SHORELAND

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SHORELAND AREAS

1. Purposes

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

2. Authority

This Section has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

3. Applicability

This Section applies to all land areas within 250 feet, horizontal distance, of the
A. normal high-water line of any great pond,
B. upland edge of a coastal wetland, including all areas affected by tidal action, or
C. upland edge of a freshwater wetland, and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, as well as those areas designated as Resource Protection Districts on the Proposed Land Use Map in Appendix A.

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

NOTE: Coastal wetlands, by definition, include all areas affected by tidal action, not just those areas where salt marshes and salt meadows exist. Cobble and sand beaches, mudflats, and rocky ledges, below the highest annual tide are all considered to be coastal wetlands.

4. Effective Date of Ordinance and Ordinance Amendments

This ordinance, which was adopted by the municipal legislative body on XXXX #$, 20XX (to be determined), shall not be effective unless approved by the Commissioner of the Maine Department of Environmental Protection. A certified copy of the ordinance, or
the ordinance amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this ordinance or ordinance amendment, within 45 days of receipt of the ordinance or ordinance amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty five day period shall be governed by the terms of this ordinance, or ordinance amendment, if the ordinance or ordinance amendment, is approved by the Commissioner.

5. **Availability** – A certified copy of this ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the general 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.

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.

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

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 45 days of 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 Commissioner.

9. **Districts and Zoning Map**

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

   (1) Resource Protection
   (2) Shoreland Limited Residential
   (3) Limited Commercial, aka Roadside Commercial
   (4) General Development I, aka Village, Residential Growth
   (5) General Development II, aka Roadside Residential
   (6) Commercial Fisheries/Maritime Activity
   (7) Stream Protection
B. Scale of Map – the official Shoreland Zoning Map shall be drawn at a scale of not less than 1 inch = 200 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed upon the map.

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

C. Certification of Official Shoreland Zoning Map – The official Shoreland Zoning Map shall be certified and attested by the Municipal Clerk and shall be located in the Town Office.

D. Changes to the Official Shoreland Zoning Map – If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

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 right of ways, 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.

11. Land Use Requirements – Except as hereinafter specified, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall be hereafter 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.

12. Non-conformance

A. Purpose

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

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

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

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

C. Non-conforming Structures

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

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

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

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

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

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

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

(iii) In addition to the limitations in subparagraphs d and e, for structures that are legally nonconforming due to their location within the Resource Protection District when located less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i) above.
(d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary, and evidence of approval by the municipal review authority.

(2) **Foundations**: Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision upon the criteria specified in the appropriate Land Use District

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

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

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

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

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

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

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

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

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

(5) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.
In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

(1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in section 12(C)(1) above.

(2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding 5 year period.

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

E. Non-conforming Lots

(1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width, or shore frontage shall be obtained by action of the Board of Appeals.

(2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface
Wastewater Disposal Rules are complied with. If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on June 9, 1992, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

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

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, aka Roadside Residential, General Development I, aka Village and/or Residential Growth, or Commercial Fisheries /Maritime Activities districts need not be included within the Resource Protection district.

   (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency (FEMA)’s 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. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA’s Flood Insurance Rate Maps of Flood Hazard Boundary Maps.
(2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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

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

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

(5) Natural sites of significant scenic or esthetic value.

(6) Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

B. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland. The stream protection zone for Patten and Meadow streams is increased to 100 feet per the Town of Surry Comprehensive Plan, page 84 J.4c.

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

D. Commercial Fishery Maritime Activity District – refer to Town of Surry Official Zoning Map dated 3/26/02 or more current version. The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:
(1) Shelter from prevailing winds and waves;

(2) Slope of the land within 250 feet, horizontal distance, of the shoreline;

(3) Depth of the water within 150 feet, horizontal distance, of the shoreline;

(4) Available support facilities including utilities and transportation facilities; and

(5) Compatibility with adjacent upland uses.

**E. Limited Commercial District, aka Roadside Commercial District.** The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

**F. General Development I District, aka Village, and/or Residential Growth District.**

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

(1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

   (a) Areas devoted to manufacturing, fabricating or other industrial activities;

   (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and

   (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

**G. General Development II District, aka Roadside Residential District.** The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.
Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

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

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
- **GD** - General Development I and General Development II
- **SLR** - Shoreland Limited Residential Activities
- **CFMA** - Commercial Fisheries/Maritime Activities
- **LC** - Limited Commercial
- **SP** - Stream Protection
## TABLE 1. LAND USES IN THE SHORELAND ZONE

