

Article XIII –Shoreland Zoning Ordinance

This Section may be referred to as the “Shoreland Zoning Ordinance,” and in this Section as “Ordinance.”

1.1 Purposes and Authority

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

This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (MRSA)

1.2 Applicability

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

- a. normal high-water line of any great pond or river,
- 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.

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

The Shoreland Zone is an overlay district which provides additional or superseding requirements to any underlying zoning district. Land uses contemplated beyond the boundary of the Shoreland Zone shall adhere to the requirements of any underlying zoning district.

1.3 Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was adopted by the municipal legislative body on _____ shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by

the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

1.4 Availability

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

1.5 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.

1.6 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.

1.7 Amendments

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

1.8 Districts and Zoning Map

1.8.1 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:

- Resource Protection District
- Limited Residential District
- Business District I
- Business District II
- Village Waterfront District
- Marine Overlay District
- Stream Protection District

1.8.2 Scale of Map

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

1.8.3 Certification of Official Shoreland Zoning Map

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

1.8.4 Changes to the Official Shoreland Zoning Map

If amendments, in accordance with this article, Section 1.7, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of Environmental Protection.

1.9 Interpretation of District Boundaries

District boundary lines are as set forth on the Official Shoreland Zoning Map. In the case of any locational or dimensional difference between the text of this ordinance and the map, the text shall control. Where uncertainty exists the Board of Appeals shall be the final authority as to location.

1.10 Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, expanded,

moved, or altered; and no new lot shall be created except in conformity with all the regulations herein specified for the district in which it is located, unless a variance is granted.

1.11 Non-conformance

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 this section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

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.

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.

1.11.1 Non-conforming Structures

1.11.1.1 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 1.14.2.1. 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 than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
- (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure

may be expanded as follows, if all other applicable municipal land use standards are met, and the expansion is not prohibited by Section 1.11.1.1.

- (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, if other applicable municipal land use standards are met, and the expansion is not prohibited by Section 1.11.1.1 or Section 1.11.1.1(a), above.
- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 1.11.1.1 (b)(i) and Section 1.11.1.1(c)(i) above.
 - (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the

existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 1.11.1.1(b)(i) and Section 1.11.1.1c)(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 nonconforming 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.

1.11.1.2 Foundations. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 1.11.1.3 below.

1. 11.1.3 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 Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board 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 to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 1.13.18. In addition, the area from which the relocated structure was removed shall be replanted with vegetation. Replanting shall be required as follows:

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

planted. Replaced trees shall be planted no farther from the water or wetland than the trees that were removed.

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

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

1.11.1.4 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 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 1.11.1.1 above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 1.11.1.3 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 1.11.1.3 above, the physical condition and type of foundation present, if any.

1.11.1.5 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.

1.11.2 Non-conforming Uses

1.11.2.1 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 1.11.1.1 (a) above.

1.11.2.2 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 nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that period, provided, that the applicant applies for the extension before the expiration of the original one-year period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

1.11.2.3 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, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 1.11.1.4 above.

1.11.3 Non-conforming Lots

1.11.3.1 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.

1.11.3.2 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 4807D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

1.11.3.3 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 two or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on June 27, 1983 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 1.11.3 (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.

1.12 Establishment of Shoreland Districts

The Districts are as shown on the Official Shoreland Zoning Map or described herein by dimension or reference to tax map designations. The following are criteria to be used in amending said map.

1.12.1 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.

1.12.1.1 Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows and wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W). These areas are generally depicted on a Geographic Information System (GIS) data layer

1.12.1.2 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's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

1.12.1.3 Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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

1.12.1.4 Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

1.12.2 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 Business I, Business II, Village Waterfront, or Marine Overlay districts.

See Appendix A for additional standards, limitations and uses

1.12.3 . Shoreland Business District I

The Shoreland Business District I includes the following types of areas:

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

- a. Areas devoted to manufacturing or fabricating;
- b. Areas devoted to wholesaling, retail trade and service activities or other commercial activities.

1.12.4 Village Waterfront District

The purpose of the Village Waterfront District is to preserve and maintain for the citizens of Wiscasset the character of the Wiscasset Village Waterfront, including its scenic value, its accessibility to the public, and its economic value for functionally water-dependent uses.

To assure respect for the historic visual experience and avoid incompatible and adverse impacts, development is encouraged to draw its inspiration from traditional New England examples. Building design requires coordination of architectural form, massing, use of materials, color, and detailing to achieve harmony and continuity of design. Suitable design elements are pitched roofs and exterior sheathing such as brick, stone, shingles or clapboards.

See Appendix B for additional standards, limitations and uses.

1.12.5 Shoreland Business II and Marine Overlay Districts

The purpose of the Shoreland Business II and Marine Overlay Districts is to provide geographic areas on the Birch Point peninsula (which was formerly used as an industrial site) where a mixture of uses, including residential, marine, commercial, related ancillary business and low-impact industrial is encouraged.

See Appendix C for additional standards, limitations and uses

1.12.6 Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

1.13 Land Uses

Note: These areas may not necessarily be shown on the official Shoreland Zone map. All land uses, as indicated in Table 1.13, shall conform to all the applicable land use standards in Section 1.12. *See Appendices A, B and C for additional standards, limitations and uses.*

Key to Table 1.13:

- yes - Allowed (no permit required but the use shall comply with all applicable land use standards)
- no - Prohibited
- PB - Allowed with permit issued by the Planning Board
- LPI - Allowed with permit issued by the local Plumbing Inspector
- CEO - Allowed with permit issued by the Code Enforcement Officer

Abbreviations:

- RP – Resource Protection
- LR – Limited Residential
- BD I – Business District I
- BD II - Business District II
- VW – Village Waterfront
- MO – Marine Overlay

1.14 Land Use Standards (*For additional standards, limitations and land use activities see Appendices A, B and C.*)

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

1.14.1 Minimum Lot Standards

1.14.1.1 Any lot in any Shoreland district shall be at least two (2) acres in size and have a minimum shore frontage of 200 feet.

1.14.1.2 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.

1.14.1.3 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.

1.14.1.4 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.

1.14.1.5 No more than one principal structure for commercial use or one principal structure for residential use shall be constructed per two acres. A principal structure for commercial use constructed on two acres shall not contain any dwelling units. A principal structure for residential use constructed on two acres shall not contain more than one dwelling unit and one accessory apartment. All dimensional requirements shall be met.

