LAND USE ORDINANCE
OF THE
TOWN OF SOUTHPORT, MAINE

Enacted
March 1, 1993

Amended
March 7, 1994, March 4, 1996, March 3, 1997, March 1, 1999, March 7, 2000, March 12, 2001, March 4, 2002, March 7, 2005, March 5, 2007, March 3, 2008, March 9, 2009, January 19, 2011, March 7, 2011, March 5, 2012, March 3, 2013, March 4, 2014, March 2, 2015, March 7, 2016, March 5, 2018, March 4, 2019 March 7, 2022

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1. SECTION ONE
GENERAL

A. TITLE

This Ordinance shall be known as the Land Use Ordinance of the Town of Southport, Maine, and will be referred to throughout this document as "this Ordinance."

B. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A, MRSA Section 3001 (Home Rule), and the Comprehensive Planning and Land Use Regulation Act, Title 30-A, MRSA, Sections 4312 et. seq. (as amended) and the Mandatory Shoreland Zoning Act, Title 38 MRSA Sections 435 et. seq.

C. PURPOSES

The purposes of this Ordinance are:

to promote the health, safety, and general welfare of the residents of the community;
to implement the provisions of the Town's Comprehensive Plan;
to encourage the most appropriate use of land throughout the community; and in the watershed and shoreland areas;
to further the maintenance of safe and healthful conditions;
to prevent and control water pollution;
to promote the conservation of fresh water resources;
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 well as actual points of access to inland and coastal waters;
to conserve natural beauty and open space;
to anticipate and respond to the impacts of development in shoreland areas and throughout the island.

D. APPLICABILITY

This Ordinance shall govern all land and structures in the Town of Southport, including any structure built on, over, or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland. The following provisions shall not apply to the Squirrel Island District: Sections 3B through 3D, Section 4, Parts 1 and 3, Sections 5, 6B and 6D.

E. CONFLICTS WITH OTHER ORDINANCES

This Ordinance supersedes and replaces the Revised Development Planning Ordinance, which became effective on August 24, 1970 and as subsequently amended. Where the provisions of this Ordinance conflict, or conflict with the provisions of any other law, or ordinance administered by the Town of Southport, the stricter provision shall prevail.

F. VALIDITY AND SEVERABILITY

Should any provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other provision of the Ordinance.

G. EFFECTIVE DATE

The Shoreland Zoning provisions of this Ordinance shall be in effect the date of adoption, provided that they are subsequently approved by the Commissioner of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on the shoreland zoning provisions of this Ordinance within forty-five (45) days of his/her receipt of this Ordinance, they shall be deemed approved.

H. AMENDMENTS

1. The Planning Board may initiate amendments to this Ordinance from time to time as may seem desirable, or amendments may be initiated by the Selectmen, or by the people in the form of a petition. Such a petition must be signed by a number of voters equal to at least ten percent of the votes cast in the Town Gubernatorial Election, but in no case less than 10.

2. The proposed amendments shall be included as articles in the warrant for any regular or special Town meeting and shall be voted by the people.

3. For amendments involving the Shoreland Zoning provisions of this Ordinance, copies of amendments attested and signed by the Town Clerk shall be submitted to the Board of Environmental Protection following adoption by the municipal legislative body.

2. Section Two
ADMINISTRATION, ENFORCEMENT AND PENALTIES

A. RESPONSIBILITIES OF ADMINISTRATION

1. Building Inspector: The Building Inspector is the individual to whom all proposals for land use that require a permit are brought initially. He will, in accordance with the Ordinances grant or deny a Building Permit, or refer the applicant to such other agency designated by law to issue an appropriate permit. The Building Inspector, having issued a building permit, will check the applicant's performance in at least one follow-up inspection of the project and will issue a certificate of occupancy.

2. Board of Appeals: In the event that a permit is denied by the Building Inspector, the decision can be appealed to the Board of Appeals, which will decide whether the denial was correct and in accordance with the law, and affirm it or overturn it. It may also grant variances from setback, area, height and other dimensional restrictions when appropriate. It may not grant "use" variances to permit non-conforming uses of land. The Board of Appeals may also hear appeals from a third party against the granting of a permit by the Building Inspector or other agency, to determine whether the action was in conformance with the laws. Before any dispute is taken to court, a decision must be sought from the Board of Appeals.

3. Planning Board: The Planning Board is responsible for the drafting of ordinances and amendments, the drafting of a comprehensive plan or changes thereof and scheduling necessary public hearings for the purpose of presenting specific proposals to be voted on at Town Meetings. The Planning Board will hold regular meetings, advertised publicly and open to the public, for all its deliberations. The Planning Board will also have the responsibility for:

    a. issuing permits for timber cutting in Resource Protection Districts;

    b. issuing permits for proposed additions to non-conforming buildings within 75 feet of high-water;

    c. conducting site plan reviews and establishing conditions for non-residential land uses;

    d. approving subdivision proposals;

    e. and approving relocation, reconstruction or changes in use of a non-conforming structure.

4. Code Enforcement Officer: The Code Enforcement Officer shall be appointed by the Selectmen of the Town. The officer shall investigate complaints of Land Use Law violations, issue appropriate warnings and notices of violation as he or she deems appropriate, and if necessary, refer matters to the Municipal Officers under Section 2(H)(2) for further action.

B. PERMITS REQUIRED

After the effective date of this Ordinance, no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur (see Table of Land Uses, Section 3); or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use.

1. Building Permit: A building permit shall be obtained from the Building Inspector for uses which are listed as permitted uses in Section 3 of this Ordinance.

   a. Before a building or a mobile home is erected on or moved to a lot, or before any structural alteration or change in use is undertaken, application must be made to the Building Inspector for a permit. Interior alterations will require a permit. The minimum fee is $25.00. See fee schedule in the front of these ordinances;

   b. If, in the opinion of the Water Commissioners, an emergency exists due to a low or overburdened public water supply, the Selectmen may require the Building Inspector to issue building permits only if the applicant is able to fulfill his water requirements from an on-site well, or other source of water;

   c. Any applications for building and other permits, containing a description of the proposal and the disposition of each application will be published in the local newspaper.

   d. The Building Permit card must be posted in plain sight at the job site as soon as issued.

   e. If changes affect the dimensions or the location of the building, the Building Inspector must be consulted before the changes are made. This may require a new application.