### LAND USES

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<th>SP</th>
<th>RP</th>
<th>SLR</th>
<th>LC/RC</th>
<th>RG, RR</th>
<th>CFMA</th>
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<tr>
<td>1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>3. Clearing or removal of vegetation for activities other than timber harvesting</td>
<td>CEO</td>
<td>CEO</td>
<td>yes</td>
<td>yes</td>
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<td>4. Fire prevention activities</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>5. Wildlife management practices</td>
<td>yes</td>
<td>yes</td>
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<td>6. Soil and water conservation practices</td>
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<td>yes</td>
<td>yes</td>
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<td>7. Mineral exploration</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>8. Mineral exploration including sand and gravel extraction</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
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<td>9. Surveying and resource analysis</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>10. Emergency operations</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>11. Agriculture</td>
<td>yes</td>
<td>PB</td>
<td>yes</td>
<td>yes</td>
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<td>12. Aquaculture</td>
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<td>PB</td>
<td>PB</td>
<td>yes</td>
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<td>13. Principal structures and uses</td>
<td>pg⁴</td>
<td>pg⁹</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>no</td>
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<td>A. One and two family residential, including driveways</td>
<td>no</td>
<td>no</td>
<td>PB</td>
<td>PB</td>
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<td>B. Multi-unit residential</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
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<td>C. Commercial</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
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<td>D. Industrial</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
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<td>E. Governmental and institutional</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>PB</td>
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<td>F. Small non-residential facilities for educational, scientific, or nature interpretation purposes</td>
<td>PB⁴</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>PB⁵</td>
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<td>14. Structures accessory to allowed uses</td>
<td>PB⁴</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td>15. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td>a. Temporary</td>
<td>CEO</td>
<td>CEO</td>
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<td>b. Permanent</td>
<td>CEO</td>
<td>CEO</td>
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<td>16. Conversions of seasonal residences to year-round residences</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
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<td>17. Home occupations</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
<td>yes</td>
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<td>18. Private sewage disposal systems for allowed uses</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
<td>LPI</td>
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<td>19. Essential services</td>
<td>pg⁶</td>
<td>pg⁶</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>A. Roadside distribution lines (34.5kV and lower)</td>
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<td>CEO</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td>B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone</td>
<td>pg⁶</td>
<td>PB⁶</td>
<td>CEO</td>
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<td>C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone</td>
<td>PB⁵</td>
<td>PB⁵</td>
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<td>D. Other essential services</td>
<td>PB⁵</td>
<td>PB⁵</td>
<td>PB</td>
<td>PB</td>
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<td>20. Service drops, as defined, to allowed uses</td>
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<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>21. Public and private recreational areas involving minimal structural development</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
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<td>22. Individual, private campsites</td>
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<tr>
<td>23. Campgrounds</td>
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<td>no</td>
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<td>PB</td>
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<td>24. Road construction</td>
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<td>25. Parking facilities</td>
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<td>26. Marinas</td>
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<td>27. Filling and earth moving of &lt;10 cubic yards</td>
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<td>CEO</td>
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<td>28. Filling and earth moving of &gt;10 cubic yards</td>
<td>CEO</td>
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<tr>
<td>29. Signs</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
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<td>30. Uses similar to allowed uses</td>
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<td>CEO</td>
<td>CEO</td>
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<td>31. Uses similar to uses requiring a CEO permit</td>
<td>CEO</td>
<td>CEO</td>
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<td>32. Uses similar to uses requiring a PB permit</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
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</tbody>
</table>

1. In RP not allowed within 75 feet horizontal distance, 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 allowed in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5 Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
6 See further restrictions in Section 15(I)(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 as provided in Section 15(H)(4).
9 Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.
10 Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11 Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12 Permit not required but must file a written "notice of intent to construct" with CEO.

NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate “piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland”.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:
A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
B. Draining or otherwise dewatering;
C. Filling, including adding sand or other material to a sand dune; or
D. Any construction or alteration of any permanent structure

15. LAND USE STANDARDS - All land use activities within the shoreland zone shall conform with the following provisions, if applicable:

A. **Minimum Lot Standards**

(1) Minimum Lot Area (sq. ft.) Minimum Shore Frontage (ft.)

(a) Residential per dwelling unit**

(i) Adjacent to Tidal Areas 2 acres 200

(ii) Adjacent to Non-Tidal Areas 2 acres 200

(b) Governmental, Institutional, Commercial or Industrial per principal structure

(i) Within the Shoreland Zone, Adjacent to Tidal Areas, Exclusive of those Areas Zoned for Commercial and Maritime Activities 2 acres 200

(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities 2 acres 200

(iii) Within the Shoreland Zone, Adjacent to Non-tidal areas 2 acres 300
(c) Public and Private Recreational Facilities

(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas

<p>| | | |</p>
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<tbody>
<tr>
<td>2 acres</td>
<td>200</td>
<td></td>
</tr>
</tbody>
</table>

** - Minimum lot standards in Village and Roadside Residential shoreland areas must conform to lot size standards for those zoning districts.

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

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

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

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

B. Principal and Accessory Structures

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

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-HH, required the Department of Environmental Protection to designate areas of “significant wildlife habitat”.


Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

In addition:

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

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

(c) The Planning Board may increase the required setback of a proposed structure or place limitations on placement of fill or other proposed land use activities, as a condition to permit approval, if necessary to accomplish the purposes of this Ordinance. Instances where a greater setback or other limitations may be appropriate include, but not be limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

(d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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

NOTE: All tidal land that is subject to tidal action during the highest annual tide is coastal wetland.
NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Shoreland Zone 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 basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program, and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

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

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

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

(5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
(d) The total height of the wall(s), in the aggregate, is no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;

(f) The area behind the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

   (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

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

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

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

   (v) A footpath not to exceed the standards in Section 15(P)(2)(a) may traverse the buffer.

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

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

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

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

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

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

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

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

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

(7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

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

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

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

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

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

(b) Re-vegetation must occur in accordance with Section 15(S).

NOTE: a permit pursuant to the Natural Resources Protection Act (NRPA) is required from the Department of Environmental Protection for Shoreline Stabilization activities

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

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

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

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

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

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

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be requires 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 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high water line of a water body shall not be included in calculating land area per site.

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

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

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

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

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

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

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

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

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

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

(1) Auto washing facilities
(2) Auto or other vehicle service and/or repair operations, including body shops
(3) Chemical and bacteriological laboratories
(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

**NOTE:** 22 M.R.S.A. section 1471-U requires municipal ordinances that apply to pesticide storage, distribution or use be filed with the Maine Board of Pesticides Control, 28 State House Station, Augusta, Maine 04333. If a municipality’s ordinance is more inclusive or more restrictive than these guidelines, as it pertains to pesticides, a copy of the ordinance must be filed with the Board of Pesticides Control.