1.14.1.6 A lot in the Resource Protection District, Limited Residential District, Business District I, Business District II, Village Waterfront, Marine Overlay or Stream Protection District abutting a wetland, lake, pond, river, stream or tidal water shall have a minimum shore frontage of two hundred (200) feet measured in a straight line between the points of intersection of the side lot lines with the shoreline at the normal high-water mark.

1.14.2 Principal and Accessory Structures

1.14.2.1 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 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.

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.

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) disagree 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 Licensed Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to decide.

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.

The Planning Board may increase the required setback of a proposed structure, as a condition to permit approval, if necessary, to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include but are not limited to areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

1.14.2.2 Principal or accessory structures and expansions of existing structures which are permitted 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.

NOTE: A municipality may also exempt a cupola, dome, widow's walk or other similar feature from the height limits in accordance with 38 M.R.S.A. Section 439-A(9).

1.14.2.3 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.

1.14.2.4 With the exception of Shoreland Business I, Shoreland Business II and Village Waterfront districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, 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 the Shoreland Business I, Shoreland Business II and Village Waterfront districts located adjacent to coastal wetlands or rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of 70% of the portion 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 ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

1.14.2.5 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 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 rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area shall meet the following characteristics:
 - (i) The buffer shall include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area shall be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings shall be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 1.14.15.2.1 may traverse the buffer.

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

1.14.2.6 Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Planning Board, 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; 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, Title 38, Section 480-C); and the applicant demonstrates that no reasonable access alternative exists on the property.

1.14.3 Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland and shoreline stabilization.

- 1.14.3.1 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 Section 1.14.1, a second structure may be allowed and may remain if the lot is not further divided.
- 1.14.3.2 Access from shore shall be developed on soils appropriate for such use and constructed to control erosion.
- 1.14.3.3 The location shall not interfere with existing developed or natural beach areas.
- 1.14.3.4 The facility shall be located to minimize adverse effects on fisheries.
- 1.14.3.5 The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area. A temporary pier, dock or wharf in nontidal waters shall not be wider than six feet.
- 1.14.3.6 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.
- 1.14.3.7 No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- 1.14.3.8 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.

1.14.3.9 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.

1.14.3.10 Vegetation may be removed in excess of the standards in Section 1.14.15 of this ordinance to conduct shoreline stabilization or an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board

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

b. Revegetation must occur in accordance with Section 1.14.15.

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

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

1.14.4.1 Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site.

1.14.4.2 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 from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

1.14.5 Individual-Private Campsites. Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

- 1.14.5.1 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.
 - 1.14.5.2 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.
 - 1.14.5.3 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 or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
 - 1.14.5.4 Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
 - 1.14.5.5 The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
 - 1.14.5.6 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 landowner is required.
 - 1.14.5.7 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.
- 1.14.6 Commercial and Industrial Uses. The following commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

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

1.14.7 Parking Areas

1.14.7.1 Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in all Districts shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists farther from the shoreline or tributary stream.

1.14.7.2 Parking areas shall be adequately sized for proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on site.

1.14.7.3 In determining the appropriate size of proposed parking facilities, the following shall apply:

1.14.7.3.1. 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.

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

1.14.8 Roads and Driveways

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

1.14.8.1 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 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.

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

1.14.8.2 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.

1.14.8.3 New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. 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.

- 1.14.8.4 Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 1.14.19
- 1.14.8.5 Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- 1.14.8.6 In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- 1.14.8.7 Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow 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:

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

(a) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

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

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

1.14.8.8 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

1.14.9 Signs

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

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

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

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

1.14.9.5 Signs relating to public safety shall be allowed without restriction.

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

1.14.9.7 Signs may be illuminated only by shielded, non-flashing lights.

1.14.10 Storm Water Runoff

1.14.10.1 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 to reduce runoff and encourage infiltration of stormwaters.

1.14.10.2 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.

1.14.11 Septic Waste Disposal

1.14.11.1 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.

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

1.14.12 Essential Services

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

1.14.12.2 The installation of essential services, other than road-side distribution lines, is not allowed in all districts 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 to minimize any adverse impacts on surrounding uses and resources, including visual impacts,

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

1.14.13 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 Planning Board 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:

- 1.14.13.1 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 Sec. 1.14.13.3.
- 1.14.13.2 No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- 1.14.13.3 Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

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

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

- (b) The final graded slope shall be two and one-half to one (2 ½:1) slope or flatter.
- (c) Topsoil 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 offsite sources if necessary, to complete the stabilization project.

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

1.14.14 Agriculture

- 1.14.14.1 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 MRSA sections 4201-4209).
- 1.14.14.2 Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- 1.14.14.3 Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be a violation of this Ordinance.
- 1.14.14.4 There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond

classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained but may not be increased in area.

1.14.14.5 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 with the above setback provisions may continue but may not be increased, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

1.14.15 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

1.14.15.1 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 1.14.16.

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.

1.14.15.2 Except in areas as described in Section 1.14.15.1, above within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, 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” adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet

<u>Above Ground Level (inches)</u>	<u>Points</u>
2 - < 4	1
4 - < 8	2
8 - < 12	4
12 or greater	8

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

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 shall be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot shall be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points shall 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 this Section “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 ½) 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. 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 1.14.15.2 above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- e. To maintain a buffer strip of vegetation, when the removal of storm-damaged or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with 1.14.17 below unless existing new tree growth is present.

To maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 1.14.16.

- 1.14.15.3 At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period,

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

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

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

1.14.15.5 Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

1.14.16 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

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

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

b. Outside of the shoreline zone, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater,

replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

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

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

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

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

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

- i The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- ii Stumps from the storm-damaged trees may not be removed;
- iii Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- iv If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four

and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

1.14.17. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 1.14.16 provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- 1.14.17.1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts to primarily woody vegetation, the requirements of Section 1.14.16 apply;
- 1.14.17.2 The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 1.14.2 are not applicable;
- 1.14.17.3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- 1.14.17.4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 1.14.14 are complied with;
- 1.14.17.5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 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.

1.14.17.6 The removal of non-native invasive vegetation species provided the following minimum requirements are met:

- a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
- b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- c. If applicable clearing and vegetation removal standards are exceeded due to the removal of nonnative invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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

1.14.17.7 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.