2. Demolition Permit: Before any building is scheduled to be demolished, a permit must be obtained from the Building Inspector.

3. Site Plan Review: Site plan review approval shall be obtained from the Planning Board for all uses which are listed as uses requiring site plan approval in Section 3 of this Ordinance.

4. Certificate of Occupancy

   a. No person shall occupy a structure until a certificate of occupancy has been issued and endorsed by the Building Inspector that the proposed use of the structure conforms to the Land Use Ordinance of Southport.

   b. A fee of $50 will be paid to the Town of Southport for the Certificate.

5. Shoreland Zone Permit. Any activity in the Shoreland Zone (250 feet from maximum spring tidal level or upland edge of a wetland) involving clearing, cutting, blasting etc, requires a permit obtained from the Building Inspector for a fee of $50.

C. BUILDING PERMIT APPLICATION

1. Application Form: Every applicant for a permit shall submit a written application, including a plot plan of the property showing any existing buildings and any proposed construction in reasonable detail. In Residential, Growth, and Resource Protection Districts, lot sizes, lot lines and setbacks shall be shown. All applicants shall submit proof of right, title or interest in the property.

2. Authorization: All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

3. Date: All applications shall be dated, and the Building Inspector shall note upon each application the date and time of its receipt.

4. Plumbing Permit: A valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

5. Application Fee: The application for a building permit shall be accompanied by a fee set by the Selectmen as designated on the building permit application. This application fee shall be made by check payable to the Town. No permit shall be issued until the fee is paid. This fee shall not be refundable.

6. Notice: Application for building and other permits containing a description of the proposal and the disposition of each application shall be published in the local newspaper at least once.

7. Driveway Permit: A driveway permit to a Town or State road must be obtained from the Town or the State before a building permit may be issued.

D. DEMOLITION PERMIT APPLICATION

1. Application Form: Every applicant for a demolition permit shall submit a written application, including map and lot numbers, a plot plan of the property showing any existing buildings and the building proposed for demolition in reasonable detail. All applicants shall submit proof of right, title, or interest in the property.

2. Authorization: All applications shall be signed by the owner or owners of the property or other person authorizing the demolition, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.

3. Application Fee: The application fee shall be made by a check for $15.00 payable to the Town. No permit shall be issued until the fee is paid. The fee shall not be refundable.

E. PROCEDURE FOR ADMINISTERING PERMITS

1. Determination of Complete Application: Within 30 days of the date of receiving a written application, the Building Inspector shall refer all applications for Site Plan approval to the Planning Board. For applications requiring a building permit, including applications which have received site plan approval from the Planning Board, the Building Inspector shall notify the applicant in writing either that the application has been accepted as a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

2. Review of Complete Application: Upon receipt of a completed application, the Building Inspector shall review it to assure that the applicant and the proposed project will comply with all provisions of the Land Use Ordinance. The Building Inspector shall advise the applicant whether a variance, or other permits or approvals are required. If a variance is required, it shall be obtained before any Site Plan review application is considered by the Planning Board under Section 5. No building permit shall be issued unless:

   a. Any variance that may be required has been granted by the Board of Appeals and certificate thereof recorded in the Lincoln County Registry of Deeds;

   b. Any approval that may be required by the Planning Board, including subdivision approval and site review plan approval has been granted and is evidenced in writing;

   c. A plumbing permit has been obtained and all provisions of State law relating to plumbing and sewage disposal have been compiled with.

3. Timing of Actions: The Building Inspector shall approve, approve with conditions, or deny all building permit applications in writing within 30 days of the date of acceptance of the applications. The Building Inspector shall approve all applications which comply with the requirements of this Ordinance, and shall deny all applications which fail to comply with the requirements of this Ordinance.

4. Burden of Proof: The applicant shall have the burden of proving that a proposed land use activity is in conformity with this Ordinance.

F. EXPIRATION OF PERMIT

All building permits shall expire after 1 year (2 years in the Squirrel Island District) of the date of issuance unless a substantial start (30% of the project based on estimated cost) of construction activities approved by the permit is completed. If work is not completed within two (2) years (3 years in the Squirrel Island District) from the date of issuance, a new application must be made. Approval of the new application must be obtained within ninety (90) days of the date of expiration of the previous permit. There will be no additional charge. This section provides for one such approval for an expired permit. Any additional applications

based on the same permit will be considered a new application under the terms of 2C and 2E.

G. INSTALLATION OF PUBLIC UTILITY SERVICE

No public utility, or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits has been issued by the appropriate municipal officials.

H. ENFORCEMENT

1. Enforcement Procedure:

   a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision is being violated, the officer 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 maintained as a permanent record.

   b. The Building Inspector shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals, and report violations to the Code Enforcement Officer. The Code Enforcement Officer shall 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.

2. Legal Actions:

   When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, are authorized to institute any and all actions and proceedings, that may be appropriate or necessary to enforce the provisions of this Ordinance.

3. Fines:

   Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A MRSA Section 4452.

4. Administrative Consent Agreement:

   Upon recommendation of the Town Attorney as to form and compliance with this Ordinance, certain violations of this Ordinance may be resolved by an Administrative Consent Agreement executed by the violator and the Selectmen. An Administrative Consent Agreement shall require (unless the Selectmen expressly find that the violation was the direct result of erroneous advice or approval by Town officials based on facts fully and accurately presented) that:

a. The violation be corrected in all respects;

b. The violator admits to the violation;

c. The violator pay an appropriate monetary penalty of not less than $100 (one hundred and no one-hundredths dollars) and the Town's legal costs.

3. SECTION THREE

LAND USE DISTRICT REQUIREMENTS

A. DESCRIPTION OF DISTRICTS AND LAND USE MAP

The location and boundaries of the districts below are established as shown on the "Town of Southport Land Use Map" and are a part of the Ordinance.

