which provides equal or better protection of the shoreland area than**
41 **this rule.**

42
43 Landowners must designate on the Forest Operations Notification form required
44 by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If
45 landowners choose Option 1 or Option 2, compliance will be determined solely
46 on the criteria for the option chosen. If landowners choose Option 3, timber
47 harvesting and related activities may not begin until the Bureau has approved the
48 alternative method.

49
50 The Bureau may verify that adequate tree cover and a well-distributed stand of
51 trees is retained through a field procedure that uses sample plots that are located
52 randomly or systematically to provide a fair representation of the harvest area.
53

1
2 **(4) Skid trails, yards, and equipment operation.** This requirement applies to the
3 construction, maintenance, and use of skid trails and yards in shoreland areas.

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

8
9 (b) Skid trails and yards must be designed and constructed to prevent sediment and
10 concentrated water runoff from entering a water body, tributary stream, or
11 wetland. Upon termination of their use, skid trails and yards must be stabilized.

12 (c) **Setbacks**

13
14 (i) Equipment must be operated to avoid the exposure of mineral soil within 25
15 feet, horizontal distance, of any water body, tributary stream, or wetland. On
16 slopes of 10 percent or greater, the setback for equipment operation must be
17 increased by 20 feet, horizontal distance, plus an additional 10 feet,
18 horizontal distance, for each 5 percent increase in slope above 10 percent.
19 Where slopes fall away from the resource, no increase in the 25-foot setback
20 is required.

21
22 (ii) Where such setbacks are impracticable, appropriate techniques shall be used
23 to avoid sedimentation of the water body, tributary stream or wetland. Such
24 techniques may include the installation of sump holes or settling basins,
25 and/or the effective use of additional ditch relief culverts and ditch water
26 turnouts placed to avoid sedimentation of the water body, tributary stream, or
27 wetland. If, despite such precautions, sedimentation or the disruption of
28 shoreline integrity occurs, such conditions must be corrected.

29
30 (5) **Land Management Roads.** Land management roads, including approaches to
31 crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches
32 and other related structures, must be designed, constructed, and maintained to prevent
33 sediment and concentrated water runoff from directly entering the water body,
34 tributary stream or wetland. Surface water on or adjacent to water crossing
35 approaches must be diverted through vegetative filter strips to avoid sedimentation of
36 the watercourse or wetland. Because roadside ditches may not extend to the resource
37 being crossed, vegetative filter strips must be established in accordance with the
38 setback requirements in Section 15(O-1)(7) of this rule.

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

41 (i) 100 feet, horizontal distance, from the normal high-water line of a great
42 pond, river or freshwater or coastal wetland;

43 (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and

44 (iii) 25 feet, horizontal distance, from the normal high-water line of tributary
45 streams

- 1 (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above
2 may be reduced to no less than 50 feet, horizontal distance, and the 50 foot
3 setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less
4 than 25 feet, horizontal distance, if, prior to construction, the landowner or the
5 landowner's designated agent demonstrates to the Planning Board's
6 satisfaction that no reasonable alternative exists and that appropriate techniques
7 will be used to prevent sedimentation of the water body, tributary stream, or
8 wetland. Such techniques may include, but are not limited to, the installation of
9 settling basins, and/or the effective use of additional ditch relief culverts and
10 turnouts placed to avoid sedimentation of the water body, tributary stream or
11 wetland. If, despite such precautions, sedimentation or the disruption of
12 shoreline integrity occurs, such conditions must be corrected.
- 13
- 14 (c) On slopes of 10 percent or greater, the land management road setback must be
15 increased by at least 20 feet, horizontal distance, plus an additional 10 feet,
16 horizontal distance, for each 5 percent increase in slope above 10 percent.
- 17
- 18 (d) New land management roads are not allowed within the shoreland area along
19 Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a
20 Resource Protection District, unless, prior to construction, the landowner or the
21 landowner's designated agent makes a clear demonstration to the Planning
22 Board's satisfaction that no reasonable alternative route exists outside the
23 shoreland zone, and that the new road must be set back as far as practicable from
24 the normal high-water line and screened from the river by existing vegetation.
- 25
- 26 (e) Ditches, culverts, bridges, dips, water turnouts and other water control
27 installations associated with roads must be maintained on a regular basis to
28 assure effective functioning. Drainage structures shall deliver a dispersed flow of
29 water into an unscarified filter strip no less than the width indicated in the
30 setback requirements in Section 15(O-1)(7). Where such a filter strip is
31 impracticable, appropriate techniques shall be used to avoid sedimentation of the
32 water body, tributary stream, or wetland. Such techniques may include the
33 installation of sump holes or settling basins, and/or the effective use of additional
34 ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the
35 water body, tributary stream, or wetland. If, despite such precautions,
36 sedimentation or the disruption of shoreline integrity occurs, such conditions
37 must be corrected.
- 38
- 39 (f) **Road closeout and discontinuance.** Maintenance of the water control
40 installations required in Section 15(O-1)(5)(e) must continue until use of the road
41 is discontinued and the road is put to bed by effective installation of water bars or
42 other adequate road drainage structures at appropriate intervals, constructed to
43 avoid surface water flowing over or under the water bar, and extending a
44 sufficient distance beyond the traveled way so that water does not reenter the
45 road surface.
- 46
- 47 (g) **Upgrading existing roads.** Extension or enlargement of presently existing roads
48 must conform to the provisions of Section 15(O-1). Any nonconforming existing
49 road may continue to exist and to be maintained, as long as the nonconforming
50 conditions are not made more nonconforming.
- 51

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

12
13 (i) **Additional measures.** In addition to the foregoing minimum requirements,
14 persons undertaking construction and maintenance of roads and river, stream and
15 tributary stream crossings must take reasonable measures to avoid sedimentation
16 of surface waters.

17
18 (6) **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must
19 allow for fish passage at all times of the year, must not impound water, and must
20 allow for the maintenance of normal flows.

21
22 (a) **Determination of flow.** Provided they are properly applied and used for the
23 circumstances for which they are designed, methods including but not limited to
24 the following are acceptable as a means of calculating the 10 year and 25 year
25 frequency water flows and thereby determining water crossing sizes as required in
26 Section 15(O-1): The United States Geological Survey (USGS) Methods;
27 specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for
28 Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey.
29 Water Resources Investigations Report 99-4008. 45 pp.

30
31 (b) **Upgrading existing water crossings.** Extension or enlargement of presently
32 existing water crossings must conform to the provisions of Section 15(O-1). Any
33 nonconforming existing water crossing may continue to exist and be maintained,
34 as long as the nonconforming conditions are not made more nonconforming;
35 however, any maintenance or repair work done below the normal high-water line
36 must conform to the provisions of Section 15(O-1).

37
38 (c) **Other Agency Permits.** Any timber harvesting and related activities involving
39 the design, construction, and maintenance of crossings on waterbodies other than
40 a river, stream or tributary stream may require a permit from the Land Use
41 Regulation Commission, the Department of Environmental Protection, or the US
42 Army Corps of Engineers.

43
44 (d) Any timber harvesting and related activities involving the design, construction,
45 and maintenance of crossings of freshwater wetlands identified by the
46 Department of Inland Fisheries and Wildlife as essential wildlife habitat require
47 prior consultation with the Department of Inland Fisheries and Wildlife.