1.14.18. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 1.14.15 to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1.14.18.1 The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, which 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.

1.14.18.2. 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:

1.14.18.3. 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.

1.14.18.4. Revegetation activities must meet the following requirements for trees and saplings:

- a. All trees and saplings removed must be replaced with native noninvasive species;
- b. Replacement vegetation must at a minimum consist of saplings;
- c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
- d. No one species shall make up 50% or more of the number of trees and saplings planted;
- e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
- f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

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

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

- b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
- d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
- e. Survival of planted woody vegetation and vegetation less than three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

1.14.18.6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

- a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

1.14.19 Erosion and Sedimentation Control

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

- a. Mulching and revegetation of disturbed soil.
- b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- c. Permanent stabilization structures such as retaining walls or riprap.

1.14.19.2 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.

1.14.19.3 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.

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

- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- c. Additional measures shall be taken where necessary to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

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

1.14.20 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 Licensed 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.

1.14.21 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.

1.14.22 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.

1.15 Administration

1.15.1 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.

A permit is not required for the replacement of an existing road culvert if:

- 1.15.1.1 The replacement culvert is not more than 25% longer than the culvert being replaced;

1.15.1.2 The replacement culvert is no longer than 75 feet; and

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

A permit is not required for an archaeological excavation if the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

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

1.15.2 Permit Application

1.15.2.1 Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Town of Wiscasset, to the appropriate official as indicated in Section 1.15. Ten complete sets shall be submitted.

1.15.2.2 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 a letter of authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

1.15.2.3 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.

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

1.15.2.5 When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity

occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control practices have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

15.3 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 1.13, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

If a public hearing is held, at least seven days before the hearing, notice shall be given to abutting property owners, including those located directly across a public or private road from the parcel proposed to be developed, by delivery in person or by registered or certified mail, with restricted delivery and return receipt requested. Service by registered or certified mail shall be complete when the registered or certified mail is delivered, and the return receipt signed or when acceptance is refused, provided that the applicant shall file with the Planning Board either the return receipt or, if acceptance was refused, an affidavit that upon notice of such refusal a copy of the summons and complaint was sent to the abutter by ordinary mail. If service of the notice is made personally, an affidavit of the person making service shall be filed with the Planning Board stating the time, manner and place of service.

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with floodplain development and use; and
- (8) Is in conformance with the provisions of Section 1.14 Land Use Standards.

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

1.15.4 Special Exceptions.

In addition to the criteria specified in Section 1.11.2 above, excepting structure setback requirements, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all the following conditions are met:

- a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- b. 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.

- c. All proposed buildings, sewage disposal systems and other improvements are:
 - (1) Located on natural ground slopes of less than 20%; and
 - (2) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

- d. 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.
- e. All structures, except functionally water-dependent structures, are set back from the normal highwater 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.

1.15.5 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.

1.15.6 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. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

1.15.7 Appeals and Variances in the Shoreland District: See Article VI Section 7.1.

1.15.8 Enforcement

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

1.15.8.2 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 ensure 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.

1.15.8.3 Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby directed to institute 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 Selectmen, 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.

1.15.8.4 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, MRSA, section 4452.

1.16 Definitions (*See definitions pertaining to only Shoreland Business II and Marine Overlay Districts in Appendix C*)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or

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

Expansion of a structure - an increase in the footprint or height 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.

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

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

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

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

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

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

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

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

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

primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Great pond - any inland body of water which in a natural state has surface area more than ten acres, and any inland body of water artificially formed or increased which has a surface area more than thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is 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 and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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

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

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

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

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

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

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

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

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

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

Mineral extraction - any operation 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.

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

Native – indigenous to the local forests.

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

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

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

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

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

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

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

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.

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

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland - Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months; Permanent Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

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

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

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

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

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

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

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

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

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

Residual basal area - the average of the basal area of trees remaining on a harvested site.

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.

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

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

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

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

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

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

- (1.) in the case of electric service

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

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

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

Shoreland Buffer – the land area located within seventy-five (75) feet from the mean high-water line.

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

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

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

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

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, to the point where stream becomes a river, or 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.

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.

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

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

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

Tidal waters – all waters affected by tidal action during the maximum 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 Section 1.14.15 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

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

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

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from the tributary stream are applicable.

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

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

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

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

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

Water body - any great pond, river or stream.

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

This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

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

Appendix A

Limited Residential District

1. Residential, governmental, and institutional structures in the Shoreland Zone will conform to the following Land Use Standards.

1.1 Minimum Lot Standards within the Shoreland Zone

	Lot Area (sq.ft.)	Shore Front. (ft.)
<u>Residential (per dwelling unit)</u>		
Adjacent to Tidal Areas	43,560	150
Adjacent to Non-Tidal Areas	43,560	200
 <u>Governmental, Institutional, Commercial or Industrial (per principal structure)</u>		
Adjacent to Tidal Areas Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	43,560	200
Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
Adjacent to Non-tidal Areas	60,000	300
 <u>Public and Private Recreational Facilities</u>		
Adjacent to Tidal and Non-tidal Areas	43,560	200

1.2. 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.

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

1.4. 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.

1.5 If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

1.6 Clustered housing is permitted within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

2. The following is allowed only with a permit from a Licensed Plumbing Inspector:

Private sewage disposal systems, provided that all subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size and shall be setback no less than 100 horizontal feet from the normal high-water mark of a water body. This requirement shall not be reduced by variance. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine subsurface Wastewater Disposal Rules. Subsurface waste disposal systems shall require a soils report, prepared by a State-certified soil scientist or geologist based on a non-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by onsite factors such as depth to water table and depth to refusal.

Appendix B

Village Waterfront District

1. The following dimensional requirements shall apply within the Village Waterfront District provided development complies with all applicable laws, rules and regulations:

Minimum lot size:

1. Residential: None
2. Non-residential: None

Minimum frontage

1. Water: None
2. Road/Street: None

Minimum setback requirements:

1. Front setback: None
2. Side setback: None
3. Rear setback: None

2. Landscaping standards

2.1 All applicants for permits for buildings or structures, subdivisions and site plan review exceeding six hundred (600) square feet in floor area shall submit a plan for the preservation, planting and/or replacement of trees on the site to the extent that, at maturity of twenty years, the existing tree canopy shall be maintained. The Code Enforcement Officer or Planning Board shall be responsible for the review of all landscape and tree preservation plans. All landscape plans shall include:

2.1.1 Scale. Plans shall be drawn to a scale of not more than 30 feet to the inch on sheets not exceeding 24 x 36 inches.

