

APPENDIX A
SHORELAND ZONING*

Section 1. Purposes.

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing; to protect freshwater 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
(Ord. No. C2009-1, 3-12-09)

Section 2. Authority.

This Ordinance has been prepared in accordance with the provisions of 38 M.R.S.A. §§ 435—449.
(Ord. No. C2009-1, 3-12-09)

Section 3. Applicability.

This Ordinance applies to all land areas within three hundred fifty (350) feet, horizontal distance, of the normal high-water

***Editor's note**—Ord. No. C2009-1, §§ 1—17, adopted March 12, 2009, amended App. A to read as herein set out in §§ 1—17. Prior to inclusion of said ordinance, App. A, §§ 1—17 pertained to similar subject matter and derived from an ordinance adopted June 3, 1976; Ord. No. C-88-1, adopted June 2, 1988; Ord. No. C91-16, §§ 1—17, adopted Nov. 7, 1991; Ord. No. C94-2, adopted May 12, 1994; Ord. No. C95-5, adopted June 8, 1995; Ord. No. C96-17, adopted Dec. 12, 1996; Ord. No. C99-4, adopted May 13, 1999; Ord. No. C2002-17, adopted June 13, 2002; Ord. No. C2003-6, adopted Feb. 13, 2003; and Ord. No. C2003-10, adopted Mar. 13, 2003.

Cross references—Domestic animals (livestock) within the shoreland protection zone, § 3-43; flood prevention and protection, Ch. 4; flood hazard reduction standards, § 4-106 et seq.; housing, Ch. 6; Ch. 7; motor vehicles and traffic, Ch. 9; solid waste, Ch. 10; municipal landfill, § 10-26 et seq.; hazardous waste restrictions and regulations, § 10-51 et seq.

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line of Big Lake Wassookeag; within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of Little Lake Wassookeag; and within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or, within two-hundred-fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland designated moderate to high value by maps dated August 2008, Department of Inland Fisheries and Wildlife; and within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream as defined in section 17 of this Ordinance and Gould and Kaeton Pond or upland edge of a freshwater wetland depicted on the official shoreland zoning map. 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 waterbody or within a wetland.
(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-16, 9-8-15)

Section 4. Effective date and repeal of formerly adopted ordinance.

A. This Ordinance, which was adopted by the municipal legislative body on March 12, 2009, and whose effective date is April 12, 2009, shall not be effective unless approved by the commissioner of the Department of Environmental Protection. A certified copy of the ordinance, attested and signed by the municipal clerk, shall be forwarded to the commissioner for approval. If the commissioner fails to act on this Ordinance within forty-five (45) days of his/her receipt of the ordinance, it shall be automatically approved. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on November 7, 1991, is hereby repealed.

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

B. *Repeal of municipal timber harvesting regulation.* The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. § 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards

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in the shoreland zone. On the date established under 38 M.R.S.A § 438-A(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, column 3 (forest management activities except for timber harvesting) and column 4 (timber harvesting);
- Section 15(O) in its entirety; and
- Section 17. Definitions, the definitions of "forest management activities" and "residual basal area".

NOTE: The statutory date established under 38 M.R.S.A. § 438-A(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the commissioner of conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992—2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards". 38 M.R.S.A. § 438-A(5) further provides that "the commissioner of conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards".
(Ord. No. C2009-1, 3-12-09)

Section 5. Availability.

A certified copy of this Ordinance shall be filed with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
(Ord. No. C2009-1, 3-12-09)

Section 6. Severability.

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.
(Ord. No. C2009-1, 3-12-09)

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Section 7. Conflicts with other ordinances.

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

(Ord. No. C2009-1, 3-12-09)

Section 8. Amendments.

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

(Ord. No. C2009-1, 3-12-09)

Section 9. Districts and zoning map.

A. *Official shoreland zoning map.* The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the official shoreland zoning map(s) which is (are) made a part of this Ordinance:

1. Resource protection;
2. Limited residential;
3. Limited commercial;
4. General development;
5. Stream protection.

B. *Scale of map.* The official shoreland zoning map shall be drawn at a scale of not less than: One (1) inch = two thousand (2,000) feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

NOTE: Because of map scale or other reason, a municipality may have a series of maps depicting its shoreland zone.

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C. *Certification of official shoreland zoning map.* The official shoreland zoning map shall be certified by the attested signature of the municipal office. In the event the municipality does not have a municipal office, the municipal clerk shall be the custodian of the map.

D. *Changes to the official shoreland zoning map.* If amendments, in accordance with section 8, are made in the district boundaries or other matter portrayed on the official shoreland zoning map, such changes shall be made on the official shoreland zoning map within thirty (30) days after the amendment has been approved by the commissioner of the Department of Environmental Protection.
(Ord. No. C2009-1, 3-12-09)

Section 10. Interpretation of district boundaries.