48
49 (e) **Notice to Bureau of Forestry.** Written notice of all water crossing construction
50 maintenance, alteration and replacement activities in shoreland areas must be

1 given to the Bureau prior to the commencement of such activities. Such notice
2 must contain all information required by the Bureau, including:

- 3
4 (i) a map showing the location of all proposed permanent crossings;
5
6 (ii) the GPS location of all proposed permanent crossings;
7
8 (iii) for any temporary or permanent crossing that requires a permit from state
9 or federal agencies, a copy of the approved permit or permits; and
10
11 (iv) a statement signed by the responsible party that all temporary and
12 permanent crossings will be constructed, maintained, and closed out in
13 accordance with the requirements of this Section.

14
15 **(f) Water crossing standards.** All crossings of rivers require a bridge or culvert
16 sized according to the requirements of Section 15(O-1)(6)(g)) below. Streams
17 and tributary streams may be crossed using temporary structures that are not
18 bridges or culverts provided:

- 19
20 (i) concentrated water runoff does not enter the stream or tributary stream;
21
22 (ii) sedimentation of surface waters is reasonably avoided;
23
24 (iii) there is no substantial disturbance of the bank, or stream or tributary stream
25 channel;
26
27 (iv) fish passage is not impeded; and
28
29 (v) water flow is not unreasonably impeded.

30
31 Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and
32 tributary streams when channels of such streams and tributary streams are frozen and
33 snow-covered or are composed of a hard surface which will not be eroded or
34 otherwise damaged are not required to use permanent or temporary structures.

35
36 **(g) Bridge and Culvert Sizing.** For crossings of river, stream and tributary stream
37 channels with a bridge or culvert, the following requirements apply:

- 38
39 (i) Bridges and culverts must be installed and maintained to provide an opening
40 sufficient in size and structure to accommodate 25 year frequency water
41 flows or with a cross-sectional area at least equal to 3 times the cross-
42 sectional area of the river, stream, or tributary stream channel.
43
44 (ii) Temporary bridge and culvert sizes may be smaller than provided in Section
45 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event
46 of culvert or bridge failure, the natural course of water flow is maintained
47 and sedimentation of the water body or tributary stream is avoided. Such
48 crossing structures must be at least as wide as the channel and placed above
49 the normal high-water line. Techniques may include, but are not limited to,
50 the effective use of any, a combination of, or all of the following:
51

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- 1 1. use of temporary skidder bridges;
- 2
- 3 2. removing culverts prior to the onset of frozen ground conditions;
- 4
- 5 3. using water bars in conjunction with culverts;
- 6
- 7 4. using road dips in conjunction with culverts.
- 8

9 (iii) Culverts utilized in river, stream and tributary stream crossings must:

- 10 1. be installed at or below river, stream or tributary stream bed elevation;
- 11
- 12 2. be seated on firm ground;
- 13
- 14 3. have soil compacted at least halfway up the side of the culvert;
- 15
- 16 4. be covered by soil to a minimum depth of 1 foot or according to the
- 17 culvert manufacturer's specifications, whichever is greater; and
- 18
- 19 5. have a headwall at the inlet end which is adequately stabilized by riprap
- 20 or other suitable means to reasonably avoid erosion of material around
- 21 the culvert.
- 22
- 23

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

31

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

42

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

46

47 (i) Bridges and culverts installed for river, stream and tributary stream crossings
48 by skid trails must either be removed and areas of exposed soil stabilized, or
49 upgraded to comply with the closeout standards for land management roads
50 in Section 15(O-1)(6)(i) below.

1 (ii) Water crossing structures that are not bridges or culverts must either be
2 removed immediately following timber harvesting and related activities, or,
3 if frozen into the river, stream or tributary stream bed or bank, as soon as
4 practical after snowmelt.

5
6 (iii) River, stream and tributary stream channels, banks and approaches to
7 crossings of water bodies and tributary streams must be immediately
8 stabilized on completion of harvest, or if the ground is frozen and/or snow-
9 covered, as soon as practical after snowmelt. If, despite such precautions,
10 sedimentation or the disruption of shoreline integrity occurs, such conditions
11 must be corrected.

12
13 (i) Land management road closeout. Maintenance of the water control features
14 must continue until use of the road is discontinued and the road is put to bed by
15 taking the following actions:

16
17 (i) Effective installation of water bars or other adequate road drainage structures
18 at appropriate intervals, constructed to reasonably avoid surface water
19 flowing over or under the water bar, and extending sufficient distance
20 beyond the traveled way so that water does not reenter the road surface.

21
22 (ii) Water crossing structures must be appropriately sized or dismantled and
23 removed in a manner that reasonably avoids sedimentation of the water body
24 or tributary stream.

25
26 (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy
27 one of the following requirements:

28
29 1. it shall be designed to provide an opening sufficient in size and structure
30 to accommodate 25 year frequency water flows;

31
32 2. it shall be designed to provide an opening with a cross-sectional area at least
33 3½ times the cross-sectional area of the river, stream or tributary stream
34 channel; or

35
36 3. it shall be dismantled and removed in a fashion to reasonably avoid
37 sedimentation of the river, stream or tributary stream.

38
39 If, despite such precautions, sedimentation or the disruption of shoreline integrity
40 occurs, such conditions must be corrected.

41
42 **(7) Slope Table**

43
44 Filter strips, skid trail setbacks, and land management road setbacks must be
45 maintained as specified in Section 15(O-1), but in no case shall be less than shown in
46 the following table.

47
48 Average slope of land between exposed Width of strip between exposed
49 Mineral soil and the shoreline (percent) mineral soil and shoreline
50 (feet along surface of the ground)
51 0 25

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

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

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(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 hazard trees as described in section Q.

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

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

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (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>4 - < 8 in.</u>	<u>2</u>
<u>8 - < 12 in.</u>	<u>4</u>

1 12 in. or greater 8

2
3 Adjacent to other water bodies, tributary streams, and wetlands, a "well-
4 distributed stand of trees" is defined as maintaining a minimum rating score of 16
5 per 25-foot by 50-foot rectangular area.

6
7 The following shall govern in applying this point system:

8
9 (i) The 25-foot by 50-foot rectangular plots must be established where the
10 landowner or lessee proposes clearing within the required buffer;

11
12 (ii) Each successive plot must be adjacent to, but not overlap a previous plot;

13
14 (iii) Any plot not containing the required points must have no vegetation
15 removed except as otherwise allowed by this Ordinance;

16
17 (iv) Any plot containing the required points may have vegetation removed down
18 to the minimum points required or as otherwise allowed by is Ordinance;

19
20 (v) Where conditions permit, no more than 50% of the points on any 25-foot by
21 50-foot rectangular area may consist of trees greater than 12 inches in
22 diameter.

23
24 For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as
25 retaining existing vegetation under three (3) feet in height and other ground cover
26 and retaining at least five (5) saplings less than two (2) inches in diameter at four
27 and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle
28 area. If five saplings do not exist, no woody stems less than two (2) inches in
29 diameter can be removed until 5 saplings have been recruited into the plot.