2.1.2. Contents. All plans shall illustrate with sufficient detail the location of all proposed construction including driveways, parking areas, curbs, sidewalks, utility lines, utility easements, structures and landscape areas. Landscape areas shall indicate the type, quantity and dimensions of all proposed vegetation and shall be illustrated at their mature growth. Landscape material proposed must comply with the standard industry planting practices.

2.1.3 Performance Standards

All uses in the Village Waterfront District shall comply with the following standards:

2.1.3.1 Outdoor storage of materials: Outdoor storage of materials accessory to normal conduct of business shall be suitably screened from the public way and from abutting properties by a fence at least six (6) feet in height or by a solid evergreen planting strip. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area.

2.1.3.2 Noise: The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the Village Waterfront District shall not exceed seventy (70) decibels on the A scale at the boundaries of any lot between the hours of 7:00 AM and 9:00 PM and fifty (50) decibels between the hours of 9:00 PM and 7:00 AM. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured based on the energy average sound level over a period of sixty (60) seconds (LEQ1). The following activities and use shall be exempted from the above-mentioned noise requirements:

2.1.3.2.1 Construction and maintenance activities between the hours of 7:00 AM and 8:00 PM;

2.1.3.2.2 The noises of safety signals, warning devices, emergency pressure relief valves, and other emergency devices;

2.1.3.2.3 Traffic noise on public and private roads;

2.1.3.2.4 Noise created by refuse and solid waste collection, provided that the activity is conducted between 7:00 AM and 6:00 PM;

2.1.3.2.5 Emergency construction or repair work by public utilities at any hour including, but not limited to, mobile substations;

2.1.3.2.6 Noise created by any recreational activities which are permitted by law, including but not limited to parades, sporting events, and fireworks displays;

2.1.3.3. Vibration: Vibration inherently and recurrently generated, except during periods of construction, shall be imperceptible without instruments at lot boundaries.

2.1.3.4 Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air.

2.1.3.5 Floodplain management regulations: Any lot or portion of a lot located within a flood hazard zone as identified on the most recent version of the Town of Wiscasset Flood Insurance Rate Maps shall be subject to applicable Federal Emergency Management Agency Floodplain Management rules and Town of Wiscasset Floodplain Ordinance.

2.1.3.6 Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries, except glare existing before the adoption of this ordinance and glare generated from sources directly associated with safety and security of the site.

2.1.3.7 Lighting: All exterior lighting fixtures, except fixtures existing before the adoption of this Article shall be of such a design to shield the affixed light bulb from sight beyond the property boundaries, and so designed to minimize light emissions visible from adjoining properties except illumination generated from sources directly associated with emergency operations on the site.

2.1.3.8 All new electric or telecommunications distribution lines shall be installed underground.

2.1.3.9 All structures requiring water and sewer shall be connected to public water and public sewer.

2.1.3.10 It shall be the responsibility of the property owner, applicant or their representative to demonstrate to the Town that development is in compliance with applicable performance standards. For any development requiring Planning Board approval, the Planning Board shall have authority to require that any developer bear the expense to investigate and prepare studies deemed necessary by the Planning Board to evaluate

impacts and demonstrate compliance with the standards of this Section. If needed the Planning Board shall have the authority to hire, at the developer's expense, its own consultants to evaluate the developer's plans and studies.

2.1.3.11 Waiver: The Planning Board may modify or waive any of the Performance Standards 2.1.3.2 to 2.1.3.11, stated above, when the applicant clearly establishes and documents that the standard would not be applicable.

2.4 Applicability of Article VII – Subdivision Ordinance

When the Planning Board is reviewing any application for a subdivision in the Village Waterfront District, the Planning Board may modify or waive any Subdivision requirement or performance standard when the applicant clearly establishes and documents that the requirement or standard would not be applicable. Additionally, the following provisions of Article VII – Subdivision Ordinance shall apply as follows:

2.4.1 Single-family and multiple family-dwellings minimum lot size requirements do not apply; and,

2.4.2 Street and road construction requirements shall not apply, provided the applicant submits documented proof to the Planning Board that all road and street construction meets the design criteria established by the American Association of State Highway and Transportation Officials based upon projected land uses and traffic volumes.

2.5 Applicability of Article VIII – Site Plan Review Ordinance

When the Planning Board is reviewing a proposal that requires Site Plan Review in the Village Waterfront District, the following provisions of Article VIII – Site Plan Review shall apply as follows:

2.5.1 Minimum parking space requirements shall not apply.

2.5.2 Waiver standards shall be replaced with: The Planning Board may modify or waive any Site Plan Review requirement or performance standard when the applicant clearly establishes and documents that the requirement or standard would not be applicable.

2.6 Applicability of Article II – Building Laws

When the Planning Board or Code Enforcement Officer is reviewing an application for Subdivision, Site Plan Review or building permit in the Village Waterfront District, the following provisions of Article II – Building Laws shall not apply

2.6.1 Sections 2.1 – 2.14, lot size and setback requirements.

2.6.2 Section 3.2, height.

2.6.3 Section 7.9, State lot size for water and sewer lines and disposal regulation.

Appendix C

Shoreland Business II and Marine Overlay Districts

1. Purpose

The purpose of the Shoreland Business II and Marine Overlay Zoning Districts, hereinafter referred to as the Districts, is to provide geographic areas on the +/- 33.19-acre Birch Point peninsula (which was formerly used as an industrial site) where a mixture of uses, including residential, marine, commercial, related ancillary business, and low-impact industrial is encouraged. The Districts are designed to provide and maintain safe and healthy living conditions; prevent degradation of the natural environment; protect and promote marine industries; conserve shoreland vegetation and harmonize commercial, marine business, low-impact industrial and residential uses with the surrounding built and natural environment. The Districts are also intended to allow uses that provide housing and services for their residents and opportunities for economic growth. In addition, the Districts are designed to co-exist with the existing Electric Utility Substation and Facilities located adjacent to and within the Districts.