Unless otherwise set forth on the official shoreland zoning map, district boundary lines are property lines, the centerlines of streets, roads, and rights-of-way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the board of appeals shall be the final authority as to location.
(Ord. No. C2009-1, 3-12-09)

Section 11. Land use requirements.

Except as hereinafter specified, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.
(Ord. No. C2009-1, 3-12-09)

Section 12. Nonconformance.

A. *Purpose.* It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the

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requirements set forth in section 12. Except as otherwise provided in this Ordinance, a nonconforming condition shall not be permitted to become more nonconforming.

B. *General.*

1. *Transfer of ownership.* Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.
2. *Repair and maintenance.* This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See section 17 for the definitions of nonconforming structures, nonconforming uses and nonconforming lots.

C. *Nonconforming structures.*

1. *Expansions.* All new structures must meet the shoreline setback requirements contained in subsection 15.B. A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with the subsections of subsection 12.C.1.
 - a. Expansion of an accessory structure that is located closer to the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the waterbody, tributary stream, or wetland setback requirement.
 - b. Expansion of any portion of a structure within twenty-five (25) feet of the normal high-water line

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of a waterbody, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the waterbody, tributary stream, or wetland setback requirement.

- c. Notwithstanding subsection 12.C.1.b., if a nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of this Ordinance are met and the expansion is not prohibited by subsection 12.C.1. above:
 1. The maximum total footprint of the principal structure may not be expanded to an area greater than eight hundred (800) square feet or thirty (30) per cent larger than the footprint that existed on January 1, 1989, whichever is greater.
 2. The maximum height of the principal structure may not be made greater than fifteen (15) feet or the height of the existing structure, whichever is greater.
- d. All other nonconforming principal and accessory structures that do not meet the waterbody, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met and the expansion is not prohibited by subsection 12.C.1. and subsections a, b, or c above:
 1. For structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to an area greater than one thousand (1,000) square feet or thirty (30) per cent larger than the footprint that existed on January 1, 1989, whichever is greater.

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2. For structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland, the maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater.
 3. For structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum combined total footprint of all structures may not be expanded to an area greater than one thousand five hundred (1,500) square feet or thirty (30) per cent larger than the footprint that existed on January 1, 1989, whichever is greater.
 4. For structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater.
 5. For structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of subsections 12.C.1.d.1. and 2.
- e. In addition to the limitations in subsection 12.C.1. and subsections a, b, and c above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than two hundred fifty (250) feet from the normal high-water line of a waterbody or the upland edge

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of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

1. The maximum combined total footprint of all structures may not be expanded to an area greater than one thousand five hundred (1,500) square feet or thirty (30) per cent larger than the footprint that existed at the time the resource protection district was established on the lot, whichever is greater.
 2. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater.
 3. Any portion of the structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, must meet the footprint and height requirements of subsections 12.C.1.d.3. and 4.
 4. Any portion of the structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of subsections 12.C.1.d.1. and 2.
- (f) Any approved plan for expansion of a non-conforming structure under subsection 12.C.1. must be recorded by the applicant in the registry of deeds of the county in which the property is located within ninety (90) days of the approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary, and evidence of approval by the municipal permitting authority.
2. *Foundations.* Whenever a new, expanded, or replacement foundation is constructed under a nonconforming

structure, the structure and new foundation must be placed such that the shoreline setback requirement is met to the greatest practical extent as determined by the planning board or its designee, basing its decision on the criteria specified in subsection 12.C.3. below.

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

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

- a. Trees removed in order to relocate a structure must be replanted with at least one (1) native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one (1) species of tree shall make up more than fifty (50) per cent of

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the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

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

- b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
4. *Reconstruction or replacement.* Any nonconforming structure which is located less than the required setback from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland and which is removed, damaged, or destroyed regardless of cause, by any per cent of the market value of the structure before such damage, destruction, or removal, may be reconstructed or replaced; provided that, a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the waterbody, tributary stream, or wetland setback requirement to the greatest practical extent as determined by the planning board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to subsection 12.C.1. above, as determined by the nonconforming floor area and volume of the reconstructed or replaced structure at its new location.

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

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the planning board shall consider, in addition to the criteria in subsection 12.C.3. above, the physical condition and type of foundation present, if any.

5. *Change of use of a nonconforming structure.* The use of a nonconforming structure may not be changed to another use unless the planning board after receiving a written application determines that the new use will have no greater adverse impact on the waterbody, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

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

D. *Nonconforming uses.*

1. *Expansions.* Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the planning board, be expanded within existing residential structures or within expansions of such structures as allowed in subsection 12.C.3.a. above.