Unless otherwise set forth on the Land Use Map district boundary lines are property lines, the centerlines of roads, streets and rights of way. Where uncertainty exists as to the exact location of the district boundary lines, the Board of Appeals shall be the final authority as to location. Where there is a discrepancy between the Land Use Map and any other provision of this Ordinance, the written description shall control. The following is a description of the districts:

The Growth District includes three areas as follows: (1) an area of land 200 feet deep on either side of Route 27 from the bridge to and including lots 4 and 16 on Tax Map 5, exclusive of the area of land within the Maritime Activities District; (2) and area in West Southport which lies 200 feet on either side of Route 27 from Ebenecook Road (includes lots 27 and 32 on Tax Map 31) to Pratts Island Road (includes lots 10 and 15 on Tax Map 33); and (3) and area in Newagen which lies 200 feet on either side of Routes 27 and 238 which includes all or portions of Tax Map 8, lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 41, 42, 43, 44, 45, and 46, and Tax Map 9, lots 5 and 6.

The Squirrel Island District includes all land areas and surrounding water areas of Squirrel Island.

The Residential District includes all areas of the community not otherwise included in the Growth District, Squirrel Island District, the Maritime Activities District or the Resource Protection District, as shown on the Land Use Map.

The Resource Protection District includes:

a. The area around the Town Reservoir, bounded on the west and north by a line 500 feet from the highest water level of the reservoir, by the East Road on the east and by the Cross Road on the South.

b. The Labrador Meadow Protection District which shall be bounded as follows:

The northern boundary of the district shall be a line parallel to the Cross Road and 500 feet south of it.

The eastern boundary shall begin at the western lot line of the town salt shed lot following this lot line in a southerly direction to its southwest corner thence in a southeasterly direction to the southwest corner of Lot 13, Map 3 and from this point easterly to a point 500 feet west of the East Side Road (Route 238). The eastern boundary shall continue 2.1 miles in a southerly direction paralleling the East Side Road and 500 feet west of it to a point 250 feet north and east of the stream draining Joe's Bog and following this stream and its estuary at a distance

of 250 feet from the high-water mark to the shore; the eastern boundary shall continue at a point at the high-water mark 250 feet south of the above mentioned stream and following it at a distance of 250 feet in a westerly direction to a point 500 feet west of the East Side Road, thence south to a point where this boundary intersects the western boundary of the district.

The western boundary shall be a line parallel to Highway 27 and 500 feet east of it, following the highway from its point of intersection with the eastern boundary, in a northerly direction for distance of approximately 3200 feet to the outlet of a small pond, and from the northern edge of this pond, 250 feet east of the highway, following the western edge of a marsh, a distance of approximately 2100 feet to the southern lot line of Lot 6, Map 2. From a point on this lot line 500 feet from Highway 27, the western boundary continues paralleling the highway at 500 feet for approximately 3800 feet to its intersection with the eastern lot line of Lot 4, Map 3, thence following this lot line and the eastern lot line of Lot 33, Map 31 to the northern boundary as described above.

c. Coastal "V" or Velocity Zones (areas subject to wave action during a 100-year flood) as determined by Southport's Flood Hazard Ordinance.

The Maritime Activities District includes:

Four areas exclusive of lands within the Resource Protection District (500 feet from the centerline of Route 27). Tax Maps and lot numbers are as of March 5, 2001. The areas are:

1) An area of land known as the Hodgdon Yacht Services as shown on Tax Map 29, lots 16 and 19;
2) An area of land known as Southport Island Marine as shown on Tax Map 3, Lot 5;
3) An area of land known as Robinson's Wharf as shown on Tax Map 23, lot 58; and
4) An area of land known as Southport Yacht Club as shown on Tax Map 32, Lot 23.

The Limited Maritime District consists of Lots 21 and 22 on Map 32, the site of the former Earl Pratt Store on Cozy Harbor.

The District is owned by the Town of Southport, and the following land uses are allowed for taxpayers or renters of the Town of Southport and their guests. Other uses are prohibited.

1. Recreational access to Cozy Harbor as permitted by the Town Ordinances and Department of Environmental Protection Shoreland regulations.
2. The District allows a seasonal restaurant with no more than 33 seats, a launching ramp, ground-out facilities and a 4600 square foot wharf with runway and floats.
3. Use of the wharf to provide water access for commercial fishermen with parking facilities for two vehicles for loading and unloading adjacent to the water. Temporary tie-up for boats not exceeding 40 feet.
4. Short term parking (with no setback requirements from the property line or shore line) for approximately 20 cars including overnight parking for one car for each of the six households on David's Island. No buffers are required between the District and adjacent properties.

5. Use of the float for skiff tie-up.
6. Use of the launching ramp and ground-out facilities. Those grounding out must comply with DEP regulations regarding pollution.
7. Lot coverage for buildings, parking areas and other non-vegetated surfaces is not to exceed 70% of the lot area.
8. Setbacks: The existing building shall be set back at least 30 feet from property lines. The north end of the pier shall be set back at least 30 feet from the property line. No setback is required for the south and east sides of the pier.
9. Except for the above eight items, all Town Ordinances and By-laws and DEP Shoreland Regulations shall apply to the Limited Maritime District.

B. PERMITTED LAND USES

Land uses permitted in the Growth District, the Residential District, the Resource Protection District and the Maritime Activities District in conformance with the standards of this Ordinance, are shown in the following table. Uses not listed are prohibited.

KEY:

Y = Yes, permitted; building permit only
Y# = Yes, permitted; building permit; see Appendix C
N = No, not permitted
S = Permitted but subject to Site Plan Review and the issuance of a building permit.
S* = Permitted but subject to Site Plan Review, the issuance of a building permit, and limitations imposed by hydrogeologic study.
SZ = Permitted with a Shoreland Zoning Permit from the Building Inspector.

See Appendix A on the DEP Point System after Section 8.