(5) Commercial painting, wood preserving, and furniture stripping
(6) Dry cleaning establishments
(7) Electronic circuit assembly
(8) Laundromats, unless connected to a sanitary sewer
(9) Metal plating, finishing, or polishing
(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
(11) Photographic processing
(12) Printing

G. **Parking Areas**

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that the Commercial Fisheries/Maritime District parking areas shall be set back at least 25 feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities is Districts other than the General Development I District (a.k.a. Village, Residential Growth districts) and Commercial Fisheries/Maritime Activities District shall be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

(a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

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

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

(1) Roads 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 water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

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

(3) New permanent Roads are not allowed within the Shoreland Zone along Significant River Segments except;

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

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

(4) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section V.2: subsection 24.

(6) Road and driveway grades shall be no greater than six (6) percent except for segments of less than two hundred (200) feet, which may be no greater than 10%.

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

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

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

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21 +</td>
<td>40</td>
</tr>
</tbody>
</table>
(b) Drainage dips may be used in place of ditch relief culverts only where the grade is 10 percent or less.

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

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

(9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and 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 Shoreland areas only:

(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. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

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

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

(5) Signs relating to public safety shall be permitted without restriction.

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

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

J. Storm Water Runoff

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

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

K. Septic Waste Disposal

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

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

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

L. Essential Services

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

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

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

M. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

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

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

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

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

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

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

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

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.
(5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

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

(2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, 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 storm water. Manure storage areas must conform to property setbacks for structures.

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

(4) There shall be no new tilling of soil unless related to erosion and control measures within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained, as long as the existing operation is in conformance with a Soil and Water Conservation Plan filed with the Planning Board.

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

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

O. Timber Harvesting – REPEALED – Bureau of Forestry will administer all Timber Harvesting Regulations in the municipality of Surry, Maine

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

(1) In a Resource Protection district abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section ___G___Q.

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

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

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

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this Section, a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - &lt; 4 in.</td>
<td>1</td>
</tr>
<tr>
<td>4 – &lt;8 in.</td>
<td>2</td>
</tr>
<tr>
<td>8-&lt; 12 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.
NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

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

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points \((36 - 24 = 12)\) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the 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 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section V.2: subsection 23(B) (2) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half \((4 \frac{1}{2})\) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead, or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section G, below, unless existing new tree growth is present.

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

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15 (P).

6. A fee is required, payable to the Town of Surry, for any vegetative clearing.

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

(1) Hazard trees within the shoreland area may be removed without a permit after consultation with the Code Enforcement Officer if the following conditions are met.

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy of greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was
removed and be at least 2 inches in diameter, measured at 4.5 feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least 4 feet in height, and be no less than 2 inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds 40 percent of the volume of trees 4 inches and more in diameter, measured at 4.5 feet above ground level in any ten year period, and/or results in cleared openings exceeding 25 percent of the lot area within the shoreland zone, or 10,000 square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree(s) was/were removed and be at least 2 inches in diameter, measured at 4.5 feet above ground level. If new growth is not present, then replacement trees shall consist of native species and be at least 2 inches in diameter, measured at 4.5 feet above ground level.

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

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

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

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

(a) Within the shoreline buffer, when the removal of storm damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area shall be required to naturally re-vegetate, and the following requirements must be met:

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

(ii) Stumps from the storm damaged trees may not be removed,

(iii) Limbs damaged from a storm event may be pruned even I they extend beyond the bottom one-third (1/3) of the tree, and
If after one growing season, no natural regeneration or re-growth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every 80 square feet of lost canopy.

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

R. Exemptions to Clearing and Vegetative Removal Requirements

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

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

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

3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 15(N) are complied with;

5. The removal of vegetation associated with brown fields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean up contamination on a site in a general development district, commercial fisheries and maritime activities district, or other equivalent zoning district approved by the Commissioner that is part of state or federal brown fields program or a voluntary response action program pursuant to 38 M.R.S.A. section 343-E, and that is located along:

   a) a coastal wetland; or
(b) a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A. section 465-A.

(6) The removal of non-native invasive species provided the following minimum requirements are met:

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

(b) Removal of vegetation within 25 feet horizontal distance, from the shoreline occurs via hand tools; and

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

NOTE: An updated list of non-invasive vegetation is maintained by the Department of Agriculture, Conservation, and forestry’s Natural Areas Program at http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

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

S. Revegetation Requirements

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

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

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

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

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

   (a) All trees and saplings removed must be replaced with non-invasive species;

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

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

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

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

   (f) A survival rate of at least 80% of planted trees or saplings is required for a minimum 5 year period.

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

   (a) All woody vegetation and vegetation under 3 feet in height must be replaced with native non-invasive species of woody vegetation and vegetation under 3 feet in height as applicable;

   (b) Woody vegetation and vegetation under 3 feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;

   (c) If more than 3 woody vegetation pants are to be planted, then at least 3 different species shall be planted;

   (d) No one species shall make up 50% or more of the number of planted woody vegetation plants, and;
(e) Survival of planted woody vegetation and vegetation under 3 feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of 5 years.

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

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

(b) Where necessary due to a lack of sufficient ground cover, and are must be supplemented with a minimum 4 inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of storm water; and

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

T. Erosion and Sedimentation Control

(1) All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan supplied by the applicant. 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) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

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

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

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

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

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

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

U. Soils

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

V. Water Quality

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

W. Archaeological Site

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

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 M.R.S.A. section 2691

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

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

(1) A permit is not required for the replacement of an existing road culvert as long as;

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

   (b) The replacement culvert is not more than 75 feet; and

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

(2) A permit is not required for an archeological excavation as long as the excavation is conducted by an archeologist 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 measures.