30
31 **NOTE:** A municipality may elect to retain their present "point system" that is based
32 on 25-foot by 25-foot plots. If so, the paragraph above must be modified as
33 follows:

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34
35 For the purposes of Section 15(P)(2)(b), "other natural vegetation" is defined
36 as retaining existing vegetation under three (3) feet in height and other
37 ground cover and retaining at least three (3) saplings less than two (2) inches
38 in diameter at four and one-half (4 ½) feet above ground level for each 25-
39 foot by 25-foot rectangular area. If three (3) saplings do not exist, no woody
40 stems less than two (2) inches in diameter can be removed until 3 saplings
41 have been recruited into the plot.

42
43 Subparagraph 15 (P)(2)(b) must also be modified to make it clear that the
44 point system establishes only a "well-distributed stand of trees" not a well-
45 distributed stand of trees and other vegetation. "Other vegetation" is
46 described elsewhere.

47
48 Notwithstanding the above provisions, no more than 40% of the total volume of
49 trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground
50 level may be removed in any ten (10) year period.

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(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.

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

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

(f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).

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(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 allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. 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 applies to the portion of a lot within the shoreland zone, including the buffer area, but 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. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

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(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet,

1 replacement with native tree species is required, unless there is new tree growth
2 already present. New tree growth must be as near as practicable to where the
3 hazard tree was removed and be at least two (2) inches in diameter, measured at
4 four and one half (4.5) feet above the ground level. If new growth is not present,
5 then replacement trees shall consist of native species and be at least four (4) feet
6 in height, and be no less than two (2) inches in diameter. Stumps may not be
7 removed.

8
9 (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty
10 (40) percent of the volume of trees four (4) inches or more in diameter, measured
11 at four and one half (4.5) feet above ground level in any ten (10) year period,
12 and/or results in cleared openings exceeding twenty-five (25) percent of the lot
13 area within the shoreland zone, or ten thousand (10,000) square feet, whichever
14 is greater, replacement with native tree species is required, unless there is new
15 tree growth already present. New tree growth must be as near as practicable to
16 where the hazard tree was removed and be at least two (2) inches in diameter,
17 measured at four and one half (4.5) feet above the ground level. If new growth is
18 not present, then replacement trees shall consist of native species and be at least
19 two (2) inches in diameter, measured at four and one half (4.5) feet above the
20 ground level.

21
22 (c) The removal of standing dead trees, resulting from natural causes, is permissible
23 without the need for replanting or a permit, as long as the removal does not result
24 in the creation of new lawn areas, or other permanently cleared areas, and stumps
25 are not removed. For the purposes of this provision dead trees are those trees that
26 contain no foliage during the growing season.

27
28 (d) The Code Enforcement Officer may require the property owner to submit an
29 evaluation from a licensed forester or arborist before any hazard tree can be
30 removed within the shoreland zone.

31
32 (e) The Code Enforcement Officer may require more than a one-for-one
33 replacement for hazard trees removed that exceed eight (8) inches in diameter
34 measured at four and one half (4.5) feet above the ground level.

35
36 (2) Storm-damaged trees in the shoreland zone may be removed without a permit after
37 consultation with the Code Enforcement Officer if the following requirements are
38 met:

39
40 (a) Within the shoreline buffer, when the removal of storm-damaged trees results in
41 a cleared opening in the tree canopy greater than two hundred and fifty (250)
42 square feet, replanting is not required, but the area shall be required to naturally
43 revegetate, and the following requirements must be met:

44
45 (i) The area from which a storm-damaged tree is removed does not result in new
46 lawn areas, or other permanently cleared areas;

47
48 (ii) Stumps from the storm-damaged trees may not be removed;

49
50 (iii) Limbs damaged from a storm event may be pruned even if they extend
51 beyond the bottom one-third (1/3) of the tree; and

1
2 (iv) If after one growing season, no natural regeneration or regrowth is present,
3 replanting of native tree seedlings or saplings is required at a density of one
4 seedling per every eighty (80) square feet of lost canopy.

5
6 (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds
7 40% of the volume of trees four (4) inches or more in diameter, measured at four
8 and one half (4.5) feet above the ground level in any ten (10) year period, or
9 results, in the aggregate, in cleared openings exceeding 25% of the lot area
10 within the shoreland zone or ten thousand (10,000) square feet, whichever is
11 greater, and no natural regeneration occurs within one growing season, then
12 native tree seedlings or saplings shall be replanted on a one-for-one basis.

13
14 **R. Exemptions to Clearing and Vegetation Removal Requirements**

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

19
20 (1) The removal of vegetation that occurs at least once every two (2) years for the
21 maintenance of legally existing areas that do not comply with the vegetation
22 standards in this chapter, such as but not limited to cleared openings in the canopy or
23 fields. Such areas shall not be enlarged, except as allowed by this section. If any of
24 these areas, due to lack of removal of vegetation every two (2) years, reverts back to
25 primarily woody vegetation, the requirements of Section 15(P) apply;

26
27 (2) The removal of vegetation from the location of allowed structures or allowed uses,
28 when the shoreline setback requirements of section 15(B) are not applicable;

29
30 (3) The removal of vegetation from the location of public swimming areas associated
31 with an allowed public recreational facility;

32
33 (4) The removal of vegetation associated with allowed agricultural uses, provided best
34 management practices are utilized, and provided all requirements of section 15(N)
35 are complied with;

36
37 (5) The removal of vegetation associated with brownfields or voluntary response action
38 program (VRAP) projects provided that the removal of vegetation is necessary for
39 remediation activities to clean-up contamination on a site in a general development
40 district, commercial fisheries and maritime activities district or other equivalent
41 [DELETE TO ALIGN] zoning district approved by the Commissioner that is part of a
42 state or federal brownfields program or a voluntary response action program pursuant
43 38 M.R.S.A section 343-E, and that is located along;

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44 (a) A coastal wetland; or

45
46 (b) A river that does not flow to a great pond classified as GPA pursuant to
47 38 M.R.S.A section 465-A.

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48
49
50 (6) The removal of non-native invasive vegetation species, provided the following
51 minimum requirements are met:

1
2 (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the
3 wheeled or tracked motorized equipment is operated and stored at least twenty-
4 five (25) feet, horizontal distance, from the shoreline, except that wheeled or
5 tracked equipment may be operated or stored on existing structural surfaces, such
6 as pavement or gravel;

7
8 (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the
9 shoreline occurs via hand tools; and

10
11 (c) If applicable clearing and vegetation removal standards are exceeded due to the
12 removal of non-native invasive species vegetation, the area shall be revegetated
13 with native species to achieve compliance.

14
15 (7) The removal of vegetation associated with emergency response activities conducted
16 by the Department, the U.S. Environmental Protection Agency, the U.S. Coast
17 Guard, and their agents.

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18
19 **S. Revegetation Requirements**

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20
21 When revegetation is required in response to violations of the vegetation standards set
22 forth in Section 15(P), to address the removal of non- native invasive species of
23 vegetation, or as a mechanism to allow for development that may otherwise not be
24 permissible due to the vegetation standards, including removal of vegetation in
25 conjunction with a shoreline stabilization project, the revegetation must comply with the
26 following requirements.