TABLE OF LAND USES

Use/Structure	Growth District	Residential District	Resource Protection District	Maritime Activities District
RESIDENTIAL				
Accessory Structure/Signs	Y	Y	N	N
Bed and Breakfast	Y	Y	N	**N**
Cluster Development	S*	S*	N	N
Elderly Housing	S*	S*	N	N

Use/Structure	Growth District	Residential District	Resource Protection District	Maritime Activities District
Duplex	Y	Y	N	N
Home Occupation	Y	Y	N	N
Manufactured Housing	Y	Y	N	N
Mobile Home Park	S*	N	N	N
Multi-unit Dwelling (3 or more)	N	N	N	N
Single Dwelling Unit	Y	Y	N	N
Accessory Apartment (one per single-family dwelling)	Y	Y	N	N
Piers/Docks/Wharfs (6 ft or less in width)	N	Y	N	N
COMMERCIAL				
Accessory Structure/Signs	S	S	N	S
Small Retail Establishments				
Antique Shop	S	N	N	N
Art Gallery	S	N	N	N
Clothing Shop	S	N	N	N
Craft Shop	S	N	N	N
Gift Shop	S	N	N	N
Grocery	S	N	N	N
Marine Retail	S	N	N	S
Seafood Sales	S	N	N	N
Repair Shops				
Small Engine	S	N	N	N

Use/Structure	Growth District	Residential District	Resource Protection District	Maritime Activities District
Small Appliance	S	N	N	N
Marine	S	N	N	S
Furniture, Antiques	S	N	N	N
Eating Establishments				
Coffee Shop	S	N	N	N
Restaurant	S	N	N	N
Business and Professional Offices	S	N	N	N
Service Businesses				
Hair Dresser	S	N	N	N
Real Estate	S	N	N	N
Architectural Design	S	N	N	N
Law	S	N	N	N
Hotels	S*	N	N	N
Motels	S*	N	N	N
Boarding, Lodging Facility	S*	N	N	N
Non-Structural Uses				
Flea Market	N	N	N	N
Campground	S	N	N	N
WATER-DEPENDENT USES				
Minor	S	S	N	S
Major	N	N	N	S
Piers/Docks/Wharfs (6 ft or less in width)	Y	Y	N	Y

Use/Structure	Growth District	Residential District	Resource Protection District	Maritime Activities District
INDUSTRIAL STRUCTURES AND USES				
Junkyards, Automobile Graveyards and/or Dumps	N	N	N	N
Light Industry	S	N	N	N
Heavy Industry	N	N	N	N
EDUCATION, INSTITUTIONAL, PUBLIC				
Accessory Structure/Signs	Y	S	N	N
Church	S	S	N	N
Day Care	Y	Y	N	N
Government Office or Facility, School	S	S	N	N
Museum, Library	S	S	N	N
Scientific Facility	S	N	N	N
Public Utility Structure Exclusive of Poles	Y	S	S	N
Public Utility Service	Y	Y	Y	Y
OUTDOOR, RESOURCE BASED USES				
Accessory Structure/Signs	Y	Y	N	N
Agriculture	Y	Y	N	N
Aquaculture	S	S	N	S
Cemetery	S	S	N	N
Forestry	Y	Y	Y	N
Geothermal Heat Exchange Wells	Y#	Y#	N	N

Use/Structure	Growth District	Residential District	Resource Protection District	Maritime Activities District
Parks and Recreation	S	S	S	N
Launching Ramp	S	S	N	S
Small Wind-powered Energy Systems	S	S	N	N
Timber Harvesting	Y	Y	S	N
Transmission Towers	S	S	N	N
Wildlife Management	Y	Y	Y	N
Clearing for Development in the 250-foot Shoreland Zone	SZ	SZ	SZ	SZ

C. DIMENSIONAL REQUIREMENTS– GROWTH DISTRICT, MARITIME ACTIVITIES DISTRICT AND RESIDENTIAL DISTRICT

Lots shall meet or exceed the following:

1. Residential Structures
   a. Minimum Lot Size:

Residential Lot	30,000 sq. ft.**
Lot in Subdivision *:	
Growth District	40,000 sq. ft.
Residential District	80,000 sq. ft.

* Exclusive of rights-of-way and roads serving more than 2 lots.

** 40,000 sq. ft. within 250 feet of the normal high-water mark of tidal water or upland edge of a wetland.

b. Shore Frontage: 150 feet

c. Lot Coverage: Buildings shall not cover more than 20% of any lot, except that within 250 feet of the normal tidal high-water mark or upland edge of a wetland, the 20% requirement shall apply to the total area of all structures, parking lots and other non-vegetated surfaces including land previously developed. 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.
Within the Shoreland Zone the definition of lot coverage is the percentage of a lot area covered by all non-vegetated surfaces including but not limited to the following: buildings, 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.

d. Minimum Setback, All Structures:

20 feet from any adjoining lot line except for piers, docks and wharfs where the minimum setback is 25 feet from any adjoining lot line.
25 feet from the edge of the road pavement for Town Roads. 25 feet from the right of way for State aid roads. Signs may be as close as, but not within the public right-of-way*.
75 feet from the maximum spring tidal level or upland edge of a wetland or tributary streams. **

* Unless evidence is submitted to the contrary, the width of a Town Road (public right-of-way) shall be considered to extend one rod (16 ½ feet) on either side of the center line and the width of a State-aid Road (public right-of-way) shall be considered to extend two rods (33 feet) on either side of the center line.

** This requirement shall not apply to 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) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may, at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

e. Maximum Height:

Private dwelling units and accessory structures shall not exceed 35 feet in height above the highest ground on which the building is located except that within 250 feet of the maximum spring tidal level or upland edge of a wetland, the 35-foot building height shall be measured between the mean original grade at the downhill side of the building and the highest point of the building. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the maximum spring tidal level for salt water or normal high water for fresh water shall not exceed 20 feet in height above that structure. This provision shall not apply to

structures such as transmission towers, chimneys, antennas and similar structures having no floor area.

f. Minimum Elevation:

First Floor: 3 feet above the mean annual high-water mark. Town Ordinance covering flood plain (FEMA) must also be complied with.