The Shoreland Business II and Marine Overlay Zoning Districts, as of the effective date of this ordinance, are characterized by an existing, heavily developed lot with potential for high density, clustered housing, marina facilities, mixed-use development as well as the environmentally friendly reuse of existing land and buildings. Any mixed-use development shall rely on shared infrastructure systems including electrical, telecommunications, water and sewer services, parking lots, transportation facilities, stormwater management, and driveways.

The Special Setback Area is bounded and described as follows: A tract of land at Birch Point in the Town of Wiscasset, being a part of the former Mason Station Property shown on a plan entitled "Shoreland Business District II & Marine Overlay Districts Zoning Map" dated February 28, 2005 bounded and described as follows: Beginning at an iron rod set labeled "F" on the above mentioned Zoning Map on the northerly line of the land now or formerly of Central Maine Power Company; thence N 51°24'15" W along the northerly line of the land of Central Maine Power Company 51.79' to an unmonumented point at the high water mark of Hilton Cove labeled "A" on the above mentioned Zoning Map; thence northeasterly, easterly, and southeasterly by the high water mark of Hilton Cove and Sheepscot River to an unmonumented point that lies S 86°04'44" W 13.94' from a drill hole in ledge set labeled "H" on the above mentioned Zoning Map; thence S 86°04'44" W 126.43' to an unmonumented point; thence S 41°13'35" W 198.61' to an unmonumented point; thence S 06°32'42" W 55.56' to an unmonumented point; thence S 16°01'17" E 32.63' to an unmonumented point at the center of the railroad spur; thence S 73°50'02" W along the center of the railroad spur 151.17' to an unmonumented point; thence S 72°46'31" W along the center of the railroad spur 53.16' to an unmonumented point; thence S 69°51'14" W along the center of the railroad spur 60.04' to an

unmonumented point; thence S 66°48'56" W along the center of the railroad spur 74.39' to an unmonumented point; thence S 57°32'59" W along the center of the railroad spur 12.06' to an unmonumented point on the northerly line of the land of Central Maine Power Company; thence N 51°24'15" W along the northerly line of the land of Central Maine Power Company 284.64' to the point of beginning

The Impervious Surface Ninety Percent (90%) Area is bounded and described as follows: A tract of land at Birch Point in the Town of Wiscasset, being a part of the former Mason Station Property shown on a plan entitled "Shoreland Business District II & Marine Overlay Districts Zoning Map" dated February 28, 2005 bounded and described as follows: Beginning at an unmonumented point on the northerly line of the land now or formerly of Central Maine Power Company at the center of a railroad spur; said point lying S 51°24'15" E, a distance of 284.64' from a rebar set at the top of the bank of Hilton Cove; said rebar being labeled "F" on said Zoning Map; thence N 57°32'59" E along the center of the railroad spur 12.06' to an unmonumented point; thence N 66°48'56" E along the center of the railroad spur 74.39' to an unmonumented point; thence N 69°51'14" E along the center of the railroad spur 60.04' to an unmonumented point; thence N 72°46'31" E along the center of the railroad spur 53.16' to an unmonumented point; thence N 73°50'02" E along the center of the railroad spur 151.17' to an unmonumented point; thence N 16°01'17" W 32.63' to an unmonumented point; thence N 06°32'42" E 55.56' to an unmonumented point; thence N 41°13'35" E 198.61' to an unmonumented point; thence N 86°04'44" E 101.43' to an unmonumented point that lies S 86°04'44" W 38.94' from a drill hole in ledge set labeled "H" on the above mentioned Zoning Map; thence southerly along the westerly boundary of the Marine Overlay District by a line that is 25' from (on the landward side) and parallel to the high water mark of Sheepscot River to a point that lies N 64°11'45" W from an unmonumented point labeled "J" as shown on the above mentioned Zoning Map; thence S 64°11'45" E along the southerly boundary of the Marine Overlay District 25.00' to an unmonumented point at the high water mark of Sheepscot River labeled "J" on the above mentioned Zoning Map; thence southwesterly by the high water mark of the Sheepscot River to the center of the old dam at the outlet of the ice pond; thence southwesterly along the high water mark of the ice pond to an unmonumented point labeled "K" on the above mentioned Zoning Map; thence N 05°57'43" W 388.19' to an unmonumented point on the northerly side of the access road at the southwest corner of the land now or formerly of Central Maine Power Company; thence N 84°02'17" E partly along the northerly edge of the access road 398.71' to an unmonumented point; thence N 05°57'43" W along the land now or formerly of Central Maine Power Company 97.21' to an unmonumented point; thence N 24°23'29" E along the land now or formerly of Central Maine Power Company 200.41' to an unmonumented point; thence N 65°16'49" W along the land now or formerly of Central Maine Power Company 31.33' to an unmonumented point; thence N 11°18'11" E along the land now or formerly of Central Maine Power Company 36.34' to an unmonumented point; thence N 32°23'50" W along the land now or formerly of Central Maine Power Company 110.13' to an unmonumented point; thence N 23°54'42" E along the land now or formerly of Central Maine Power Company 33.76' to an unmonumented point; thence N 65°49'25" W along the land now or

formerly of Central Maine Power Company 58.04' to an unmonumented point; thence N 51°24'15" W along the land now or formerly of Central Maine Power Company 47.86' to the point of beginning. Bearings mentioned above are oriented towards Grid North (NAD 83) as shown on the above-mentioned Zoning Map.

Impervious Surface Fifty Percent (50%) Area: All areas of the Shoreland Business II and Marine Overlay Districts not included in the Impervious Surface Ninety Percent (90%) Area.

2. **Definitions** – The following definitions apply only to the Shoreland Business II District and the Marine Overlay District. All other definitions contained in Wiscasset Ordinances, to the extent they are not in conflict with the following definitions, also apply to the Shoreland Business II District and the Marine Overlay District.

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

Business service: A service provided to other business establishments on a fee or contract basis such as advertising, mailing services, building maintenance services, employment services, management and consulting services, protective services, personnel services and similar services.

Clinic: An establishment where patients are admitted for examination and treatment by one (1) or more professionals including, but not limited to, physicians, dentists, psychologists or social workers.

Community Center: A building used for recreational, social, educational, health, culture, or similar activities and services, usually owned and operated by a public or nonprofit group or agency.