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2. *Resumption of commercial use.* A lot in the limited commercial shoreland zone or the general development district may be reestablished with application, review, and approval by the CEO. Conditions may be required based on findings in subsection 16.D. and a public hearing may be held in the consideration of this application. If a commercial use is established or reestablished on a lot served by public sewer and water, any pre-existing residential use will not be considered a limiting factor.
3. *Resumption of other uses in other districts.* A lot, building, or structure in or on which a nonconforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the planning board may, for good cause shown by the applicant, grant up to a one-year extension to that time period.
4. *In all districts.* 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-year period.
5. *Change of use.* An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the planning board. The determination of no greater adverse impact shall be made according to criteria listed in subsection 12.C.5. above.

E. *Nonconforming lots.*

1. *Nonconforming lots.* A nonconforming 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.

Variations relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the board of appeals.

2. *Contiguous built lots.* If two (2) 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 nonconforming lots may be conveyed separately or together, provided that the state minimum lot size law and State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

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

This provision shall not apply to two (2) or more contiguous lots, at least one (1) of which is nonconforming, owned by the same person or persons on November 7, 1991, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- a. Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or

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

(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-15, 8-25-15)

Section 13. Establishment of districts.

A. *Resource protection district.* The resource protection district includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the stream protection district, except that areas which are currently developed and areas which meet the criteria for the limited commercial, or general development districts need not be included within the resource protection district.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of designated freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated moderate or high value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a geographic information system (GIS) data layer maintained by either MDIF&W or the department as of August 1, 2008. For the purposes of this subsection wetlands associated with great ponds and rivers shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high-water. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.
2. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year

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floodplain as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

3. Areas of two (2) or more contiguous acres of sustained slopes of twenty (20) per cent or greater.
 - a. By petition to the planning board, and amendment to this ordinance, the resource protection district may apply to the shoreland zone of a property only in areas described by subsection 13.A.3. above; while elsewhere in the shoreland zone of the property, the district may be designated as otherwise provided by this ordinance. Such areas shall be described in this ordinance, below, with the date of amendment.

Map 8, Lot 16: The portion of the shoreland zone not described by subsection 13.A.3. shall be designated limited commercial district as of October 25, 2012.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a waterbody during normal spring high water.
5. Land areas along rivers subject to severe bank erosion, undercutting or river bed movement.

B. *Limited residential district.* The limited residential district includes those areas suitable for residential and recreational development. It includes areas other than those in the resource protection district, or stream protection district, and areas which are used less intensively than those in the limited commercial district, or the general development district. This also includes areas within three hundred fifty (350) feet, horizontal distance of the normal high-water line of Lake Wassookeag.

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C. *Limited commercial district.* The limited commercial district includes areas of mixed, light commercial and residential uses, exclusive of the stream protection district, which should not be developed as intensively as the general development district. This district includes areas of two (2) or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited. This also includes areas within three hundred fifty (350) feet horizontal distance of the normal high-water line of Lake Wassookeag.

D. *General development district.* The general development district includes the following types of areas:

1. Areas of two (2) or more contiguous acres devoted to commercial, industrial, or intensive recreational activities, or a mix of such activities including, but not limited to, the following:
 - a. Areas devoted to manufacturing, fabricating, or other industrial activities;
 - b. Areas devoted to wholesaling, warehousing, retail trade, and service activities, or other commercial activities; and
 - c. Areas devoted to intensive recreational development and activities, such as, but not limited to, amusement parks, race tracks, and fairgrounds.
2. Areas otherwise discernable as having patterns of intensive commercial, industrial, or recreational uses. Portions of the general development district may also include residential development. However, no area shall be designated as a general development district based solely on residential use. In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a general development district shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established general development districts or expansions in area of existing general development districts adjacent to great ponds classified GPA, and adjacent to rivers which flow to great ponds classified GPA.

E. *Stream protection district.* The stream protection district includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas, the shoreland zone, of the normal high-water line of a great pond, or river, or within, the shoreland zone, of the upland edge of a freshwater wetland, or so depicted on the Official Shoreland Zoning Map or within three hundred fifty (350) feet of the normal high-water line of Big Lake Wassookeag or within two hundred fifty (250) feet of the normal high-water line of Little Lake Wassookeag.

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

(Ord. No. C2009-1, 3-12-09; Ord. No. C2012-14, 8-9-12; Ord. No. C2015-16, 9-8-15)

Section 14. Table of land uses.

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone , shall conform with all of the applicable land use standards in section 15. The district designation for a particular site shall be determined from the official shoreland zoning map.

Key to Table 1:

Yes - Allowed (No permit required but the use must comply with all applicable land use standards.)

No - Prohibited.

PB - Allowed with permit issued by the planning board.

CEO - Allowed with permit issued by the code enforcement officer.

LPI Allowed with permit issued by the local plumbing inspector.

Abbreviations:

RP - Resource protection.

LR - Limited residential.

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- LC - Limited commercial.
- GD - General development.
- SP - Stream protection.