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

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

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

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

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

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

D. Procedure for Administering Permits. Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, that specified additional materials needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the fist available date on the Planning Board’s agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed structure or use 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 upon the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact upon spawning grounds, fish, aquatic life, birds, or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities District;
8. Will avoid problems associated with floodplain development and use;
9. Is in conformance with the provisions of Section 15 Land Use Districts and Requirements.

If a permit is either denied or approved with conditions, the reasons as well as the 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 of would violate any other local ordinance, or regulation or statute administered by the municipality.

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structural 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 building, sewage disposal system, and other improvements are:

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

(b) Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based upon detailed flood insurance studies and delineated on the Federal Emergency Management Agency’s Boundary and Floodway Maps and Flood Insurance Rate Maps; all building, including basements, are elevated at least 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 FEMA maps, it is deemed to be one half the width of the 100 year floodplain.

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

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

E. Expiration of Permit. Permits shall expire one 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 substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

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

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

(a) Administrative Appeals: To hear and decide administrative appeals, 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, the 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, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

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

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

(a) Variances may be granted only for dimensional requirement including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

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

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

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

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship” shall mean:

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

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

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

d. That the hardship is not the result of action taken by the applicant or a prior owner.
(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.

(e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

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

(3) Administrative Appeals

When the Board of Appeals 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

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

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

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

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

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

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

(b) Decision by Board of Appeals

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

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

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

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

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

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

I. **Enforcement**

(1) **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.

(2) **Code Enforcement Officer**

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

   (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

   (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

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

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

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

1. **Construction of Language**

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The words "shall" and "will" are mandatory, the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The word "building" includes the word "structure".

The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied".

The words "Town" or "municipality" mean the Town of Surry, Maine.

2. **Definitions of Key Terms**

In this Ordinance the following terms shall have the following meanings:

- **100 Year Flood**: see Base Flood
- **Abutter**: The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

- **Accessory Dwelling Unit** – a secondary dwelling unit that does not exceed 800 square feet or 1/3 of the footprint area of the primary dwelling unit.

- **Accessory Use or Structure**: A use or structure which is incidental and subordinate to the principal use or structure. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure.

Such 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.
Adjacent Grade: The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Adequate Capacity (for Telecommunication Facilities and Towers): Capacity is considered to be “adequate” if the grade of service (GOS) is p.05 or better for median traffic levels offered during the typical busy hour, as assessed by direct measurement of the personal wireless service facility in question. The GOS shall be determined by the use of standard Erland B Calculations. As call blocking may occur in either the land line or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with the total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

Adequate Coverage (for Telecommunication Facilities and Towers): Coverage is considered to be “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station. In the case of cellular communications in a rural environment like Surry, this would be signal strength of at least -90 dBm for at least 75% of the coverage area. It is acceptable for there to be holes within the area of adequate coverage where the signal is less than -90 dBm, as long as the signal regains its strength to greater than -90 dBm further away from the base station. For the limited purpose of determining whether the use of a repeater is necessary or desirable, there shall be deemed not to be adequate coverage within said holes. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain strength of greater than -90 dBm.

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, or any other person or group of persons who has suffered particularized injury as a result of the granting or denial of such permit or variance. A person or persons whose land abuts land for which a permit or variance has been granted.

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

Alteration: Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, expansion, or addition of a deck, dormer, staircase, or roof of the building or other change in volume or floor area.

Amusement Facility: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether
activated by coins, tokens, or discs, or whether activated through remote control by the management.

**Animal Breeding or Care:** The keeping or raising of four or more animals, including domestic animals, birds, and pets, for any commercial use. This definition also includes kennels.

**Antenna:** A device which is attached to a tower or other structure for transmitting or receiving electromagnetic waves. Examples include, but are not limited to, whip, panel, microwave and dish antennas.

**Applicant:** The person applying for a permit under this Ordinance who demonstrates legal standing or interest to apply by means of ownership, authorized agent, or option or purchase and sale agreement or the like.

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

**Aquifer:** An underground bed or stratum of earth, gravel or porous stone that contains water.

**Area of Special Flood Hazard:** The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section V.3: subsection 1, of this Ordinance.

**Authorized Agent:** A person having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

**Automobile Body Shop:** A business establishment engaged in general repair, engine rebuilding, or parts replacement, body, frame, or fender straightening and repair or painting and undercoating, but not a gasoline service station.

**Automobile Graveyard, Junkyard:** A place where three or more unregistered, unserviceable, discarded, worn-out, or junked automotive vehicles, or bodies, or engines thereof are gathered together.

**Available Space (for Telecommunication Facilities and Towers):** The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

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

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.
**Basement**: Any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50% of its volume below the existing ground level.

**Base Station**: The primary sending and receiving site in a wireless telecommunications network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

**Bed and Breakfast**: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its owner; otherwise, it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

**Boarding/Lodging Facility**: Any residential structure where lodging or boarding and lodging are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

**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.

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

**Buffer Area**: A part of a property or an entire property, which is not built upon, is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Building**: See Structure.

**Building or Structure Height**: The vertical distance between the highest point of the structure and the average grade of the existing or original ground adjoining the building, whichever distance is greater. This distance shall not apply to chimneys, antennas and other similar appurtenances which are attached and incidental to the primary use of a structure, but the vertical distance shall apply to any structure that is essential to the intended use of the property.