Community Hall: A building or portion of a building, used for social, recreational, artistic, civic, or educational community functions. Such a facility would be open to the public for such functions, which, for example, could include but not be limited to performances, dances, exhibitions, cultural exchange, training programs and workshops, neighborhood meetings or gatherings. As part of these functions and activities, it shall be permissible to serve food, subject to other applicable codes and ordinances.

Convenience store: A retail establishment offering for sale a limited line of groceries and household items intended for convenience of the neighborhood.

Day care facility: A facility which, for consideration, provides regular care and protection for children under the age of sixteen (16) for any part of the day and is required to be licensed by the state.

Drinking establishments: An establishment required to be licensed to sell alcoholic beverages for on-premises consumption, and which is not regularly used for the purpose of providing full-course meals on the premises, as defined in Title 28-A of the Maine Revised Statutes.

Earth moving activity: Any removal, placement, excavation, filling, stockpiling or grading of soil, earth, loam, sand, gravel, rock, or other natural mineral deposits.

Eating establishment: An establishment that prepares and serves food and beverages intended for immediate consumption in consideration of payment.

Electric Utility Substation and Facilities: Any electrical power transmission or distribution substations and associated equipment and operations including, but not limited to, communications equipment, portable generation, overhead and underground electrical transmission and distribution lines, cables and towers and associated utility corridors, electric distribution line extensions as defined under Chapter 395 of the Maine Public Utilities Commission Rules, and electric utility service centers and equipment.

Facility: A structure, open area, or other physical contrivance or object.

Family: One person, or a group of people living together as a single housekeeping unit, together with incidental domestic servants and temporary nonpaying guests.

Family amusement center: Any structure, open to the public, which may contain coin-operated games and similar entertainment and amusement devices.

Fill: Soil, earth, loam, sand, gravel, rock and other similar deposits.

Filling: The placement of soil, earth, loam, sand, gravel, rock and other mineral deposits.

Impervious surface area: Any surface area which does not absorb rain and includes the footprint of all buildings, roads, sidewalks, parking areas, and any area paved with bricks, gravel, concrete or asphalt.

Intermodal Transportation Facility: A facility which accommodates the change from one mode of transportation to another such as docks, park and ride lots, bus stops and railroad stations.

Low-impact industrial uses: Facilities and/or industrial activity involving the manufacturing, packaging, assembly or distribution of products from previously prepared materials including, but not limited to, the following: bakeries, breweries, bottling, printing and publishing, machine shops, assembly of electronic components, tool and die shops and the packaging of foods; and/or, the manufacturing of: precision instruments, watches, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry. Low-impact industrial uses do not include salvaging operations.

Personal services: Services provided to a person such as laundering of apparel, photography, beauty and barber care, but excluding commercial or industrial laundering of apparel and dry cleaning.

Private club: A nonprofit social or recreational facility that is open exclusively to members and their guests. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facilities are available.

Professional office: An office maintained by an individual or firm for the practice of a professional such as physician, dentist, lawyer, engineer, architect, teacher, accountant, realtor, insurance broker or other professional.

Recreational area: A place designed and equipped for sports, leisure time activities and/or other customary and usual recreational activities.

Recreational trail: A trail open to the public, established for walking, hiking, non-motorized biking, snow-shoeing, or cross-country skiing, with a tread path no more than twelve (12) feet in width and an overall width including trail side-slopes of twenty (20) feet or less. No motorized vehicles are permitted on a recreational trail except electrically and solar-operated vehicles and similar transportation-related equipment used by persons with limited physical or mental abilities, and vehicles necessary for trail maintenance and emergency purposes.

Restaurant: An establishment with a food preparation area, dining area, and persons to prepare and serve food and drinks to guests in consideration of payment.

Retail establishment: Any shop or store offering goods, services or merchandise to the general public for direct consumption and not for resale.

Service drop: Any utility service to a customer provided that:

1. in the case of electrical service

- 1.1 A “service drop” is the service cable or other conductor providing secondary voltage to the customer’s service entrance equipment from a transformer or from

a secondary conductor located on the utility's distribution system or on a privately-owned line extension.

2. in the case of telecommunication service

2.1 the extension, regardless of the length, will be made by the installation of telecommunication wires to existing utility poles, or

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

Studios for artists and craftspeople: A facility for the production of arts and crafts products such as paintings, sculpture or other arts, or the practice of arts such as music or dance, or the production of custom handcrafted work.

Theater: An establishment devoted to showing motion pictures, or used for dramatic, musical or other live performances.

Use: The purpose for which land or structures thereon is designed, arranged or intended to be occupied or utilized, or for which it is occupied, maintained, owned, rented or leased.

Utility substation: A sewage- or water-pumping station, telecommunications equipment enclosures, or other similar structures owned or operated by a public utility, excluding any Electric Utility Substation and Facilities.

Warehousing: Storage of goods, wares and merchandise in a structure in consideration of payment.

Water-dependent uses: Uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters.

Wholesale business: A business primarily engaged in the selling of merchandise to retailers or to industrial, commercial, institutional, or professional business users, or to wholesalers; or, a wholesale business is a business that acts as agent or broker and buys merchandise for, or sells merchandise to, such individuals or companies.

3. Dimensional Requirements

The following dimensional requirements shall apply within the Shoreland Business II and Marine Overlay Zoning Districts provided development is in compliance with all applicable laws, rules and regulations:

3.1 Minimum lot size: None.

3.2 Minimum frontage: None.

3.3 Minimum setback requirements:

3.3.1 Front setback: Non required;

3.3.2. Side setback: Non required; and

3.3.3 Rear setback: Non required

3.4 Minimum water body setback:

3.4.1. Shoreland Business District II

3.4.1.1 There shall be no minimum setback for roads or structures that require direct water access as an operational necessity including, but not limited to, piers, docks, wharfs and bridges, or for buildings in existence as of the effective date of this ordinance. Any enlargement of these existing buildings must comply with all applicable setback requirements in this ordinance;

3.4.1.2 In the Special Setback Area, there shall be a minimum setback of fifty (50) feet from the upland edge of a coastal wetland for one- and two-family dwelling units and their accessory structures, for parking areas and driveways, for structures in a recreational area, for educational, scientific, or nature interpretation non-residential facilities, for clearing of vegetation for approved development, and for signs and service drops. For all other structures located in the Special Setback Area, there shall be a minimum setback of twenty-five (25) feet from the upland edge of a coastal wetland; and

3.4.1.3 In all other portions of the Shoreland Business II District, there shall be a minimum setback of twenty five (25) feet from the upland edge of a coastal wetland, or the normal high-water line of Hilton Pond, for all residential structures (including hotels and motels) and their accessory structures, parking areas, driveways and roads, and fifty (50) feet for all non-residential structures and their accessory structures.