TABLE 1. LAND USES IN THE SHORELAND ZONE

<i>LAND USES</i>	<i>DISTRICT</i>				
	<i>SP</i>	<i>RP</i>	<i>LR</i>	<i>LC</i>	<i>GD</i>
1. Nonintensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO ¹	yes	yes	yes
5. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO ¹	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes ²	yes ²	yes ²	yes ²
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	PB	yes
14. Aquaculture	PB	PB	PB	yes	yes
15. Principal structures and uses					
A. One- and two-family residential	PB	PB ⁹	PB	PB	PB
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no	no	CEO	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	no	PB	PB
F. Small nonresidential facilities for educational, scientific or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	CEO	CEO	CEO	CEO	CEO
b. Permanent	PB	PB	PB	PB	PB

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<i>LAND USES</i>	<i>DISTRICT</i>				
	<i>SP</i>	<i>RP</i>	<i>LR</i>	<i>LC</i>	<i>GD</i>
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home occupations	PB	no	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB ⁶	PB ⁶	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹⁰	yes ¹⁰	yes ¹⁰
B. Nonroadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO
C. Nonroadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no	PB	PB	PB
26. Road and driveway construction	PB	no ⁸	PB	PB	PB
27. Parking facilities	no	no	PB	PB	PB
28. Marinas	no	no	no	no	no
29. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes
30. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO
31. Signs	yes	yes	yes	yes	yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

Notes for Table:

- ¹ In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards.
- ² Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.
- ³ In RP not permitted in areas so designated because of wildlife value.
- ⁴ Provided that a variance from the setback requirement is obtained from the board of appeals.

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⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only.

⁶ See further restrictions in subsection 15.L.2.

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

⁸ Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.

⁹ Single-family residential structures may be allowed by special exception only according to the provisions of subsection 16.E., Special Exceptions. Two-family residential structures are prohibited.

¹⁰ Permit not required, but must file a written "notice of intent to construct" with CEO.

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

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

(Ord. No. C2009-1, 3-12-09)

Section 15. Land use standards.

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

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A. *Minimum lot standards (Refer to Section 12.D to clarify pre-existing uses allowed).*

1. *Minimum lot standards with public sewer and water.*

	<i>Minimum Lot Area (sq. ft.)</i>	<i>Minimum Shore Frontage (ft.)</i>
Residential per dwelling unit	40,000	200
Governmental, institutional, commercial or industrial per principal structure	20,000	100
Public and private recreational facilities	40,000	200

- a. Land below the normal high-water line of a waterbody or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- b. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- c. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a waterbody or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- d. If more than one (1) residential dwelling unit or more than one (1) principal governmental, institutional, commercial structure, or use, or combination thereof, is constructed or established, on a single parcel, all dimensional requirements, including lot size and frontage, shall be met for each additional dwelling unit or principal structure or use.

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2. *Minimum lot standards with private sewer and water.*

	<i>Minimum Lot Area (sq. ft.)</i>	<i>Minimum Shore Frontage (ft.)</i>
Residential per dwelling unit	40,000	200
Governmental, institutional, commercial or industrial per principal structure	60,000	300
Public and private recreational facilities	40,000	200

B. *Principal and accessory structures.*

1. All new principal and accessory structures shall be set back at least one hundred (100) feet horizontal distance from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other waterbodies, tributary streams, or the upland edge of a wetland, except that in the general development district the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance.

In addition:

- a. The waterbody or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- b. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required waterbody, 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)

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square feet in area, nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

2. Principal or accessory structures and expansions of existing structures which are permitted in the resource protection, limited residential, limited commercial, and stream protection districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas and similar structures having no floor area.
3. The lowest floor elevation or openings of all buildings and structures including basement shall be elevated at least one (1) foot above the elevation of the 100-year flood, the

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flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the floodplain management ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

4. The total footprint area of all structures, parking lots and other nonvegetated surfaces, within the shoreland zone shall not exceed twenty (20) per cent of the lot or a portion there of, located within the shoreland zone, including land area previously developed.
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 twenty-five (25) feet, horizontal distance, from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than twenty-four (24) inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

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- (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 twenty-five (25) feet, horizontal distance, of the normal high-water line of a waterbody, 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 groundcover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in subsection 15.P.2.a., may traverse the buffer;
6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the code enforcement officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a waterbody or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act; 38 M.R.S.A. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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C. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line of a waterbody or within a wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area. A temporary pier, dock or wharf shall not be wider than six (6) feet for noncommercial uses.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a waterbody or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a waterbody or within a wetland shall be converted to residential dwelling units in any district.
7. Except in the general development district, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a waterbody or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
8. Wood preservatives disapproved by the Environmental Protection Agency of the United States shall not be used in the construction of any piers, docks or any other structure coming into direct contact with lakes or streams zoned for stream protection.