**Bulletin 65**: Bulletin 65, entitled Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, published by the FCC Office of Engineering and Technology, Edition 97-01, dated August 1997, or more recent versions thereof, as they may be adopted.

**Bureau of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry**
**Business and Professional Offices:** The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales nor activities utilizing trucks as part of the business operation.

**Campground:** Any area or tract of land to accommodate 2 or more parties living in temporary living quarters, including but not limited to tents, recreational vehicles, or other shelters. The word "campground" shall include the words "camping ground", and "tenting grounds".

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

**Cemetery:** Property used for the interring of the dead.

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

**Channel (for Telecommunication Facilities and Towers):** The segment of the radiation spectrum from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.

**Church:** A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services, excluding school.

**Civic, Convention Center:** A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

**Club:** Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only and not the general public; and not engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

**Cluster Development:** A development consisting exclusively of residential dwelling units, or mixed residential and commercial uses planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 5 or more lots, or one tract with 3 or more principal structures or dwelling units, which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

**Coastal High Hazard Area:** The area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designed on a FIRM as zone A1-30, VE, or V.
Coastal Wetlands: All tidal and sub tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc. in addition to salt marshes and salt meadows.

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

Co-Location (for Telecommunication Facilities and Towers): The use of a single mount on the ground by more than one carrier (vertical co-location), and/or several mounts on an existing structure by more than one carrier.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: campgrounds, racquet and tennis clubs, health facilities, amusement parks, golf courses, gymnasiums and swimming pools etc., but not including bowling alleys or amusement centers, as defined herein.

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

Common Open Space: Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation, forestry or agricultural activities.

Community Center: A building which provides a meeting place for local, non-profit community organizations on a regular basis. The Center shall not be engaged in activities customarily carried on by a commercial use.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance or by a vote by the Board to waive the submission of required information.

Conditional Use (Floodplain): A use that because of its potential impact on surrounding areas and structures is permitted only upon review and approval by the Planning Board pursuant to Section V.3: subsection 7.
Conforming: A building, structure, use of land, or portion thereof, which complies with the provisions of this Ordinance.

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or Skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

Conservation Easement: A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Convenience Store: A store intended to service the town primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, household items and emergency home repair articles, as well as “sit-down” dining, “eat-in” foods, or “take-out” windows.

Curb Cut: The opening along the curb line at which point vehicles may enter or leave the roadway.

Day Care: Homes and Centers registered or licensed as such by the Maine Department of Human Services.

DBM: Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt (1/1000th watt), correctly written as “dBm”.

Demonstrate: To show and explain through written or printed medium.

Density: The number of dwelling units or principal structures per area of land.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and roads or driveways.

Development: A change in land use involving alteration of the land, water, or vegetation, or the addition or alteration of structures or other construction not naturally occurring..
**Dimensional Requirements:** Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore or road frontage and height.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicants can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

**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 that 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 that requires special education, vocational rehabilitation or related services.

**District:** A specified portion of the municipality, delineated on the official zoning map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**Driveway:** A vehicular access-way less than 500 feet in length serving two single family dwellings, or one two-family dwelling, or less, including access to vacant lots.

**Dwelling:** Any building or structure or portion thereof designed or used for residential purposes.

1. **Single-Family Dwelling** - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. **Two-Family Dwelling** - A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
3. **Multi-Family Dwelling** - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.
4. **Dwelling Unit** - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles. Any additional living space which
is offered for lease or rent to the general public shall be considered another dwelling unit therefore making additional lot size dimensional requirements necessary.

**Elevated Building:** a non-basement building.

(1) built, in the case of a building in Zones AE or A, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or “stilts;” and

(1) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the cases of Zones AE or A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section V.3: subsection 6 (L). In the case of Zone VE, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Section V: subsection 6 (P)(2)(b)(3).

**Elevation:** The elevation at grade or ground level shall be given in Above Mean Sea Level (AMSL). The height of the wireless service facility shall be given in Above Ground Level (AGL). AGL is a measurement of height from the natural grade of a site to the highest point of a structure. The total elevation of the wireless service facility is AGL plus AMSL.

**Elevation Certificate:** An official form (FEMA Form 81-31, 01/03, as amended) that

(1) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

(2) is required for purchasing flood insurance.

**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.

**EMF:** Electromagnetic Fields, often expressed in wavelengths or frequencies to indicate their placement on the electromagnetic spectrum. The radio frequencies usually radiate away from their generating source—hence wireless capability. The radio frequencies are identified between 3 kilohertz to 300 gigahertz and include AM & FM radio, TV, radar, cellular/PCS technologies, emergency fire & police, paging services, and satellite broadcasting among many others. Microwaves are a portion of the radio frequencies.
Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Environmental Assessment or EA: An official document required by NEPA whenever an action may have a significant environmental impact on, among other things, wilderness areas, wildlife preserves, endangered species habitat, historical sites, Indian religious sites, flood plains, wetlands, residential neighborhoods (such as that caused by high intensity white lights), and human health (such as that caused by excessive radio frequency electromagnetic radiation).

Equipment Shelter: An enclosed or semi-enclosed structure, cabinet, shed or box located at the Base Station designed principally to house batteries and electrical equipment used in connection with Personal Wireless Service transmissions.

ERP: Effective Radiated Power - describes station output, including the transmitter, antenna and everything in between, when considering transmitter power and system gains and losses.