2. Non-Residential Structures

a. Minimum Lot Size:40,000 sq. ft.

b. Lot Coverage and Maximum Building Size:

Buildings shall not cover more than 25% of any lot (40% in the Maritime Activities District) and maximum building size shall be 10,000 square feet, except that within 250 feet of the maximum spring tidal level for salt water or normal high water for fresh water or upland edge of a wetland, the 25% requirement (40% in the Maritime Activities District) shall apply to the total area of all structures, parking lots and other non-vegetated surfaces including land previously developed. 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.
Within the Shoreland Zone the definition of lot coverage is the percentage of a lot area covered by all non-vegetated surfaces including but not limited to the following: buildings, 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.

c. Minimum Setback, All Structures:

25 feet from the public road right-of-way.* Signs may be as close as, but not within the public road right-of-way.
50 feet from adjoining lot line.
75 feet from maximum spring tidal level for salt water or normal high water for fresh water or upland edge of a wetland or tributary streams.

* The width of a Town road shall be considered to extend one rod (16½ feet) on either side of the center line; a State-aid road two rods (33 feet) on either side of the center line.

For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to

the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may, at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

d. Maximum Height:

Thirty-five (35) feet above the highest ground on which the building is located except that within 250 feet of the maximum spring tidal level or upland edge of a wetland, the 35- foot building height shall be measured between the mean original grade at the downhill side of the building and the highest point of the building. This provision shall not apply to structures such as chimneys, antennas and similar structures having no floor area. Structures existing on January 1, 1992, which exceed thirty-five (35) feet in height may be expanded or rebuilt to a height not exceeding their heights on that date.

e. Parking:

Each proposed business shall provide ample parking space on its property to accommodate all vehicles normally attracted to it, including those of its customers, employees and proprietors, and shall provide off-street loading and unloading facilities. Driveways and parking areas shall be located so as to provide a buffer as required by Section 4, Part 1, paragraphs D, and M. Driveways and parking area shall be set back at least 75 feet from the maximum spring tidal level or the upland edge of a wetland or tributary streams.

D. OTHER LOT REQUIREMENTS

1. Multiple Structures: If more than one principal building is constructed on a single parcel of land, or if an accessory apartment is added, the minimum lot area requirement shall be met for each additional structure or apartment/dwelling unit, even if such structures are connected.

2. Setback Measurements: All setbacks shall be measured from the property line or water line to the nearest part of the building.

3. Wetlands: Structures shall be located 75 feet from 10-acre wetlands as shown in the Comprehensive Plan.

E. SQUIRREL ISLAND DISTRICT

1. Permitted Land Uses

The following land uses are permitted, subject to a building permit as set forth in

Section 2.

a. Single family dwellings.
b. Sheds and other like structures accessory to dwellings.
c. One private club with eating facilities.
d. One boarding house.
e. One grocery store.
f. Churches, libraries and museums.
g. Municipal use.
h. Water-related uses.

2. Lots

a. No more than one dwelling may be set or erected on any one residential lot. The term residential lot as used herein includes all adjoining lots which on or after January 1, 1992, have one or more common lessees.

b. After January 1, 1992, no residential lot shall be created that contains less than 30,000 square feet and that has less than 150 feet of frontage. The total ground area of all new structures, parking lots and other non-vegetated surfaces erected on said newly created lots within the shoreland area shall not exceed 20% of the lot or 20% of the portion thereof within the shoreland area. The 20% requirement shall include land previously developed.

c. The area of a residential lot may be increased or decreased but any division of a residential lot must not create a residential lot.

d. Residential lot as used herein shall mean any lot in the Squirrel Island District.

3. Setback

No new dwelling or other building shall be set or erected on a lot vacant on or created after January 1, 1992, less than 20 feet from any adjoining lot line that abuts public ways or private lots. Such structure shall be set back at least 75 feet from maximum spring tidal level or tributary streams unless the structure is for water-related uses.

4. Existing Structures

a. If an existing non-conforming structure is destroyed or dismantled, it may be replaced within three years with a structure of not exceeding the same floor area and volume measured in cubic feet, provided that the new structure shall meet the 75-foot maximum spring tidal level setback requirement to the greatest practical extent. For the purposes of this calculation, floor area shall be the sum of the horizontal areas of the floor (s) including basements or a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. Reconstruction of any portion of a structure that was within seventy-five (75) feet of the maximum spring tidal level or tributary stream shall not further reduce the distance to the maximum spring tidal level or tributary stream..

b. Repairs, alterations and additions may be made to structures subject to the rules and regulations of the Squirrel Island Village Corporation, the Shoreland Zoning provisions of this Ordinance, and further, if any portion of a structure devoted to other than water related uses is or was less than 75 feet from the maximum spring tidal level, the following provisions shall apply:

1) The added area of that portion of the structure within the 75-foot setback (from maximum spring tidal level) may not exceed the original area within this setback by more than 30%.

2) The added volume of that portion of the structure within the 75-foot setback (from maximum spring tidal level) may not exceed the original volume within this setback by more than 30%.

3) The length of the addition within the 75-foot setback, measured parallel to the water may not add more than 50% to the total length of the original structure, in or beyond the 75-foot setback, measured parallel to the water.

5. New Structures

New structures built after January 1, 1992 shall not exceed thirty-five (35) feet in height above the highest ground on which the structure is located. This provision shall not apply to structures such as transmission towers, chimneys, antennas and similar structures having no floor area. Structures existing on January 1, 1992, which exceed thirty-five (35) feet in height may be expanded or rebuilt to a height not exceeding their heights on that date.

6. Ruins – Removal of Building Ruins

No owner or occupant of land shall permit fire or other building ruins to remain but shall repair or remove the same within two years after notice from the Code Enforcement Officers, provided that ruins which are determined by the Code Enforcement Officers to be hazardous to the public health, safety or welfare shall be removed immediately.

7. Other

The requirements and provisions with respect to the Squirrel Island District are in addition to any and all requirements imposed under the By-laws and Ordinances of the Squirrel Island Village Corporation.

4. SECTION FOUR

PERFORMANCE STANDARDS

PART 1. GENERAL STANDARDS

The following standards shall govern all land use activities in the Town of Southport.

A. ACCESS

Property Access: Each property shall have vehicular access to abutting public or private ways or roads. Where access is to be by easement, the applicant for a permit shall demonstrate, prior to approval, that the access is adequate for the intended purpose and is protected by permanent easement granted for that purpose.

Shore Access: Shoreland residential subdivisions shall provide at least a 12 foot wide access to abutting water bodies by reserving shoreland areas and access thereto, to be used in common by all residents and owners within said subdivision.