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27
28 (1) The property owner must submit a revegetation plan, prepared with and signed by a
29 qualified professional, that describes revegetation activities and maintenance. The
30 plan must include a scaled site plan, depicting where vegetation was, or is to be
31 removed, where existing vegetation is to remain, and where vegetation is to be
32 planted, including a list of all vegetation to be planted.

33
34 (2) Revegetation must occur along the same segment of shoreline and in the same area
35 where vegetation was removed and at a density comparable to the pre-existing
36 vegetation, except where a shoreline stabilization activity does not allow revegetation
37 to occur in the same area and at a density comparable to the pre-existing vegetation,
38 in which case revegetation must occur along the same segment of shoreline and as
39 close as possible to the area where vegetation was removed:

40
41 (3) If part of a permitted activity, revegetation shall occur before the expiration of the
42 permit. If the activity or revegetation is not completed before the expiration of the
43 permit, a new revegetation plan shall be submitted with any renewal or new permit
44 application.

45
46 (4) Revegetation activities must meet the following requirements for trees and saplings:

47
48 (a) All trees and saplings removed must be replaced with native noninvasive species;

49
50 (b) Replacement vegetation must at a minimum consist of saplings;
51

1 (c) If more than three (3) trees or saplings are planted, then at least three (3) different
2 species shall be used;

3
4 (d) No one species shall make up 50% or more of the number of trees and saplings
5 planted;

6
7 (e) If revegetation is required for a shoreline stabilization project, and it is not
8 possible to plant trees and saplings in the same area where trees or saplings were
9 removed, then trees or sapling must be planted in a location that effectively
10 reestablishes the screening between the shoreline and structures; and

11
12 (f) A survival rate of at least eighty (80) percent of planted trees or saplings is
13 required for a minimum five (5) years period.

14
15 (5) Revegetation activities must meet the following requirements for woody vegetation
16 and other vegetation under three (3) feet in height:

17
18 (a) All woody vegetation and vegetation under three (3) feet in height must be
19 replaced with native noninvasive species of woody vegetation and vegetation
20 under three (3) feet in height as applicable;

21
22 (b) Woody vegetation and vegetation under three (3) feet in height shall be planted
23 in quantities and variety sufficient to prevent erosion and provide for effective
24 infiltration of stormwater;

25
26 (c) If more than three (3) woody vegetation plants are to be planted, then at least
27 three (3) different species shall be planted;

28
29 (d) No one species shall make up 50% or more of the number of planted woody
30 vegetation plants; and

31
32 (e) Survival of planted woody vegetation and vegetation under three feet in height
33 must be sufficient to remain in compliance with the standards contained within
34 this chapter for minimum of five (5) years

35
36 (6) Revegetation activities must meet the following requirements for ground vegetation
37 and ground cover:

38
39 (a) All ground vegetation and ground cover removed must be replaced with native
40 herbaceous vegetation, in quantities and variety sufficient to prevent erosion and
41 provide for effective infiltration of stormwater;

42
43 (b) Where necessary due to a lack of sufficient ground cover, an area must be
44 supplemented with a minimum four (4) inch depth of leaf mulch and/or bark
45 mulch to prevent erosion and provide for effective infiltration of stormwater; and

46
47 (c) Survival and functionality of ground vegetation and ground cover must be
48 sufficient to remain in compliance with the standards contained within this
49 chapter for minimum of five (5) years.

50
51 **T. Erosion and Sedimentation Control**

52
53 (1) All activities which involve filling, grading, excavation or other similar activities
54 which result in unstabilized soil conditions and which require a permit shall also
55 require a written soil erosion and sedimentation control plan. The plan shall be

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1 submitted to the permitting authority for approval and shall include, where
2 applicable, provisions for:

3
4 (a) Mulching and revegetation of disturbed soil.

5
6 (b) Temporary runoff control features such as hay bales, silt fencing or diversion
7 ditches.

8
9 (c) Permanent stabilization structures such as retaining walls or rip-rap.

10
11 (2) In order to create the least potential for erosion, development shall be designed to fit
12 with the topography and soils of the site. Areas of steep slopes where high cuts and
13 fills may be required shall be avoided wherever possible, and natural contours shall
14 be followed as closely as possible.

15
16 (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed
17 project involving land disturbance, and shall be in operation during all stages of the
18 activity. The amount of exposed soil at every phase of construction shall be
19 minimized to reduce the potential for erosion.

20
21 (4) Any exposed ground area shall be temporarily or permanently stabilized within one
22 (1) week from the time it was last actively worked, by use of riprap, sod, seed, and
23 mulch, or other effective measures. In all cases permanent stabilization shall occur
24 within nine (9) months of the initial date of exposure. In addition:

25
26 (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five
27 hundred (500) square feet and shall be maintained until a catch of vegetation is
28 established.

29
30 (b) Anchoring the mulch with netting, peg and twine or other suitable method may
31 be required to maintain the mulch cover.

32
33 (c) Additional measures shall be taken where necessary in order to avoid siltation
34 into the water. Such measures may include the use of staked hay bales and/or silt
35 fences.

36
37 (5) Natural and man-made drainage ways and drainage outlets shall be protected from
38 erosion from water flowing through them. Drainageways shall be designed and
39 constructed in order to carry water from a twenty five (25) year storm or greater, and
40 shall be stabilized with vegetation or lined with riprap.

41
42 **U. Soils.** All land uses shall be located on soils in or upon which the proposed uses or
43 structures can be established or maintained without causing adverse environmental
44 impacts, including severe erosion, mass soil movement, improper drainage, and water
45 pollution, whether during or after construction. Proposed uses requiring subsurface waste
46 disposal, and commercial or industrial development and other similar intensive land uses,
47 shall require a soils report based on an on-site investigation and be prepared by state-
48 certified professionals. Certified persons may include Maine Certified Soil Scientists,
49 Maine Registered Professional Engineers, Maine State Certified Geologists and other
50 persons who have training and experience in the recognition and evaluation of soil
51 properties. The report shall be based upon the analysis of the characteristics of the soil and
52 surrounding land and water areas, maximum ground water elevation, presence of ledge,
53 drainage conditions, and other pertinent data which the evaluator deems appropriate. The
54 soils report shall include recommendations for a proposed use to counteract soil
55 limitations where they exist.

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

5
6 W. Archaeological Site. Any proposed land use activity involving structural development or
7 soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National
8 Register of Historic Places, as determined by the permitting authority, shall be submitted
9 by the applicant to the Maine Historic Preservation Commission for review and
10 comment, at least twenty (20) days prior to action being taken by the permitting
11 authority. The permitting authority shall consider comments received from the
12 Commission prior to rendering a decision on the application.

13
14 **16. Administration**

15
16 **A. Administering Bodies and Agents**

17
18 (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or
19 reappointed annually by July 1st.

20
21 (2) **Zoning Board of Appeals.** A Board of Appeals shall be created in accordance with
22 the provisions of 30-A M.R.S.A. section 2691.

23
24 (3) **Planning Board.** A Planning Board shall be created in accordance with the
25 provisions of State law.

26
27 **B. Permits Required.** After the effective date of this Ordinance no person shall, without
28 first obtaining a permit, engage in any activity or use of land or structure requiring a
29 permit in the district in which such activity or use would occur; or expand, change, or
30 replace an existing use or structure; or renew a discontinued nonconforming use. A
31 person who is issued a permit pursuant to this Ordinance shall have a copy of the permit
32 on site while the work authorized by the permit is performed.