Essential Services: Gas, electrical, or communications 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 alarm 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 footprint of a structure, including all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

Expansion of Use: The addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

Facility Site (for Telecommunications Facility and Towers): The property, or any part thereof, which is owned, or leased by one or more telecommunications providers and upon which one or more telecommunications facilities and required landscaping are located. This includes any lot or location that has met all other criteria required pursuant to the within regulations as a “telecommunications facility”, including the requirement that said site is able to provide adequate coverage and adequate capacity to a significant portion of Surry.

Fall Zone (for Telecommunication Facilities and Towers): The area on the ground within a prescribed radius from the base of a wireless communications facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice), collapsing material, or tower.
**Family:** One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

**FCC:** The Federal Communications Commission, the federal government agency responsible for regulating telecommunications in the United States.


**Filling:** Depositing or dumping any matter on or into the ground or water.

**Final Plan:** The final drawings, on which the applicant's plan of subdivision is presented to the Planning Board for approval and which, if approved, must be recorded at the Registry of Deeds.

**Flood or Flooding:**

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event, which results in flooding as defined in paragraph 1(a) of this definition.

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

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

**Flood Insurance Study:** See Flood Elevation Study.

**Floodplain or Flood-prone Area:** Any land area susceptible to being inundated by water from any source (see definition of "flooding").

**Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
Floodplain Management Regulations: zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: see Regulatory Floodway.

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

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

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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

Forested Buffer Zone: The front yard area between roads or streets and proposed structures in which 60% of existing vegetation 4 inches or greater in diameter at 4½ inches above the ground shall be maintained in its natural state. Vegetation which poses a safety hazard may be removed as long as the vegetation became unsafe by natural means. Any vegetation which has become unsafe due to excess fill or other means shall require replanting or replacement.

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty [20] feet) or taller.

Forestry: The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

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

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

**Freshwater Wetland**: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

1. of ten or more contiguous acres; or of less than ten contiguous acres and adjacent to a surface water body, excluding all river, stream or brook, such that in a natural state, the combined surface area is in excess of ten acres; and

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

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

**Frontage, Road**: The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way or the existing tarred or gravel road.

**Frontage, Shore**: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at the normal high water line of a waterbody.

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

**Garage**: An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

**Gasoline Service Station**: Any place of business at which gasoline, other motor fuels or motor oil are sold to the public, and put into a motor vehicle on the premises, regardless of any other business on the premises.

**GHZ**: Gigahertz. A measure of electromagnetic radiation equaling one billion hertz.

**Grade of Service (for Telecommunication Facilities and Towers)**: A measure of the percentage of calls which are able to connect to the base station, during the busiest hour of the day. Grade of
service is expressed as a number, such as p.05, which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better grade of service.

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

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

**Ground cover:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

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

**Hazardous Material:** Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

**Height of Tower:** The vertical distance from the highest point of the structure, plus any device attached, to the grade before construction.

**Hertz:** One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

**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 has no floor area.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or
bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Historic Structure:** Any structure that is:

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

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   
   (a) By an approved state program as determined by the Secretary of the Interior, or

   (b) Directly by the Secretary of the Interior in states without approved programs.

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

**Hospital:** An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central services facilities, and staff offices.

**Hotel/Motel:** A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

**Hydric Soils:** Those soils characterized by the presence of wetland vegetation, hydrology, and to wet soils as defined within the current effective edition of the Federal Manual for identifying and delineating jurisdictional wetlands and as shown as being part of or adjacent to the hydric soils delineated within the Soil Conservation Services Medium Intensity Soil Survey.

**In-Law:** One or more persons who are related by blood or marriage.
In-Law Accessory Apartment: An apartment contained or attached to a single family dwelling of accessory structure which meets the Performance Standards – General, V.1; 13.

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

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

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

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

Kennel: An establishment, in which more than six (6) dogs or six (6) cats are sold, bred, boarded, or trained for a fee.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1985 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Licensed Carrier: A company authorized by the FCC to construct and operate a wireless communications facility.

Locally Established Datum: for purposes of this Ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
**Location:** References to site location as the exact longitude and latitude, to the nearest tenth of a second, with bearing or orientation referenced to true North.

**Lot:** An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

"New" Lot: A lot created after the effective date of this Ordinance.

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

**Lot, Corner:** A lot with at least two contiguous sides abutting upon a street or right of way.

**Lot, Coverage:** The percentage of a lot covered by all buildings or structures including non-vegetated surfaces.

**Lot Lines:** The lines bounding a lot as defined below.

1. **Front Lot Line:** Interior lots: the line separating the lot from a street right-of-way. Corner lot or through lot; the line separating the lot from either street right-of-way. Where a right-of-way does not exist or cannot be determined the front line shall be the edge of the paved or graveled area of the road.
2. **Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

**Lot of Record or Non-conforming Lot:** A single parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds prior to the adoption of applicable requirements that the lot does not conform to.

**Lot, Through:** Any interior lot having frontages on two more or less parallel streets or rights of way or between a street and a body of water, or a right of way and a body of water, or between two bodies or water, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights of way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

**Lot Width:** The distance between the side boundaries of the lot measured at the front setback line.
Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section V.3: subsection 6 (L) of this Ordinance.

Major Modification (for Telecommunications Facilities and Towers): With respect to an existing telecommunications facility, any change, or proposed change in power input or output, number of antennas, change in antenna(s) type or model, repositioning of antenna(s), change in number of channels per antenna above the maximum number approved under an existing special permit, or conversion of a single-use facility into a co-location facility. With respect to an existing tower, any increase, or proposed increase in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving, and/or relaying antennas, and/or equipment.

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

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

Mean Sea Level: Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

MHZ: Megahertz: A measure of electromagnetic radiation equaling one million hertz.