NOTE: New permanent structures and expansions thereof, projecting into or over waterbodies shall require a permit

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from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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

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

E. *Individual private campsites*. Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One (1) campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other waterbodies, tributary streams, or the upland edge of a wetland.

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3. Only one (1) recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a resource protection district shall be limited to one thousand (1,000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local plumbing inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and industrial uses.

1. No hazardous materials may be stored in the shoreland areas adjacent to great ponds, and rivers and streams which flow to great ponds, except in quantities suitable for residential uses.
2. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:
 - a. Auto washing facilities;
 - b. Auto or other vehicle service and/or repair operations, including body shops;
 - c. Chemical and bacteriological laboratories;

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- d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms;
 - e. Commercial painting, wood preserving and furniture stripping;
 - f. Dry cleaning establishments;
 - g. Electronic circuit assembly;
 - h. Laundromats, unless connected to a sanitary sewer;
 - i. Metal plating, finishing or polishing;
 - j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas;
 - k. Photographic processing;
 - l. Printing;
 - m. Extractive activities;
 - n. Automobile graveyards/junkyards.
3. The use of herbicides and pesticides is prohibited from right-of-way clearing, specifically including highways, railroads, and public utility rights-of-way or easements.

G. Parking areas.

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than the general development district may be reduced to no less than fifty (50) feet horizontal distance from the shoreline or tributary stream. If the planning board finds that no other reasonable alternative exists further than the shoreline or tributary stream.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a waterbody, tributary stream or wetland and where feasible, to retain all runoff on-site.

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3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. *Typical parking space:* Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b. *Internal travel aisles:* Approximately twenty (20) feet wide.

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

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

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

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

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

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driveway at intervals no greater than indicated in the following table:

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

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) per cent or less.
 - c. On road sections having slopes greater than ten (10) per cent, ditch relief culverts shall be placed across the road at approximately a thirty-degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- I. *Signs.* The following provisions shall govern the use of signs in the resource protection, stream protection, limited residential and limited commercial districts:
- 1. Signs relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.
 - 2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.

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3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
 4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
 5. Signs relating to public safety shall be allowed without restriction.
 6. No sign shall extend higher than twenty (20) feet above the ground.
 7. Signs may be illuminated only by shielded, non-flashing lights.
- J. *Stormwater runoff.*
1. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.
 2. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.
- K. *Septic waste disposal.*
1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (rules): a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a waterbody or the upland edge of a wetland; and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.
- NOTE: The rules, among other requirements, include:
- a. The minimum setback for new subsurface sewage disposal systems, shall be no less than one hundred

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(100) horizontal feet from the normal high-water line of a perennial waterbody. The minimum setback distances from waterbodies for new subsurface sewage disposal systems shall not be reduced by variance.

- b. Replacement systems shall meet the standards for replacement systems as contained in the rules.
2. All applications for expansions of existing structures within the shoreland zone shall require for approval proof that the existing or proposed septic is in conformance with current Maine State Plumbing Code and requirements. The planning board may require evidence of review and approval by the Dexter local plumbing inspector prior to the granting of approval to such an application.

L. *Essential services.*

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

M. *Mineral exploration and extraction.* Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the code enforcement officer shall be required for mineral exploration which exceeds

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the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the planning board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of subsection 15.M.4. below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other waterbody, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve-month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two and one-half to one (2¹/₂:1) slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Addi-

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tional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

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

N. *Agriculture.*

1. All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201—4209).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance of other waterbodies, tributary streams or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a soil and water conservation plan to be filed with the planning board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance from other waterbodies; nor within twenty-five (25) feet horizontal distance of tributary streams and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

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5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other waterbodies, nor within twenty-five (25) feet horizontal distance of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a conservation plan.

O. *Timber harvesting.*

1. Within the strip of land extending one hundred (100) feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
2. Except in areas as described in subsection O.1. above, timber harvesting shall conform with the following provisions:
 - a. Selective cutting of no more than forty (40) per cent of the total volume of trees four (4) inches or more in diameter measured at four and one-half (4½) feet above ground level on any lot in any ten-year period is permitted. In addition:
 - i. Within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance of the normal high-water line of other waterbodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing groundcover, shall be maintained.
 - ii. At distances greater than one hundred (100) feet, horizontal distance, of a great pond clas-

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sified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet horizontal distance of the normal high-water line of other waterbodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

- b. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a waterbody. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a waterbody shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - i. Surface waters are frozen; and
 - ii. The activity will not result in any ground disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the waterbody or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

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- f. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least one hundred (100) feet in width for slopes up to ten (10) per cent shall be retained between the exposed mineral soil and the normal high-water line of a waterbody or upland edge of a wetland. For each ten (10) per cent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this subsection apply only to a face sloping toward the waterbody or wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a waterbody or upland edge of a wetland.