B. BED AND BREAKFAST

Minimum requirements:

1. Must be owner-occupied;
2. One parking space/rental room in addition to space for the dwelling.
3. One bathroom provided/three rooms, in addition to the bathroom for the dwelling unit.
4. Each room: not less than ten by twelve feet; no more than three (3) rental rooms.
5. An approved smoke detector for each room.
6. Secondary building exits in conformance with State and local fire and building codes.
7. Compliance with the provisions of the State of Maine Subsurface Wastewater Disposal Rules.

C. BOARDING, LODGING FACILITY: A boarding or lodging facility shall meet all of the requirements for a bed and breakfast. The facility may be occupied by a family acting as either the owner or operator, and the facility may have four (4) or more rental rooms. Boarding, lodging facility building construction plan shall be reviewed and approved by the State Fire Marshall's Office.

D. BUFFER STRIPS

Non-residential Uses. No new non-residential structure may be erected or use permitted unless a buffer strip at least thirty (30) feet wide is provided and maintained between the non-residential structure (including all related facilities and parking lots) and any adjoining residential property or lot of different ownership than the non-residential structure or use. The side and rear yards abutting residential properties shall be maintained in their natural states to provide a buffer of at least the setback distance. When natural features are insufficient to provide a buffer, the developer shall provide a landscaped area at least 30 feet wide, to obstruct the view of the proposed development from abutting properties.

Residential Uses. No buffers are required between adjacent residential lots.

E. CLUSTER DEVELOPMENT

1. Applicability. A cluster development located in the Growth District or Residential District and that is served year-round by public water provided by the Boothbay Region Water District or its successor may be developed in accordance with the provisions of this cluster development section and any applicable standards for site plan review and subdivisions, rather than the dimensional requirements of Section 3(C)(1) and (D)(1), upon approval of the Planning Board. This shall not be construed as granting variances to relieve hardship.

2. Purpose. The purpose of cluster development, as defined herein, is to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent common open space and the permanent retention of the natural character of the land.

3. Application procedure. Written subdivision and site plan applications shall be submitted to the Planning Board.

4. Basic requirements for a cluster development.

    a. Minimum number of lots. Cluster developments shall be a minimum of 5 lots and shall meet all requirements for a subdivision, site plan review and all other applicable Town ordinances.

    b. Density. Minimum lot size may be reduced from the minimum lot size requirements of Section 3(C)(1) and (D)(1) in order to permit innovative approaches to housing and environmental design, provided that the overall density of the development does not exceed the density requirements of this Ordinance and provided that no residential lot located outside of the Shoreland Zone is less than 20,000 s.f.

c. Maximum number of lots. The maximum number of residential lots permitted as part of the development shall be determined by dividing the total acreage of the site by the following density requirement:

Zoning District	Density requirement
Growth District	40,000 s.f. * +
Residential District	80,000 s.f. * +

* No lot located entirely within the Shoreland Zone shall have less than the minimum lot area required in the Shoreland Zone. Lots located partially within the Shoreland Zone may be smaller than required by the Shoreland Zone if the principal building and any on-site sewage disposal system are located outside of the Shoreland Zone.

\+ Land which is in the Resource Protection District may be used to meet up to 50% of the density requirements of a cluster development provided that the applicant can demonstrate, by submitting the results of a high intensity soil survey, that all of the land in the Resource Protection District so included would be suitable for development and does not contain any wetland as defined in this Ordinance. No sewage disposal system or structure may be located in a Resource Protection District.

d. Dimensional requirements.

(i) Minimum front setback. Buildings that front on existing public streets must meet the front setback requirement of Section 3(C)(2)(c). The minimum front setback of buildings and structures from internal streets or private access ways shall be identified on the approved development plan and shall comply with the following: buildings must be set back a minimum of fifteen (15) feet from the edge of the right-of-way. This setback applies whether or not individual lots are created.

(ii) Minimum side and rear setbacks. Buildings and structures that are located on lots that abut the perimeter of the subdivision must be set back a minimum of fifty (50) feet from the side or rear lot line. There is no required minimum side or rear setback from internal property lines. Buildings in the development must be separated by a minimum of twenty (20) feet.

(iii) Vegetative buffer. Each development shall retain or create a thirty (30) foot continuous vegetative buffer within the setbacks on each side and to the rear of the improved areas of the development.

(iv) Shore frontage. Shore frontage shall not be reduced below the minimum normally required for the Shoreland Zone in which the development is located.

(v) Maximum height and minimum elevation must meet the requirements of Section 3(C)(1)(e) and (f).

e. Water supply. The applicant shall demonstrate the availability of year-round public water provided by the Boothbay Region Water District or its successor

adequate for domestic purposes as well as for fire safety and shall use this water rather than depend on wells. The Planning Board may require the construction of storage ponds and dry hydrants.

f. Sewage disposal. Where feasible, a cluster development must be connected to the public sewer system. When on-site sewage disposal will be utilized, the location of the sewage disposal systems must be identified. If the development plan proposes the use of shared or a common sewage disposal system, the plan must contain provisions for the ownership and long-term maintenance of these facilities.

5. Dedication and maintenance of common area(s) and open space.

a. Common area and open space. As used herein, "common area" shall refer to land within the development, not individually owned or dedicated for general public use, that is designed and intended for the common use and enjoyment of the residents and their guests of the development and may include complementary structures and improvements, such as a clubhouse, sports courts, garage(s), or on-shore marina facilities. As used herein, "open space" shall refer to land within the development that is unimproved and is set aside, dedicated or reserved for non-commercial recreation, forestry or conservation purposes.

b. Common area. The common area is an additional lot or lots within the development, in addition to the maximum number of residential lots; provided, however, that the overall residential lot density and open space limits still apply. Commercial uses are not permitted within common areas. Any common areas shall be shown on the development plan and with appropriate notation on the face thereof to indicate that the land area supporting the common facilities shall not be used for further building lots or units.