33
34 (1) A permit is not required for the replacement of an existing road culvert as long
35 as:

36
37 (a) The replacement culvert is not more than 25% longer than the culvert being
38 replaced;

39
40 (b) The replacement culvert is not longer than 75 feet; and

41
42 (c) Adequate erosion control measures are taken to prevent sedimentation of the
43 water, and the crossing does not block fish passage in the watercourse.

44
45 (2) A permit is not required for an archaeological excavation as long as the excavation is
46 conducted by an archaeologist listed on the State Historic Preservation Officer's level
47 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented
48 by means of adequate and timely temporary and permanent stabilization measures.

49
50 (3) Any permit required by this Ordinance shall be in addition to any other permit
51 required by other law or ordinance.

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1 **C. Permit Application**

2
3 (1) Every applicant for a permit shall submit a written application, including a scaled site
4 plan, on a form provided by the municipality, to the appropriate official as indicated
5 in Section 14.

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6
7 (2) All applications shall be signed by an owner or individual who can show evidence of
8 right, title or interest in the property or by an agent, representative, tenant, or
9 contractor of the owner with authorization from the owner to apply for a permit
10 hereunder, certifying that the information in the application is complete and correct.

11
12 (3) All applications shall be dated, and the Code Enforcement Officer, Zoning Board of
13 Appeals or Planning Board, as appropriate, shall note upon each application the date
14 and time of its receipt.

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16 (4) If the property is not served by a public sewer, a valid plumbing permit or a
17 completed application for a plumbing permit, including the site evaluation approved
18 by the Plumbing Inspector, shall be submitted whenever the nature of the proposed
19 structure or use would require the installation of a subsurface sewage disposal
20 system.

21
22 **NOTE:** If a municipality intends to take independent enforcement actions related to the
23 contractor certification requirements of 38 M.R.S.A. Section 439-B, they should
24 insert the following into the application requirements of their ordinance:

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25
26 (5) When an excavation contractor will perform an activity that requires or results in more
27 than one (1) cubic yard of soil disturbance, the person responsible for management of
28 erosion and sedimentation control practices at the site must be certified in erosion
29 control practices by the Maine Department of Environmental Protection. This person
30 must be present at the site each day earthmoving activity occurs for a duration that is
31 sufficient to ensure that proper erosion and sedimentation control practices are
32 followed. This is required until erosion and sedimentation control measures have been
33 installed, which will either stay in place permanently or stay in place until the area is
34 sufficiently covered with vegetation necessary to prevent soil erosion. The name and
35 certification number of the person who will oversee the activity causing or resulting in
36 soil disturbance shall be included on the permit application. This requirement does not
37 apply to a person or firm engaged in agriculture or timber harvesting if best
38 management practices for erosion and sedimentation control are used; and municipal,
39 state and federal employees engaged in projects associated with that employment.

40
41 **D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written
42 application, the Planning Board, Zoning Board of Appeals or Code Enforcement Officer,
43 as indicated in Section 14, shall notify the applicant in writing either that the application
44 is a complete application, or, if the application is incomplete, that specified additional
45 material is needed to make the application complete. The Planning Board, Zoning Board
46 of Appeals or the Code Enforcement Officer, as appropriate, shall approve, approve with
47 conditions, or deny all permit applications in writing within 35 days of receiving a
48 completed application. However, if the Planning Board has a waiting list of applications,
49 a decision on the application shall occur within 35 days after the first available date on
50 the Planning Board's agenda following receipt of the completed application, or within 35

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1 days of the public hearing, if the proposed use or structure is found to be in conformance
2 with the purposes and provisions of this Ordinance.

3
4 The applicant shall have the burden of proving that the proposed land use activity is in
5 conformity with the purposes and provisions of this Ordinance.

6
7 After the submission of a complete application to the **Zoning Board of Appeals** or
8 Planning Board, the Board shall approve an application or approve it with conditions if it
9 makes a positive finding based on the information presented that the proposed use:

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11 (1) Will maintain safe and healthful conditions;

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12 (2) Will not result in water pollution, erosion, or sedimentation to surface waters;

13 (3) Will adequately provide for the disposal of all wastewater;

14 (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other
15 wildlife habitat;

16 (5) Will conserve shore cover and visual, as well as actual, points of access to inland and
17 coastal waters;

18 (6) Will protect archaeological and historic resources as designated in the comprehensive
19 plan;

20 (7) Will not adversely affect existing commercial fishing or maritime activities in a
21 Commercial Fisheries/Maritime Activities district;

22
23 (8) Will avoid problems associated with floodplain development and use; and

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24 (9) Is in conformance with the provisions of Section 15, Land Use Standards.

25
26 If a permit is either denied or approved with conditions, the reasons as well as conditions
27 shall be stated in writing. No approval shall be granted for an application involving a
28 structure if the structure would be located in an unapproved subdivision or would violate
29 any other local ordinance, or regulation or statute administered by the municipality.

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30
31
32 **E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above,
33 excepting structure setback requirements, the Board of Appeals may approve a permit for
34 a single family residential structure in a Resource Protection District provided that the
35 applicant demonstrates that all of the following conditions are met:

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36
37 (1) There is no location on the property, other than a location within the Resource
38 Protection District, where the structure can be built.

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39 (2) The lot on which the structure is proposed is undeveloped and was established and
40 recorded in the registry of deeds of the county in which the lot is located before the
41 adoption of the Resource Protection District.

42
43 (3) All proposed buildings, sewage disposal systems and other improvements are:

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1 (a) Located on natural ground slopes of less than 20%; and

2
3 (b) Located outside the floodway of the 100-year flood-plain along rivers and
4 artificially formed great ponds along rivers and outside the velocity zone in areas
5 subject to tides, based on detailed flood insurance studies and as delineated on
6 the Federal Emergency Management Agency's Flood Boundary and Floodway
7 Maps and Flood Insurance Rate Maps; all buildings, including basements, are
8 elevated at least one foot above the 100-year flood-plain elevation; and the
9 development is otherwise in compliance with any applicable municipal flood-
10 plain ordinance.

11
12 If the floodway is not shown on the Federal Emergency Management Agency
13 Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

14
15 (4) The total footprint, including cantilevered or similar overhanging extensions, of all
16 principal and accessory structures is limited to a maximum of 1,500 square feet. This
17 limitation shall not be altered by variance.

18
19 (5) All structures, except functionally water-dependent structures, are set back from the
20 normal high-water line of a water body, tributary stream or upland edge of a wetland
21 to the greatest practical extent, but not less than 75 feet, horizontal distance. In
22 determining the greatest practical extent, the Planning Board shall consider the depth
23 of the lot, the slope of the land, the potential for soil erosion, the type and amount of
24 vegetation to be removed, the proposed building site's elevation in regard to the
25 flood-plain, and its proximity to moderate-value and high-value wetlands.

26
27 **F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a
28 substantial start is not made in construction or in the use of the property during that
29 period. If a substantial start is made within one year of the issuance of the permit, the
30 applicant shall have one additional year to complete the project, at which time the permit
31 shall expire.