P. Clearing or removal of vegetation for activities other than timber harvesting.

1. In a resource protection district abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

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

2. Except in areas as described in subsection P.1., above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other waterbody, 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 two hundred fifty (250) square feet in the forest canopy

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

- 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 subsection 15.P.2.b., a "well-distributed stand of trees and other vegetation" 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 twenty-four (24) or more in any twenty-five-foot by fifty-foot rectangular (one thousand two hundred fifty (1,250) square feet) area as determined by the following rating system:

<i>Diameter of Tree at 4¹/₂ feet Above Ground Level (inches)</i>	<i>Points</i>
2—<4 in.	1
4—<8 in.	2
8—<12 in.	4
12 in. or greater	8

Adjacent to other waterbodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score, sixteen (16) per twenty-five-foot by fifty-foot rectangular area.

NOTE: As an example, adjacent to a great pond, if a twenty-five-foot by fifty-foot plot contains four (4) trees between two (2) and four (4) inches in diameter, two (2) trees between four (4) and eight (8) inches in diameter, three (3) trees between eight (8)

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and twelve (12) inches in diameter, and two (2) trees over twelve (12) inches in diameter, the rating score is:

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

Thus, the twenty-five-foot by fifty-foot plot contains trees worth thirty-six (36) points. Trees totaling twelve (12) points ($36 \div 3 = 12$) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

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

For the purposes of subsection 15.P.2.b. "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other groundcover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one-half (4½) feet above ground level for each twenty-five-foot by fifty-foot rectangle area. If five (5) saplings do not

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exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty (40) per cent of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4½) feet above ground level may be removed in any ten-year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other groundcover 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 subsections 15.P.2. and 15.P.2.a., above.
- d. Pruning of tree branches, on the bottom one-third of the tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

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

- 3. At distances greater than 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 waterbody, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than forty (40) per cent of the volume of trees four (4) inches or more in diameter, measured four and

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one-half (4^{1/2}) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) per cent 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, twenty-five (25) per cent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the general development district.

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 subsection 15.P.

Q. *Erosion and sedimentation control.*

1. All activities which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or rip-rap.
2. All activities involving earthmoving or disturbing of soils shall be limited to the period between May 15 and November 1.

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

tion shall be responsible for management of erosion and sedimentation control practices at the site. This person shall be present at the site each day these activities occur for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until installation of erosion and sedimentation control measures that will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.

- b. Include on the required plan or permit application, the name and certification number of the person who will oversee activities causing or resulting in soil disturbance.

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

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

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shall require buffered areas as a condition of approval of applications for principal structures on otherwise conforming lots not substantially developed on the effective date of this Ordinance.

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

(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-16, 9-8-15)

Section 16. Administration.

A. *Administering bodies and agents.*

1. *Code enforcement officer.* A code enforcement officer shall be appointed or reappointed annually by July 1st.
2. *Board of appeals.* A board of appeals shall be created in accordance with the provisions of 30-A M.R.S.A. § 2691.
3. *Planning board.* A planning board shall be created in accordance with the provisions of state law.

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

- a. A permit is not required for the replacement of an existing road culvert as long as:
 1. The replacement culvert is not more than twenty-five (25) per cent longer than the culvert being replaced;

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- 2. The replacement culvert is not longer than seventy-five (75) feet; and
- 3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- b. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the state historic preservation officer’s Level 1 or Level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- c. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. *Permit application.*

- 1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in section 14.
- 2. All applications shall be accompanied by the appropriate fee, according to the following table:

Principal structures (home, camp, or mobile home placement)	\$75.00
Accessory structures (garages, sheds, etc.)	\$35.00
Additions to existing structures	\$35.00
Commercial activities	\$50.00
General remodeling	\$20.00
Commercial remodeling	\$50.00
Demolition.	\$20.00
Occupancy permit without a building permit (by request).	\$50.00

Subsequent or after-the-fact application fees are doubled.

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3. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or, by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
4. All applications shall be dated, and the code enforcement officer or planning board, as appropriate, shall note upon each application the date and time of its receipt.
5. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

D. *Procedure for administering permits.* Within thirty-five (35) days of the date of receiving a written application, the planning board or code enforcement officer, as indicated in section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The planning board or the code enforcement officer, as appropriate shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. However, if the planning board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the planning board's agenda following receipt of the

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completed application, or within thirty-five (35) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

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

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

E. *Expiration of permit.* Permits shall expire one (1) year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a

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substantial start is made within one (1) year of the issuance of the permit, the applicant shall have one (1) additional year to complete the project, at which time the permit shall expire.