c. Creation of open space.
   (i) Open space within the development shall be a minimum of 25% of the total land area of the development. Open space shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the zoning district, subject to the minimum of 25%.
   (ii) Open space shall be used only for non-commercial recreation, forestry or conservation; provided, however, that easements for public utilities, but no structures, may be located in open space.
   (iii) If any or all of the open space is to be owned by a homeowners' association, the bylaws and/or covenants of the proposed homeowners' association shall specify maintenance responsibilities and shall be approved by the Planning Board prior to approval of the plan. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the open space shall be approved by the Planning Board and included in the deed for each lot or unit. The provisions shall require the association to levy annual charges against all property owners to defray the

expenses connected with the maintenance of the open space and any common area facilities. The legal instruments for the same shall first be submitted to and approved by the Planning Board and Town Attorney, with the Town's attorney's fees paid for by the developer. The developer shall maintain control of such open space and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Planning Board upon request of the homeowners' association or the developer.

d. Preservation and Maintenance of Open Space.
   (i) There shall be no further subdivision of open space.
   (ii) The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:
      (a) the open space shall not be used for future building lots or units; and
      (b) a part or all of the open space may be dedicated for acceptance by the Town of Southport or a suitable land conservation organization.
   (iii) Open space land may be sold or leased to a third party for recreation or forestry purposes, provided that development rights are held by the Town, a conservation organization, or other public or semi-public entity. The legal instruments for conveying such land and retaining development rights shall first be submitted to and approved by the Planning Board and Town Attorney, with the Town's attorney's fees paid for by the developer.

F. ELDERLY HOUSING DEVELOPMENT

1. Applicability. An elderly housing development subdivision located in the Growth District or Residential District and that is served year-round by public water provided by the Boothbay Region Water District or its successor may be developed in accordance with the provisions of this section and any applicable standards for site plan review and subdivisions, rather than the dimensional requirements of Section 3(C)(1) and (D)(1), upon approval of the Planning Board. This shall not be construed as granting variances to relieve hardship.

2. Purpose. The purpose of these provisions is to provide for elderly housing developments with dwelling units that are intended for, and solely occupied by, persons aged fifty-five (55) years of age or older.

3. Basic requirements for elderly housing developments.
   a. Elements of plan.
      (i) The applicant shall submit a formal application for review and approval of the project to the Planning Board in accordance with the requirements of the Town's site plan and subdivision regulations.
      (ii) The material accompanying the proposal shall contain all elements required by the Town's site plan and subdivision regulations, as may be amended from time to time, as well as the following:
         (a) The required plan shall show all building envelopes and areas of proposed driveway entrances at a scale sufficient to permit the study of all elements of the plan.
         (b) All utilities shall be shown and described.
      (iii) The plan shall be labeled "Subdivision and Site Plan for Elderly Housing" and shall provide both a block for recording at the Registry of Deeds and an approval block for the signatures of a legal majority of the Planning Board.

(iv) In order to comply with the Housing for Older Persons Act, as may be amended from time to time, proposals must be accompanied by a written deed covenant that restricts occupancy to persons aged fifty-five (55) years of age or older and a note to this effect shall appear on the face of the plan to be recorded for the development.

b. Maximum number of units or lots. The total number of lots or dwelling units permitted as part of the development shall be determined by dividing the net acreage of the site (exclusive of rights-of-ways, roads, coastal wetlands and freshwater wetlands) by the following density requirement:

Zoning District	Density requirement
Growth District	30,000 s.f. per dwelling unit*
Residential District	30,000 s.f. per dwelling unit*

*40,000 s.f. per dwelling unit if also located in the shoreland zone

c. Dimensional requirements.
(i) Minimum lot size. There is no minimum lot size for lots that are part of an elderly housing development provided that all other requirements of this section are met.
(ii) Minimum front setback. Buildings that front on existing public streets must meet the front setback requirement of Section 3(C)(2)(c). The minimum front setback of buildings and structures from internal streets or private accessways shall be identified on the approved development plan and shall comply with the following: buildings must be set back a minimum of fifteen (15) feet from the edge of the right-of-way. This setback applies whether or not individual lots are created.
(iii) Minimum side and rear setbacks. Buildings and structures that are located on lots that abut the perimeter of the subdivision must be set back a minimum of fifty (50) feet from the side or rear lot line. There is no required minimum side or rear setback from internal property lines. Buildings in the development must be separated by a minimum of twenty (20) feet.
(iv) Shore frontage. Shore frontage shall not be reduced below the minimum normally required for the shoreland zone in which the development is located.
(v) Maximum height and minimum elevation must meet the requirements of Section 3(C)(1)(e) and (f).

d. Water supply. The applicant shall demonstrate the availability of year-round public water provided by the Boothbay Region Water District or its successor adequate for domestic purposes as well as for fire safety and shall use this water rather than depend on wells. The Planning Board may require the construction of storage ponds and dry hydrants.

e. Sewage disposal. Where feasible, an elderly housing development must be connected to the public sewer system. When on-site, subsurface sewage disposal will be utilized, the location of subsurface sewage disposal systems must be identified. If the development plan proposes the use of shared or a common subsurface sewage disposal system, the plan must contain provisions for the ownership and long-term maintenance of these facilities.

f. Other requirements. Notwithstanding any other provision of this Ordinance to the contrary:
(i) Each dwelling unit shall consist of a bedroom, full bathroom, kitchen and sitting area, as a minimum, and shall have no more than two (2) bedrooms.
(ii) Each building shall be no more than two (2) stories in height for new construction.
(iii) Each development shall retain or create a thirty (30) foot continuous vegetative buffer on each side and to the rear of the improved areas of the development.

4. Dedication and maintenance of common facilities.
a. If any or all of the open space is to be owned by a homeowners' association, the bylaws of the proposed homeowners' association shall specify maintenance responsibilities and shall be approved by the Planning Board prior to approval of the plan. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the open space shall be approved by the Planning Board and included in the deed for each lot or unit. The provisions shall require the association to levy annual charges against all property owners to defray the expenses connected with the maintenance of the open space and other common and recreational facilities. The legal instruments for the same shall first be submitted to and approved by the Planning Board and Town Attorney, with the Town's attorney's fees paid for by the

developer. The developer shall maintain control of such open space and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Planning Board upon request of the homeowners' association or the developer.

b. The common facilities shall be shown on the development plan and with appropriate notation on the face thereof to indicate that the land area supporting the common facilities shall not be used for further building lots or units.