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

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39
40 **H. Appeals**

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41
42 (1) Powers and Duties of the Zoning Board of Appeals. The Zoning Board of Appeals shall
43 have the following powers:

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44
45 (a) Administrative Appeals: To hear and decide administrative appeals, on an
46 appellate basis, where it is alleged by an aggrieved party that there is an error in
47 any order, requirement, decision, or determination made by, or failure to act by, the
48 Planning Board in the administration of this Ordinance; and to SUGGEST
49 DELETE] hear and decide administrative appeals on a de novo basis where it is
50 alleged by an aggrieved party that there is an error in any order, requirement,
51 decision or determination made by, or failure to act by, the Code Enforcement

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1 Officer in his or her review of and action on a permit application under this
2 Ordinance. Any order, requirement, decision or determination made, or failure to
3 act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

4
5 (b) **Variance Appeals:** To authorize variances upon appeal, within the limitations set
6 forth in this Ordinance.

7
8 (2) **Variance Appeals.** Variances may be granted only under the following conditions:

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9
10 (a) Variances may be granted only from dimensional requirements including, but not
11 limited to, lot width, structure height, percent of lot coverage, and setback
12 requirements.

13
14 (b) Variances shall not be granted for establishment of any uses otherwise prohibited
15 by this Ordinance.

16
17 (c) The Board shall not grant a variance unless it finds that:

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18
19 (i) The proposed structure or use would meet the provisions of Section 15 except
20 for the specific provision which has created the non-conformity and from
21 which relief is sought; and

22
23 (ii) The strict application of the terms of this Ordinance would result in undue
24 hardship. The term "undue hardship" shall mean:

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25
26 a. That the land in question cannot yield a reasonable return unless a variance
27 is granted;

28
29 b. That the need for a variance is due to the unique circumstances of the
30 property and not to the general conditions in the neighborhood;

31
32 c. That the granting of a variance will not alter the essential character of the
33 locality; and

34
35 d. That the hardship is not the result of action taken by the applicant or a prior
36 owner.

37
38 (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Zoning Board of Appeals, or
39 the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-

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40 A, may grant a variance to an owner of a residential dwelling for the purpose of
41 making that dwelling accessible to a person with a disability who resides in or
42 regularly uses the dwelling. The board shall restrict any variance granted under this
43 subsection solely to the installation of equipment or the construction of structures
44 necessary for access to or egress from the dwelling by the person with the
45 disability. The board may impose conditions on the variance, including limiting the
46 variance to the duration of the disability or to the time that the person with the
47 disability lives in the dwelling. The term "structures necessary for access to or
48 egress from the dwelling" shall include railing, wall or roof systems necessary for
49 the safety or effectiveness of the structure. Any permit issued pursuant to this
50 subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
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(e) The Zoning Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

(f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Zoning Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

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(3) Administrative Appeals

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

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

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(4) Appeal Procedure

(a) Making an Appeal

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

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(ii) Applications for appeals shall be made by filing with the Zoning Board of Appeals a written notice of appeal which includes:

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

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

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1 (iii) Upon receiving an application for an administrative appeal or a variance, the
2 Code Enforcement Officer or Planning Board [DELETE], as appropriate, shall
3 transmit to the Zoning Board of Appeals all of the papers constituting the
4 record of the decision appealed from.

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6 (iv) The Zoning Board of Appeals shall hold a public hearing on an administrative
7 appeal or a request for a variance within thirty-five (35) days of its receipt of a
8 complete written application, unless this time period is extended by the parties.
9

10 (b) **Decision by Board of Appeals**

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11 (i) A majority of the full voting membership of the Board shall constitute a
12 quorum for the purpose of deciding an appeal.

14 (ii) The person filing the appeal shall have the burden of proof.

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

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

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

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

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

44 **I. Enforcement**

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45 (1) **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.
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(2) Code Enforcement Officer

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

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

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(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.

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17. Definitions

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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

1 have suffered particularized injury as a result of the granting or denial of such permit or
2 variance.

3
4 **Agriculture** - the production, keeping or maintenance for sale or lease of plants or animals,
5 including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and
6 dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental
7 green-house products. Agriculture does not include forest management and timber harvesting
8 activities.

9
10 **Aquaculture** - the growing or propagation of harvestable freshwater, estuarine, or marine plant
11 or animal species.

12
13 **Basal Area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and
14 inclusive of bark.

15
16 **Basement** - any portion of a structure with a floor-to-ceiling height of 6 feet or more and
17 having more than 50% of its volume below the existing ground level.

18
19 **Boat Launching Facility** - a facility designed primarily for the launching and landing of
20 watercraft, and which may include an access ramp, docking area, and parking spaces for
21 vehicles and trailers.

22
23 **Bureau of Forestry** – State of Maine Department of Agriculture, Conservation, and Forestry,
24 Bureau of Forestry.

25
26 **Campground** - any area or tract of land to accommodate two (2) or more parties in temporary
27 living quarters, including, but not limited to tents, recreational vehicles or other shelters.

28
29 **Canopy** – the more or less continuous cover formed by tree crowns in a wooded
30 area.

31
32 **Coastal wetland** - all tidal and subtidal lands; all lands with vegetation present that is tolerant
33 of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh,
34 bog, beach, flat or other contiguous low land that is subject to tidal action during the highest
35 tide level for the year in which an activity is proposed as identified in tide tables published by
36 the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

37
38 **Commercial use** - the use of lands, buildings, or structures, other than a "home occupation,"
39 defined below, the intent and result of which activity is the production of income from the
40 buying and selling of goods and/or services, exclusive of rental of residential buildings and/or
41 dwelling units.

42
43 **Cross-sectional area** – the cross-sectional area of a stream or tributary stream channel is
44 determined by multiplying the stream or tributary stream channel width by the average stream
45 or tributary stream channel depth. The stream or tributary stream channel width is the straight
46 line distance from the normal high-water line on one side of the channel to the normal high-
47 water line on the opposite side of the channel. The average stream or tributary stream channel
48 depth is the average of the vertical distances from a straight line between the normal high-
49 water lines of the stream or tributary stream channel to the bottom of the channel.

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

2
3 **Development** – a change in land use involving alteration of the land, water or vegetation, or
4 the addition or alteration of structures or other construction not naturally occurring.

5
6 **Dimensional requirements** - numerical standards relating to spatial relationships including
7 but not limited to setback, lot area, shore frontage and height.

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

15
16 **Disruption of shoreline integrity** - the alteration of the physical shape, properties, or
17 condition of a shoreline at any location by timber harvesting and related activities. A
18 shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified
19 and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing
20 waters, a profile and character altered from natural conditions.

21
22 **Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two
23 single-family dwellings or one two-family dwelling, or less.

24
25 **Emergency operations** - operations conducted for the public health, safety or general
26 welfare, such as protection of resources from immediate destruction or loss, law enforcement,
27 and operations to rescue human beings, property and livestock from the threat of destruction
28 or injury.

29
30 **Essential services** - gas, electrical or communication facilities; steam, fuel, electric power or
31 water transmission or distribution lines, towers and related equipment; telephone cables or
32 lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal
33 sewage lines, collection or supply systems; and associated storage tanks. Such systems may
34 include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call
35 boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or
36 buildings which are necessary for the furnishing of such services.