3.4.2 Marine Overlay District

There shall be no setback for permitted structures and uses.

3.5 Maximum lot coverage: The total of all impervious surface areas shall be:

3.5.1 No more than ninety percent (90%) of the Impervious Surface Ninety Percent (90%) Area ; and,

3.5.2 No more than Fifty Percent (50%) for all remaining land in the Shoreland Business II and Marine Overlay Districts

3.6 Maximum Height of Structures

3.6.1 Shoreland Business District II

3.6.1.1 The existing Mason Station building shall not exceed the height of Building as of the date of this ordinance

3.6.1.2 Each non-habitable structure existing as of the effective date of this ordinance that exceeds an applicable height restriction shall not exceed its as of the effective date of this ordinance.

3.6.1.3 In the Special Setback Area, all one- and two-family dwelling units and their accessory structures within 250 feet of the upland edge of a coastal wetland shall not exceed a maximum height of thirty-five (35) feet;

3.6.1.4 In all other portions of the Shoreland Business II District, one- and two-family dwelling units and their accessory structures shall not exceed a maximum height of thirty-five (35) feet; and,

3.6.1.5 All other structures shall not exceed a maximum height of seventy-five (75) feet.

3.7 Marine Overlay District

3.7.1 All habitable structures shall not exceed forty (40) feet in height; and,

3.7.2 All non-habitable structures shall comply with applicable Wiscasset ordinances.

4. General Land Use Standards

All land use activities in the Shoreland Business II and Marine Overlay Districts shall conform to the following standards, if applicable.

4.1 The first-floor elevation or openings of all buildings and structures including basements constructed after the effective date of this ordinance 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.

4.2 No structures shall be constructed on slopes greater than 20% within seventy-five (75) feet from the upland edge of a water body unless they are permissible functionally water-dependent uses or structures or their accessories.

4.3 Notwithstanding the requirements stated above, ramps, stairways, or similar structures may be allowed to provide shoreline access in areas of steep slopes or unstable soils provided:

4.3.1 The structure is limited to the maximum width necessary for proposed use, not to exceed a maximum of six (6) feet in width;

- 4.3.2 The structure does not extend below or over the upland edge of a coastal wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C), and;
- 4.3.3 The property owner demonstrates that no reasonable alternative exists on the property within 150 feet of the desired point of access.

4.4. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Upland Edge of a Coastal Wetland or Within a Wetland.

- 4.4.1 Access from shore shall be developed on soils appropriate for such use and constructed to control erosion.
- 4.4.2 The location shall not interfere with existing developed natural beach areas.
- 4.4.3 The facility shall be located to minimize adverse effects on fisheries.
- 4.4.4 The facility shall be no larger in dimension than necessary to carry on permitted land use activities.
- 4.4.5 No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the upland edge of a coastal wetland or within a wetland unless the structure requires direct access to the water as an operational necessity or is a functionally water-dependent use or an accessory to a functionally water-dependent use, or as a permitted use under the provisions of K.3.4.0 and K.3.5.0.
- 4.4.6 No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the upland edge of a coastal wetland of a water body or within a wetland shall be converted to residential dwelling units.

4.5 Parking Areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and, where feasible, to retain all run-off on site.

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

- 4.6.1 Roads and driveways shall be set back at least twenty-five (25) feet from the upland edge of a coastal wetland, excepting roads which require access to the shoreline.

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

This subsection shall apply neither to approaches to water crossings nor to roads or driveways that provide access to permitted structures and uses.

4.6.3 Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

4.6.4 Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection K.6.7.0

4.6.5 Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

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

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

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

Road Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16.20	60-45

4.6.7.2 Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

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

4.6.7.4 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.

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

4.7 Storm Water Runoff

4.7.1 All new construction and development shall be designed to manage stormwater runoff on the site in excess of the natural predevelopment conditions. 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 stormwaters.

4.7.2 Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning

4.8 Clearing of Vegetation

4.8.1 Except to allow for development of permitted uses within a strip of land extending seventy-five (75) feet, horizontal distance, from the upland edge of a coastal wetland, a buffer strip of vegetation shall be preserved as follows:

4.8.1.1 There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.

4.8.1.2 Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section a “well-distributed stand of trees and other vegetation” adjacent to water bodies and wetlands is defined as maintaining a minimum rating score of 8 per 25-foot x 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 – 4 in.	1
> 4 – 12 in.	2
> 12 in.	4

4.8.1.3 Notwithstanding the above provision, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level, may be removed in any ten (10) year period.

4.8.1.4 Pruning of tree branches on the bottom 1/3 of the tree is permitted.

4.8.2 In order to maintain a buffer strip of vegetation when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these opening shall be replanted with native tree species unless existing new tree growth is present.

4.8.3 At distances greater than seventy-five (75) feet, horizontal distance, from the upland edge of a coastal wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

4.8.4 Cleared openings legally in existence on the effective date of this Ordinance may be maintained but shall not be enlarged except as permitted by this Ordinance.

4.8.5 Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

4.8.6 In addition to the clearing of vegetation for development standards stated herein, the maintenance of a seventy-five-(75) foot vegetated buffer where one currently exists shall be required, except for the area where approved construction occurs.

4.8.7 Notwithstanding the above provisions, to the extent a DEP-approved remediation plan requires the removal of vegetation in excess of the limits stated herein, the developer shall submit to the Planning Board and Code Enforcement Officer a plan to re-vegetate the area in a manner consistent with the regulations for the clearing of vegetation for development as stated herein.

4.9 Erosion and Sedimentation Control

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

4.9.1.1 Mulching and re-vegetation of disturbed soil

4.9.1.2 Temporary runoff-control features such as hay bales, silt fencing or diversion ditches; and,

4.9.1.3 Permanent stabilization structures such as retaining walls or riprap.

4.9.2 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, high cuts and fills shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

4.9.3 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.

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

4.9.5.1 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.

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

4.9.5.3. 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.

4.9.6 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.

4.10 Soils

4.10.1 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.