F. *Special exceptions.* In addition to the criteria specified in subsection 16.D. above, excepting structure setback requirements, the planning board may approve a permit for a single-family residential structure in a resource protection district provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the resource protection district, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the resource protection district.
3. All proposed buildings, sewage disposal systems and other improvements are:
 - a. Located on natural ground slopes of less than twenty (20) per cent; and
 - b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one (1) foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency maps, it is deemed to be half the width of the 100-year floodplain.
4. The total ground floor area including cantilevered or similar overhanging extensions, of all principal and ac-

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cessory structures is limited to a maximum of one thousand five hundred (1,500) square feet. This limitation shall not be altered by variance.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a waterbody, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet, horizontal distance. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate value and high value wetlands.

G. *Installation of public utility service.* No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

H. *Appeals.*

1. *Powers and duties of the board of appeals.* The board of appeals shall have the following powers:
 - a. *Administrative appeals:* To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, planning board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the code enforcement officer in his or her review of and action on a permit application under this Ordinance. Any

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order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is appealable to the board of appeals.

- b. *Variance appeals*: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
2. *Variance appeals*. Variances may be granted only under the following conditions:
 - a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, per cent of lot coverage and set-back requirements.
 - b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - c. The board shall not grant a variance unless it finds that:
 - (1) The proposed structure or use would meet the provisions of section 15 except for the specific provision which has created the nonconformity and from which relief is sought; and
 - (2) The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean:

 - (i) That the land in question cannot yield a reasonable return unless a variance is granted;
 - (ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (iii) That the granting of a variance will not alter the essential character of the locality; and
 - (iv) That the hardship is not the result of action taken by the applicant or a prior owner.

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3. Notwithstanding subsection 16.H.2.c.(2) above, the board of appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
 4. The board of appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
 5. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the board of appeals. Any comments received from the commissioner prior to the action by the board of appeals shall be made part of the record and shall be taken into consideration by the board of appeals.
3. *Administrative appeals.* When the board of appeals reviews a decision of the code enforcement officer, the board

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

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.

4. *Appeal procedure.*

a. *Making an appeal.*

- (1) An administrative or variance appeal may be taken to the board of appeals by an aggrieved party from any decision of the code enforcement officer or the planning board. Such an appeal shall be taken within thirty (30) days of the date of the official written decision appealed from, and not otherwise, except that the board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Applications for appeals shall be made by filing with the board of appeals a written notice of appeal which includes:
 - (i) A concise written statement indicating what relief is requested and why the appeal or variance it should be granted.

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- (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - (3) Upon receiving an application for an administrative appeal or a variance, the code enforcement officer or planning board, as appropriate, shall transmit to the board of appeals all of the papers constituting the record of the decision appealed from.
 - (4) The board of appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete application, unless the time period is extended by the parties.
- b. *Decision by board of appeals.*
- (1) A majority of the full voting membership of the board shall constitute a quorum for the purpose of deciding an appeal.
 - (2) The person filing the appeal shall have the burden of proof.
 - (3) The board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (4) The board of appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the board. The board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the board's decision. Copies of written decisions of the board of appeals shall be given to the planning board, code enforcement officer, and the municipal officers.
 - (5) Appeal to superior court. Except as provided by 30-AM.R.S.A. § 2691(3)(F), any aggrieved party

who participated as a party during the proceedings before the board of appeals may take an appeal to superior court in accordance with state laws within forty-five (45) days from the date of any decision of the board of appeals.

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

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

I. *Enforcement.*

1. *Nuisances.* Any violation of this Ordinance shall be deemed to be a nuisance.
2. *Code enforcement officer.*
 - a. It shall be the duty of the code enforcement officer to enforce the provisions of this Ordinance. If the code enforcement officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and

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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. On a biennial basis, a summary of this record shall be submitted to the director of the bureau of land and water quality within the Department of Environmental Protection.
3. *Legal actions.* When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the code enforcement officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized

municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

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

NOTE: Current penalties include fines of not less than one hundred dollars (\$100.00), nor more than two thousand five hundred dollars (\$2,500.00) per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to five thousand dollars (\$5,000.00) (38 M.R.S.A. § 4452).

(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-9, 6-11-15)

Section 17. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

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

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

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

Aquaculture: The growing or propagation of harvestable freshwater, estuarine or marine plant or animal species.

Automobile graveyard: Automobile graveyard means a yard, field, or other outdoor area used to store three (3) or more unregistered or uninspected motor vehicles, as defined in 29-A M.R.S.A. § 101(42), or parts of the vehicles. Automobile graveyard includes an area used for automobile dismantling, salvage, and recycling operations.

Basal area: The area of cross-section of a tree stem at four and one-half (4½) feet above ground level and inclusive of bark.

Basement: Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty (50) per cent of its volume below the existing ground level.

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

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

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

Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Commercial use: The use of lands, buildings, or structures, other than a home occupation, defined below, the intent and

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result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

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

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

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two (2) single-family dwellings or one (1) two-family dwelling or less.