37
38 **Expansion of a structure** - an increase in the footprint or height of a structure, including all
39 extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

40
41 **Expansion of use** - the addition of one or more months to a use's operating season; or the use
42 of more footprint of a structure or ground area devoted to a particular use.

43
44 **Family** - one or more persons occupying a premises and living as a single housekeeping unit.

45
46 **Floodway** - the channel of a river or other watercourse and adjacent land areas that must be
47 reserved in order to discharge the 100-year flood without cumulatively increasing the water
48 surface elevation by more than one foot in height.

49
50 **Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior
51 walls.

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Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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

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

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

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

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

- (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.

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

Great pond - any inland body of water which in a natural state has a surface area in excess of ten 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

1 artificially formed or increased inland body of water is completely surrounded by land held
2 by a single owner.

3
4 **Great pond classified GPA** - any great pond classified GPA, pursuant to 38 M.R.S.A.
5 Article 4-A Section 465-A. This classification includes some, but not all impoundments of
6 ivers that are defined as great ponds.

7
8 **Ground cover** – small plants, fallen leaves, needles and twigs, and the partially decayed
9 organic matter of the forest floor.

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

15
16 **Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a
17 structural defect that under the normal range of environmental conditions at the site exhibits a
18 high probability of failure and loss of a major structural component of the tree in a manner
19 that will strike a target. A normal range of environmental conditions does not include
20 meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds;
21 tornados; microbursts; or significant ice storm events. Hazard trees also include those trees
22 that pose a serious and imminent risk to bank stability. A target is the area where personal
23 injury or property damage could occur if the tree or a portion of the tree fails. Targets include
24 roads, driveways, parking areas, structures, campsites, and any other developed area where
25 people frequently gather and linger.

26
27 **Height of a structure** - the vertical distance between the mean original (prior to
28 construction) grade at the downhill side of the structure and the highest point of the structure,
29 excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

30
31 **Home occupation** - an occupation or profession which is customarily conducted on or in a
32 residential structure or property and which is 1) clearly incidental to and compatible with the
33 residential use of the property and surrounding residential uses; and 2) which employs no
34 more than two (2) persons other than family members residing in the home.

35
36 **Increase in nonconformity of a structure** - any change in a structure or property which
37 causes further deviation from the dimensional standard(s) creating the nonconformity such as,
38 but not limited to, reduction in water body, tributary stream or wetland setback distance,
39 increase in lot coverage, or increase in height of a structure. Property changes or structure
40 expansions which either meet the dimensional standard or which cause no further increase in
41 the linear extent of nonconformance of the existing structure shall not be considered to
42 increase nonconformity. For example, there is no increase in nonconformity with the setback
43 requirement for water bodies, wetlands, or tributary streams if the expansion extends no
44 further into the required setback area than does any portion of the existing nonconforming
45 structure. Hence, a structure may be expanded laterally provided that the expansion extends
46 no closer to the water body, tributary stream, or wetland than the closest portion of the
47 existing structure from that water body, tributary stream, or wetland. Included in this
48 allowance are expansions which in-fill irregularly shaped structures.

49
50 **Individual private campsite** - an area of land which is not associated with a campground,
51 but which is developed for repeated camping by only one group not to exceed ten (10)

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1 individuals and which involves site improvements which may include but not be limited to a
2 gravel pad, parking area, fire place, or tent platform.

3
4 **Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing
5 of goods, or the extraction of minerals.

6
7 **Institutional** – a non-profit or quasi-public use, or institution such as a church, library, public
8 or private school, hospital, or municipally owned or operated building, structure or land used
9 for public purposes.

10
11 **Land Management Road** - a route or track consisting of a bed of exposed mineral soil,
12 gravel, or other surfacing materials constructed for, or created by, the passage of motorized
13 vehicles and used primarily for timber harvesting and related activities, including associated
14 log yards, but not including skid trails or skid roads.

15
16 **Licensed Forester** - a forester licensed under 32 M.R.S.A. Chapter 76.

17
18 **Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the
19 normal high-water line of a water body or upland edge of a wetland and areas beneath roads
20 serving more than two lots.

21
22 **Marina** - a business establishment having frontage on navigable water and, as its principal
23 use, providing for hire offshore moorings or docking facilities for boats, and which may also
24 provide accessory services such as boat and related sales, boat repair and construction, indoor
25 and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel
26 service facilities.

27
28 **Market value** - the estimated price a property will bring in the open market and under
29 prevailing market conditions in a sale between a willing seller and a willing buyer, both
30 conversant with the property and with prevailing general price levels.

31
32 **Mineral exploration** - hand sampling, test boring, or other methods of determining the
33 nature or extent of mineral resources which create minimal disturbance to the land and which
34 include reasonable measures to restore the land to its original condition.

35
36 **Mineral extraction** - any operation within any twelve (12) month period which removes
37 more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat,
38 or other like material from its natural location and to transport the product removed, away
39 from the extraction site.

40
41 **Minimum lot width** - the closest distance between the side lot lines of a lot. When only two
42 lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

43
44 **Multi-unit residential** - a residential structure containing three (3) or more residential dwelling
45 units.

46
47 **Native** – indigenous to the local forests.

48
49 **Non-conforming condition** – non-conforming lot, structure or use which is allowed solely
50 because it was in lawful existence at the time this Ordinance or subsequent amendment took
51 effect.

1
2 **Non-conforming lot** - a single lot of record which, at the effective date of adoption or
3 amendment of this Ordinance, does not meet the area, frontage, or width requirements of the
4 district in which it is located.

5
6 **Non-conforming structure** - a structure which does not meet any one or more of the
7 following dimensional requirements; setback, height, lot coverage or footprint, but which is
8 allowed solely because it was in lawful existence at the time this Ordinance or subsequent
9 amendments took effect.

10
11 **Non-conforming use** - use of buildings, structures, premises, land or parts thereof which is
12 not allowed in the district in which it is situated, but which is allowed to remain solely
13 because it was in lawful existence at the time this Ordinance or subsequent amendments took
14 effect.

15
16 **Non-native invasive species of vegetation** - species of vegetation listed by the Maine
17 Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems
18 and not native to Maine ecosystems.

19
20 **Normal high-water line (non-tidal waters)** - that line which is apparent from visible
21 markings, changes in the character of soils due to prolonged action of the water or changes in
22 vegetation, and which distinguishes between predominantly aquatic and predominantly
23 terrestrial land. Areas contiguous with rivers and great ponds that support non-forested
24 wetland vegetation and hydric soils and that are at the same or lower elevation as the water
25 level of the river or great pond during the period of normal high-water are considered part of
26 the river or great pond.] RECOMMEND RETAIN EXISTING DEFINITION]

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27
28 **Normal High Water Line:** Adjacent to inland waters, the normal high water line shall be
29 that line which is apparent from the visible markings, changes in the character of soils due to
30 prolonged action of the water or changes in vegetation, and which distinguishes between
31 predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and
32 great ponds that support non-forested wetland vegetation and hydric soils and that are at the
33 same or lower elevation as the water level of the river or great pond during the period of
34 normal high-water are considered part of the river or great pond. Adjacent to tidal waters, the
35 normal high water line shall be the topographic line located at the Highest Astronomical Tide,
36 plus three (3) vertical feet upland.