4.11 Water Quality

4.11.1 No activity shall deposit on or into the ground or discharge into 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.

4.12 Archaeological Site

4.12.1 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 before rendering a decision on the application.

5. Performance Standards

All uses in the Shoreland Business II/Marine Overlay Districts shall comply with the following standards:

5.1 Outdoor storage of materials: Outdoor storage of materials accessory to normal conduct of business shall be suitably screened from the public way and from abutting properties by a fence at least six (6) feet in height or by a solid evergreen planting strip. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area;

5.2 Noise: The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the Shoreland Business II/Marine Overlay Districts shall not exceed seventy (70) decibels on the A scale at the boundaries of any lot between the hours of 7:00 AM and 9:00 PM and fifty (50) decibels between the hours of 9:00 PM and 7:00 AM. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured based on the energy average sound level over a period of sixty (60) seconds (LEQ1). The following activities and use shall be exempted from the above-mentioned noise requirements:

5.2.1 Construction and maintenance activities between the hours of 7:00 AM and 8:00 PM;

5.2.2 The noises of safety signals, warning devices, emergency pressure relief valves, and other emergency devices;

5.2.3 Traffic noise on public and private roads or noise created by railroads;

5.2.4 Noise created by refuse and solid waste collection, provided that the activity is conducted between 7:00 AM and 6:00 PM;

5.2.5 Emergency construction or repair work by public utilities at any hour including, but not limited to, mobile substations;

5.2.6 Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the town, including but not limited to parades, sporting events, and fireworks displays;

5.3 Vibration: Vibration inherently and recurrently generated, except during periods of construction, shall be imperceptible without instruments at lot boundaries;

5.4 Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air;

5.6 Off-street parking and loading: The applicant and/or property owner shall provide documented proof that proposed use(s) will have adequate, on-site parking spaces, which may include shared parking spaces, to fulfill the needs of the development in accordance with the most recent edition of the Parking Generation Manual published by the Institute of Traffic Engineers;

5.7 Floodplain management regulations: Any lot or portion of a lot located within a flood hazard zone as identified on the most recent version of the Town of Wiscasset Flood Insurance Rate Maps shall be subject to applicable Federal Emergency Management Agency Floodplain Management rules and Town of Wiscasset Floodplain Ordinance;

5.8 Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries, except glare existing before the adoption of this Article and glare generated from sources directly associated with safety and security of the site;

5.9. Lighting: All exterior lighting fixtures, except fixtures existing before the adoption of this Article shall be of such a design to shield the affixed light bulb from sight beyond the property boundaries, and so designed to minimize light emissions visible from adjoining properties except illumination generated from sources directly associated with emergency operations on the site;

5.10 To mitigate potential adverse impacts between the Shoreland Business II District and the existing Utility Transportation Officials based upon projected land uses and traffic volumes; the Planning Board may require a buffer strip of not more than twenty-five (25) feet in width contiguous to that portion of the Rural District and the Shoreland

Business on which the utility substation is located as of the effective date of this ordinance. In the buffer strip, the Planning Board may require non-residential uses, physical barriers or design features that mitigate potentially adverse visual, sound, safety and security impacts. Non-residential uses or physical barriers may include, but are not limited to, vegetation, commercial structures, berms, fences, walls, and other similar structures. The responsibility for implementing such non-residential uses, physical barriers or design features in the buffer strip shall rest with the owner of the property being developed.

5.11 Road and street construction shall meet the design criteria established by the American Association of State Highway and Transportation Officials based upon projected land uses and traffic volumes.

5.12 Except in the Marine Overlay District, all new electric or telecommunications distribution lines shall be installed underground;

5.13 All structures requiring water and sewer shall be connected to public water and public sewer; and,

5.14 It shall be the responsibility of the property owner, applicant or their representative to demonstrate to the Town that development follows applicable performance standards. The Planning Board shall have authority to require that any developer bear the expense to investigate and prepare studies deemed necessary by the Planning Board to evaluate impacts and demonstrate compliance with the standards of this Section. If needed, the Planning Board shall have the authority to hire, at the developer's expense, its own consultants to evaluate the developer's plans and studies.

6. Applicability of Article VII – Subdivision Ordinance

When the Planning Board is reviewing any application for a subdivision in the Shoreland Business II/Marine Overlay Zoning Districts, the Planning Board may modify or waive any Subdivision requirement or performance standard when the applicant clearly establishes and documents that the requirement or standard would not be applicable. Additionally, the following provisions of Article VII – Subdivision Ordinance shall apply as follows:

6.11 Section 2.3.3(n), single-family and multiple family-dwellings minimum lot size requirements do not apply;

6.12 Section 2.3.5, street and road construction requirements shall not apply in its entirety, provided applicant submits documented proof to the Planning Board that all road and street construction meets the design criteria established by the American Association of State Highway and Transportation Officials based upon projected land uses and traffic volumes; and,

6.13 Section 5.2, timing requirements shall apply, except that the subdivider shall have two (2) years to commence construction and ten (10) years to complete the specifications on the final subdivision and site plan review plans and documents.

7. Applicability of Article VIII – Site Plan Review Ordinance

When the Planning Board is reviewing a proposal that requires Site Plan Review in the Shoreland Business II/Marine Overlay Districts, the following provisions of Article VIII – Site Plan Review shall apply as follows:

7.1 Section 6.2.3, placement of fill shall not apply if the applicant is conducting such activities in accordance with Department of Environmental Protection approved order, permit, closure or remediation plan;

7.2 Section 6.8.3, minimum parking space requirements shall not apply except that applicant shall clearly establish and document that proposed use(s) will have adequate on-site parking spaces, which may include shared parking spaces, to fulfill the needs of the development in accordance with the most recent edition of the Parking Generation Manual published by the Institute of Traffic Engineers; and,

7.3 Section 7.1, waiver standards shall be replaced with: The Planning Board may modify or waive any Site Plan Review requirement or performance standard when the applicant clearly establishes and documents that the requirement or standard would not be applicable.

8. Applicability of Article II – Building Laws

When the Planning Board or Code Enforcement Officer is reviewing an application for Subdivision, Site Plan Review or building permit in the Shoreland Business II/Marine Overlay Districts, the following provisions of Article II – Building Laws shall not apply:

8.1 Sections 2.1 – 2.17, lot size and setback requirements.

8.2 Section 3.2, height