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

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

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

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Expansion of use: The addition of one (1) or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Extractive activities: The excavation, processing, or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation, processing or storage of material incidental to and at the site of approved construction of buildings, driveways or parking areas;
2. The excavation, processing or storage of material incidental to any at the site of construction or repair of streets; and
3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one-year period.

Family: One (1) or more persons occupying a premises and living as a single housekeeping unit.

Floodway: The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

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

Footprint: The entire area of ground covered by the structures on a premises, including 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.

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Forested wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall 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 (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water-body, excluding any river, stream, or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Functionally water-dependent uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot 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 cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

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Great pond: Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area

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

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

Home occupation: A business, trade, occupation or profession conducted for gain and support, in the residential dwelling unit which is the residence* of the owner/operator of the occupation, and which:

1. Is carried on entirely within the residential dwelling unit or in an approved accessory structure located on the same property;
2. Is clearly secondary to the use of the dwelling for residential purposes and which does not change the character or appearance thereof;
3. Is clearly incidental to and compatible with the surrounding residential uses;
4. Employs no more than two (2) persons other than family members residing in the dwelling unit; and
5. Has no exterior display or storage of goods or stock in trade other than products entirely produced within the residential dwelling unit. (By way of illustration and not of limitation, this shall include: Foods such as breads, cookies or preserves; dressmaking; rugs; quilts; bird-houses; fishing flies and lures.)

The following are examples of permitted uses under this definition:

- (1) The office of a doctor, lawyer, teacher or musician;
- (2) The office of a real estate broker, a salesman or an insurance agent;

*For the purposes of the definition of a home occupation, a residence is defined as a dwelling unit occupied for more than seven (7) months annually.

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- (3) A woodworking shop;
- (4) A bed and breakfast, inn, or other similar lodging place, as long as the number of guest bedrooms is three (3) or less.

The following uses are specifically prohibited as a "home occupation":

- (1) Automobile rentals, sales, repair or body repair;
- (2) Small engine repair;
- (3) Welding or other similar activities;
- (4) Any occupation which, after planning board deliberation, is deemed not to be in the best interests of the health or safety of the inhabitants of Dexter or the conservation and preservation of the healthful conditions of the waterbodies and shoreland areas in Dexter.

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

Individual private campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by only one (1) group not to exceed ten (10)

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individuals and which involves site improvements which may include, but not be limited to, gravel pads, parking areas, fire places or tent platforms.

Industrial: The assembling, fabricating, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Junkyard: A "junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

- A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;
- B. Discarded, scrap and junked lumber; and
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

Lot area: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a waterbody or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

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

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

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

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

Minimum lot width: The closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

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

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

Nonconforming structure: A structure which does not meet any one (1) or more of the following dimensional requirements: Setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

Normal high-water line: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

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

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

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

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

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

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

1. Alluvial/Cornish/Charles.
2. Fryeburg/Hadley/Limerick.
3. Lovewell/Medomak/Ondawa.
4. Podunk/Rumney/Saco.
5. Suncook/Sunday/Winooski.

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

Recreational vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one (1) or more persons, and which may include, a pick-up camper, travel trailer, tent trailer, camp trailer

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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 (1) family. The term shall include mobile homes, but not recreational vehicles.

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

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

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

Service drop: Any utility line extension which does not cross or run beneath any portion of a waterbody provided that:

1. In the case of electric service:
 - a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. The total length of the extension is less than one thousand (1,000) feet.

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2. In the case of telephone service:
 - a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
 - b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback: The nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

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

Shoreland zone: The land area located within three hundred fifty (350) feet, horizontal distance, of Lake Wassookeag and within two hundred fifty (250) feet, horizontal distance of the normal high-water line of any great pond, or river; within two hundred fifty (250) feet of the upland edge of a moderate to high value freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream or freshwater wetland as depicted on the official shoreland zoning map.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 Minute Series Topographic Map, or if not available, a fifteen-minute series topographic map, to the point where the body of water becomes a river or flows to another waterbody or wetland within the shoreland area. For the purposes of this Ordinance, streams shall also include the outlets of all wetlands and all streams flowing into Lake Wassookeag as identified on the official shoreland zoning district map.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

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Substantial start: Completion of thirty (30) per cent of a permitted structure or use measured as a percentage of estimated total cost.

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

Sustained slope: A change in elevation where the referenced per cent grade is substantially maintained or exceeded throughout the measured area.

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

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

Upland edge: The boundary between upland and wetland.

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Vegetation: All live trees, shrubs, groundcover and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and one-half (4½) above ground level.

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

Waterbody: Any great pond, river or stream.

Water crossing: Any project extending from one (1) bank to the opposite bank of a river or stream, whether under, through or over the watercourse. Such projects include, but may not be limited to, roads, fords, bridges, culverts, water lines, sewer lines, and cables, as well as maintenance work on these crossings.

Wetland: A freshwater wetland.

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

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