37
38 **Outlet stream** - any perennial or intermittent stream, as shown on the most recent highest
39 resolution version of the national hydrography dataset available from the United States
40 Geological Survey on the website of the United States Geological Survey or the national map,
41 that flows from a freshwater wetland.

42
43 **Person** - an individual, corporation, governmental agency, municipality, trust, estate,
44 partnership, association, two or more individuals having a joint or common interest, or other
45 legal entity.

46
47 **Piers, docks, wharves, bridges and other structures and uses** extending over or beyond
48 the normal high-water line or within a wetland.

49
50 **Temporary:** Structures which remain in or over the water for less than seven (7)
51 months in any period of twelve (12) consecutive months.

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

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

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

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

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

<u>Eryeburg</u>	<u>Hadley</u>	<u>Limerick</u>
<u>Lovewell</u>	<u>Medomak</u>	<u>Ondawa</u>
<u>Alluvial</u>	<u>Cornish</u>	<u>Charles</u>
<u>Podunk</u>	<u>Rumney</u>	<u>Saco</u>
<u>Suncook</u>	<u>Sunday</u>	<u>Winooski</u>

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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.

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

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

4
5 **River** - a free-flowing body of water including its associated floodplain wetlands from that
6 point at which it provides drainage for a watershed of twenty five (25) square miles to its
7 mouth.

8
9 **Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other
10 surfacing material constructed for or created by the repeated passage of motorized vehicles,
11 excluding a driveway as defined.

12
13 **Salt marsh** - Areas of coastal wetland (most often along coastal bays) that support salt
14 tolerant species, and where at average high tide during the growing season, the soil is
15 irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass
16 (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago
17 pondweed.

18
19 **Salt meadow** - Areas of a coastal wetland that support salt tolerant plant species bordering
20 the landward side of salt marshes or open coastal water, where the soil is saturated during the
21 growing season but which is rarely inundated by tidal water. Indigenous plant species include
22 salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in
23 fresher areas.

24
25 **Sapling** - a tree species that is less than two (2) inches in diameter at four and one half (4.5)
26 feet above ground level.

27
28 **Seedling** - a young tree species that is less than four and one half (4.5) feet in height above
29 ground level.

30
31 **Service drop** - any utility line extension which does not cross or run beneath any portion of a
32 water body provided that:

33
34 (1) in the case of electric service

35
36 (a) the placement of wires and/or the installation of utility poles is located entirely
37 upon the premises of the customer requesting service or upon a roadway right-of-
38 way; and

39
40 (b) the total length of the extension is less than one thousand (1,000) feet.

41
42 (2) in the case of telephone service

43
44 (a) the extension, regardless of length, will be made by the installation of telephone
45 wires to existing utility poles, or

46
47 (b) the extension requiring the installation of new utility poles or placement
48 underground is less than one thousand (1,000) feet in length.

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

4
5 **Shore frontage** - the length of a lot bordering on a water body or wetland measured in a
6 straight line between the intersections of the lot lines with the shoreline.

7
8 **Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal
9 distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal
10 distance, of the upland edge of a coastal wetland, including all areas affected by tidal action;
11 within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet,
12 horizontal distance, of the normal high-water line of a stream.

13
14 **Shoreline** – the normal high-water line, or upland edge of a freshwater or coastal wetland.

15
16 **Significant River Segments** - See Appendix A or 38 M.R.S.A. section 437.

17
18 **Skid Road or Skid Trail** - a route repeatedly used by forwarding machinery or animal to
19 haul or drag forest products from the stump to the yard or landing, the construction of which
20 requires minimal excavation.

21
22 **Slash** - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

23
24 **Storm-damaged tree** - a tree that has been uprooted, blown down, is lying on the ground, or
25 that remains standing and is damaged beyond the point of recovery as the result of a storm
26 event.

27
28 **Stream** - a free-flowing body of water from the outlet of a great pond or the confluence of
29 two (2) perennial streams as depicted on the most recent , highest resolution version of the
30 national hydrography dataset available from the United States Geological Survey on the
31 website of the United States Geological Survey or the national map to the point where the
32 stream becomes a river or where the stream meets the shoreland zone of another water body
33 or wetland. When a stream meets the shoreland zone of a water body or wetland and a
34 channel forms downstream of the water body or wetland as an outlet, that channel is also a
35 stream.

36
37 **Structure** – anything temporarily or permanently located, built, constructed or erected for the
38 support, shelter or enclosure of persons, animals, goods or property of any kind or anything
39 constructed or erected on or in the ground. The term includes structures temporarily or
40 permanently located, such as decks, patios, and satellite dishes. Structure does not include
41 fences; poles and wiring and other aerial equipment normally associated with service drops,
42 including guy wires and guy anchors; subsurface waste water disposal systems as defined in
43 Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32,
44 section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-
45 E, subsection 8.

46
47 **Substantial start** - completion of thirty (30) percent of a permitted structure or use measured
48 as a percentage of estimated total cost.

49
50 **Subsurface sewage disposal system** – any system designed to dispose of waste or waste
51 water on or beneath the surface of the earth; includes, but is not limited to: septic tanks;

1 disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any
2 other fixture, mechanism, or apparatus used for those purposes; does not include any
3 discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal
4 system, or any municipal or quasi-municipal sewer or waste water treatment system..
5

6 **Sustained slope** - a change in elevation where the referenced percent grade is substantially
7 maintained or exceeded throughout the measured area.
8

9 **Tidal waters** – all waters affected by tidal action during the highest annual tide.
10

11 **Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or
12 processing forest products. “Timber harvesting” does not include the cutting or removal of
13 vegetation within the shoreland zone when associated with any other land use activities. The
14 cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres
15 within the shoreland zone shall not be considered timber harvesting. Such cutting or removal
16 of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for*
17 *Activities Other Than Timber Harvesting.*
18

19 **Timber harvesting and related activities** - timber harvesting, the construction and
20 maintenance of roads used primarily for timber harvesting and other activities conducted to
21 facilitate timber harvesting.
22

23 **Tree** - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in
24 diameter at four and one half (4.5) feet above the ground, with a more or less definite crown,
25 and reaching a height of at least ten (10) feet at maturity.
26

27 **Tributary stream** – means a channel between defined banks created by the action of surface
28 water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed,
29 devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock;
30 and which is connected hydrologically with other water bodies. “Tributary stream” does not
31 include rills or gullies forming because of accelerated erosion in disturbed soils where the
32 natural vegetation cover has been removed by human activity.
33

34 This definition does not include the term "stream" as defined elsewhere in this Ordinance,
35 and only applies to that portion of the tributary stream located within the shoreland zone of
36 the receiving water body or wetland.
37

38 **Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a
39 coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant
40 vegetation and/or the highest annual tide level, including all areas affected by tidal action. For
41 purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated
42 for a duration sufficient to support wetland vegetation; or where the soils support the growth
43 of wetland vegetation, but such vegetation is dominated by woody stems that are six (6)
44 meters (approximately twenty (20) feet) tall or taller.
45

46 **Vegetation** - all live trees, shrubs, and other plants including without limitation, trees both
47 over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.
48

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

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater or coastal wetland.

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

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

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