Minor Development: Means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section V.3: Subsection 6 (J), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

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

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

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

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

**Mobile Home Park:** A parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.

**Mobile Home Subdivision:** A parcel of land approved by the town for the placement of three or more manufactured homes on individually owned lots.

**Monopole:** A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below grade foundations (See Tower).

**More Non-Conforming:** Any change in a structure or property which causes further deviation from dimensional standards creating the nonconformity; such as; but not limited to, reduction on water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which cause no further increase in the linear extent of the nonconformance of the existing structure shall not be considered to increase the nonconformity. i.e., there is no increase in the nonconformity with the setback requirements for water bodies, wetlands or tributary streams, if the expansion extends no further into the required setback area than any portion of the existing structure. A structure may be expanded laterally, provided that the expansion is no closer to the water body, wetland or tributary stream than the closest portion of the existing structure from that water body or wetland. Included in the allowance are expansions which in-fill irregularly shaped structures.

**Mount:** The structure or surface upon which antennas are mounted, including the following four types of mounts: ROOF MOUNTED - on the roof of a building; SIDE MOUNTED - on the side of a building; GROUND MOUNTED - on the ground (see Tower); STRUCTURE MOUNTED – on a structure other than a building.

**Multi-Unit or Multi-Family Residential:** A residential structure containing three (3) or more residential dwelling units.

**Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.
National Geodetic Vertical Datum (NGVD): Means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

Native: Indigenous to the local forests.

Natural Grade: The original topographic elevation of the property as indicated by States Geological Service (USGS) Maps or by survey, prior to any removal, shifting or placement of earth and/or rock by the applicant.

Neighborhood "Convenience" Stores: A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, but not to include "sit-down" dining or "eat-in" foods or take out windows.

Net Residential Acreage: The area of a lot or lots which is useable for determining allowable densities, as set forth in the Net Acreage calculations standard contained in the Performance Standards section of this Ordinance.

Net Residential Density: The number of dwelling units per net residential acreage.

New Construction: Structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

Non-Conforming Lot: A single lot of record which, at the effective date of adoption or amendment of the Ordinance, does not meet the criteria for the district in which it is located.

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

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

Non-native species of vegetation: species of vegetation listed by the Maine Department of Agriculture, Conservation, and Forestry as being invasive in Maine and not native to Maine ecosystems.
Normal High-Water Line (non-tidal waters): that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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

Nursing Home: A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

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

Panel Antenna: A flat surface antenna usually developed in multiples.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, restrooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

Permitted Use: Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

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

Personal Wireless Services: Commercial mobile services, wireless internet and broadband services, unlicensed wireless services, common carrier wireless exchange access services, cellular services, Personal Communications Systems (PCS), specialized mobile radio services, and paging services.

Personal Wireless Service Facility: All equipment (including repeaters) with which an entity licensed to provide personal wireless services broadcasts and receives the radio-frequency waves which carry their services, and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or structures owned and permitted by another.

Phased Development: A development of land that is under unified control and is planned and developed as a whole in a single development operation of programmed series of development stages. The development often includes a mixture of uses and may include streets, buildings, open space, and other site features.
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.

Planning Board: The Planning Board of the Town of Surry.

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Prime Agricultural Soils: Those soils considered best suited for producing food, feed, forage, fiber, and oilseed crops by the Soil Conservation Services. It has the soil quality, growing season, and moisture supply needed to produce a sustained high yield of crops while using acceptable farming methods, and as shown or listed as prime agricultural soils on the current medium intensity soil survey published by the Soil Conservation Service.

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

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

Professional Engineer: A professional engineer, registered in the State of Maine.

Public and Private Schools: Primary and secondary schools, or parochial schools, which satisfy either of the following requirements: the school is not operated for a profit or as a gainful business; or the school teaches courses of study which are sufficient to qualify attendance in compliance with State compulsory education requirements.

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.

Public Utility: Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Radial Plots (for Telecommunication Facilities and Towers): Radial plots are the result of drawing equally spaced lines (radials) from the point of an antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot uses a mark to indicate whether that point is strong enough to provide adequate coverage—i.e., the points
meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points from the site near the ends of the radials.

**Radio Frequency Engineer:** An engineer specializing in the design, review, and monitoring of radio frequency technologies.

**Recent Flood Plain Soils:** The following soil series as described and identified by the National Cooperative Soil Survey:

<table>
<thead>
<tr>
<th>Alluvial</th>
<th>Cornish</th>
<th>Charles</th>
</tr>
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<tbody>
<tr>
<td>Fryeburg</td>
<td>Hadley</td>
<td>Limerick</td>
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<tr>
<td>Lovewell</td>
<td>Medomak</td>
<td>Ondawa</td>
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<tr>
<td>Podunk</td>
<td>Runnym</td>
<td>Saco</td>
</tr>
<tr>
<td>Suncook</td>
<td>Sunday</td>
<td>Winoosk</td>
</tr>
</tbody>
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**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

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

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

**Regulatory Floodway:**

1. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

2. when not designated on the community’s Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Repeater:** A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage directly from a base station.
**Replacement System**: A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

**Residential dwelling unit**: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Responsible Parties (for Telecommunication Facilities and Towers)**: The owners, operators, lessees, sub-lessees and licensees of any tower or telecommunication facility granted a permit hereunder or land on which such tower or facility may exist, and their successors, assigns, and general partners. Operators shall include any operator that causes any facility to cease to operate.

**Restaurant**: An establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures, to take out food or beverage for consumption outside the enclosed building.

**Retail Business**: A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale.

**Right-of-Way**: All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way, but not including driveways.

**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.

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

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

**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 motor vehicles, excluding a driveway as defined.
Salt marsh: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is salt marsh cord grass (*Spartina Aterniflora*). More open areas often support widgeon grass, eelgrass, and sago pondweed.

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

Sapling: a tree species that is less than 2 inches in diameter at 4.5 feet above ground level.

Security Barrier (for Telecommunication Facilities and Towers): A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

Seedling: A young tree species that is less than 4.5 feet in height above ground level.

Separation (for Telecommunications Facilities and Towers): The distance between one carrier’s array of antennas and another carrier’s array.

Septic System: See “Subsurface Sewage Disposal System”

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

(1) in the case of electric service

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

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

(2) in the case of telephone service

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

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

Setback: The nearest horizontal distance from the normal high water line of a water body or tributary stream, or the upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area.
**Shopping Center**: Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 square feet or more of gross floor space.

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

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

**Shoreline**: The normal high-water line, or upland edge of a freshwater or coastal wetland.

**Sight Distance**: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

**Signal Propagation Studies**: Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the telecommunications facility proposed for the site.

**Significant River Segments**: See 38 M.R.S.A. section 437.

**Sketch Plan**: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

**Slope**: See 'Sustained Slope'

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

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

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

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

**Street Classifications:**

(1) **Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:
   (a) Route 172
   (b) Route 176

(2) **Collector Street:** A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

(3) **Cul-de-sac:** A street with only one outlet and having the other end of the reversal of traffic movement.

(4) **Industrial or Commercial Street:** Streets servicing industrial or commercial uses.

(5) **Minor Residential Street:** A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

(6) **Private Right of Way:** A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

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

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

**Substantial Improvement**: Any reconstruction, rehabilitation, additions, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

**Substantial Start**: Completion of 30 percent of a permitted structure or use measured as a percentage of total estimated cost determined by the CEO.

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

**Subdivision**: The division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

   a. Both divisions are accomplished by a sub-divider who has retained one of the lots for the sub-divider’s own use as a single-family residence that has been the sub-divider’s
principal residence for a period of at least 5 years immediately preceding the 2\textsuperscript{nd} division; or

(b) The division of the tract or parcel is otherwise exempt under this subchapter.

(2) The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

(3) A lot of 40 or more acres does not count as a lot for the purposes of this definition.

(4) A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(5) A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(6) A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(7) A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. “Person related to the donor” means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than \( \frac{1}{2} \) the assessed value of the real estate.

(8) A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(9) A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

(10) The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.
(11) In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

(12) Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

Subdivision, Major: Any subdivision containing more than four lots or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing four lots or less, and in which no street is proposed to be constructed.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Swimming Pool: An outdoor man-made receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in ground or above the ground.

Telecommunications Facility: All equipment (including repeaters) with which a telecommunications provider broadcasts and receives radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or structures owned and permitted by another owner or entity.

Teleport: A facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmitting in the C-Band (4-6) GHz spectrum.

Testing Protocol: The protocol with which the proposed personal wireless facilities (and, if they are to be co-located, the combination of the proposed and existing facilities) are tested for compliance with limits adopted by the FCC for human exposure to radio frequency electromagnetic fields. The Planning Board may use any such protocol that is based on sound engineering practice, including (a) the Cobbs Protocol, (b) Bulletin 65, or (c) IEEE c95.3-1991, Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields – RF and Microwave.

Tidal Waters: All waters affected by tidal action during the highest annual tide.

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

_Tiled Coverage Plots:_ Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over an area of interest; usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for comparative analysis.

_Tower:_ A support structure intended to support antennas and associated equipment. This included: GUYED TOWER: A monopole tower or lattice tower that is tied to the ground or other surface by diagonal cables. LATTICE TOWER: A type of mount that is self-supporting with multiple legs and cross bracing of structural steel. MONOPOLE TOWER: The type of mount that is self-supporting with a single shaft of wood, steel, fiberglass, or concrete, and a platform (or racks) for panel and whip antennas arrayed at the top.

_Tract or Parcel of Land:_ All contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

_Tree:_ A woody perennial plant with a well defined trunk(s) at least 2 inches in diameter at 4.5 feet above the ground, with a more or less definite crown, and reaching height of at least 10 feet at maturity.

_Tributary Stream:_ A channel between defined banks created by the action of surface water, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits or exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. “tributary Stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

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

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

_Undue Hardship:_ As used in this Ordinance, the words “undue hardship” shall mean all of the following:

1. That the land in question cannot yield a reasonable return unless a variance is granted; and

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

(3) That the granting of a variance will not alter the essential character of the locality; and

(4) That the hardship is not the result of action taken by the applicant or a prior owner.

A variance is not justified unless all elements are present in this case.

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

**Usable Open Space:** That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

**Use:** The manner in which land or a structure is arranged, designed or intended, or is occupied.

**Utility Services:** The generation, transmission, and/or distribution of electricity, gas, communications, and water; the collection and treatment of sewage and solid waste and the provision of mass transportation.

**Variance:** (for flood plain management purposes only) a grant of relief by a community from the terms of a floodplain management regulation

**Vegetation:** All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ above ground level.

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

**Violation:** Any person, including, but not limited to, a landowner; the landowner's agent or a contractor, who violates any of the provisions of this Ordinance may be subject to the enforcement provisions of MRSA Title 30-A. #4452.

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

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

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

**Whip Antenna:** Sometimes known as an omni-directional antenna, a thin rod that transmits and receives signals in all directions.

**Woody Vegetation:** Live trees or woody, non-herbaceous shrubs.