G. DRIVEWAY

1. All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic, provide for safe and convenient ingress and egress to and from the site and to minimize conflict with the flow of traffic.

2. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared.

3. Provisions shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

H. ENVIRONMENTAL LIMITATIONS

1. Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal; and any grade changes shall be in keeping with the general appearance of neighboring developed areas. For all uses requiring a permit from the Planning Board, developers shall submit a plan showing how existing vegetation will be retained.

2. Soil Suitability: Proposed uses requiring subsurface waste disposal, and commercial or other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by State-certified professionals. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

3. Blasting, Filling, Excavating:No person shall undertake blasting, filling, or excavating of any property which results in the alteration of more than 20% of the surface area of the property.

4. Labrador Meadow Resource Protection District (including Joe's Bog):
Filling is prohibited.

5. Scenic Views: Scenic views, as described in the Southport Comprehensive Plan, shall be retained to the maximum extent possible as land is developed.

6. Wildlife Habitat: No building or structure shall adversely impact significant wildlife resources identified in the Town of Southport Comprehensive Plan dated January, 1992. Significant wildlife resources include Labrador Meadow, Joe's Bog, and six coastal wildlife concentration areas (Cat Ledges, Lower Mark Island, the Cuckolds, Capitol Island, Squirrel Island, and Townsend Gut).

I. FRESH WATER PROTECTION

1. Hazardous Wastes, Petroleum Products: A site plan review permit shall be required from the Planning Board for any new use that would involve the processing, storage, or generation of hazardous waste, other than household waste, as defined by the Department of Environmental Protection, and for the bulk storage of petroleum products other than household fuel tanks, provided that such uses shall not normally be permitted.

2. Water Shortages, Emergencies: Upon a declaration by the Water Commissioners of Southport that a water supply emergency exists, it shall be unlawful for any person to use Town water for the following purposes:
   - watering plants, trees and shrubs;
   - watering flower and vegetable gardens;
   - watering lawns;
   - washing cars and boats;
   - filling swimming pools;
   - any other exterior use other than normal household uses such as but not limited to cooking and bathing.

   Similar conservation of ground water from private source is encouraged.

3. Hydrologic Assessment:A hydrologic assessment shall be prepared and submitted by the applicant, at no expense to the Town of Southport, as part of the site plan review process for residential subdivisions of 5 or more lots, hotels, motels, inns, and restaurants, as well as other proposed non-residential uses that would use more than 2000 gallons of water per day at any time between June 1 and September 1, as set forth more fully under the Site Plan Review provisions of this Ordinance.

4. Pesticide, Herbicide Application: It shall be unlawful for any person to apply pesticides and herbicides, other than for household purposes, to any area of Southport Island.

J. HOME OCCUPATIONS

Home occupations shall comply with the definition of home occupation contained in Section 8 of this Ordinance and the following:

1. A home occupation shall be conducted on or from the residential premises and contiguous lots of the proprietor with not more than one paid full time employee, or two part-time employees, other than a member of the household, being engaged on the premises;

2. There shall be no nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation, or accumulations of by-products, or junk.

3. Adequate off-street parking as determined by the Planning Board shall be provided for any home occupation whose operation shall attract customers of the provided service.

4. One non-illuminated sign, no larger than two square feet may be erected on the premises.

5. Where items offered for sale are displayed outdoors, at least 50% of the receipts from the sale must derive from value added by the proprietor. Otherwise, there shall be no outside storage or display of materials or products or equipment or vehicles.

6. All home occupations shall be registered with the Town Clerk of Southport, Maine, prior to establishment.

K. HOTELS/MOTELS AND INNS

Design Requirements:

1. Minimum lot size: 40,000 square feet plus 10,000 square feet per rental unit.

2. Minimum lot width: two hundred (200) feet lot width at the street and throughout the first two hundred (200) feet of depth of said lot back from street.

3. Minimum setbacks: A green space, not less than thirty (30) feet wide, shall be maintained in accordance with the standards for buffer strips contained in Section 4, part 1, paragraph D.

4. If cooking or eating facilities are provided in hotel/motel rental units, each rental unit shall be considered a dwelling unit and the hotel shall be required to meet the residential density requirements of the appropriate district.

5. Minimum room size: Two hundred fifty (250) square feet of habitable floor area exclusive of baths. Each rental unit shall include private bathroom facilities.

6. On each hotel/motel lot, one apartment may be provided for a resident owner, manager, or other responsible staff person, provided that it shall meet the standards for a single-family dwelling.

7. Hotel/motel building construction plans shall be reviewed and approved by the State Fire Marshall's Office.

8. Each hotel/motel structure shall contain not less than five, nor more than ten individual motel rental units, unless each section of ten units is separated from any additional sections by an unbroken firewall. Each motel structure may be connected with other similar structures by a covered walkway, if the walkway is constructed of fire-resistant materials. Whether or not so connected, the nearest parts of the walls or corners of such structure shall be separated by an open, undeveloped land area, of not less than thirty feet, and in which there shall be no automobile parking or loading.

L. DUPLEX

1. A duplex shall include any building containing two dwelling units.

2. Minimum lot size: 30,000 square feet/dwelling unit (40,000 square feet/dwelling unit in Shoreland Zone).

3. Minimum distance between buildings: 40 feet (100 feet in Shoreland Zone).

4. Provisions shall be made for at least 120 gallons per day of sanitary waste per bedroom from all buildings.

M. PARKING

1. Number of Parking Spaces: Each proposed use shall provide ample parking space on its property to accommodate all vehicles normally attracted to it, including those of its customers, employees and proprietors, and shall provide off-street parking facilities in accordance with the following standards:

Residential	2 spaces/unit
Home Occupation	Sufficient for residence and home occupation needs
Retail Business	1 space/200 square feet
Repair Business	1 space/400 square feet
Eating Establishment	1 space/3 seats
Hotel, Motel, Boarding House, Lodging Facility, Bed & Breakfast	1 space/sleeping room or dwelling unit plus 1 space/person expected to be employed on the largest shift
Non-structural Use	1 space/expected customer during anticipated peak season, plus 1 space/person expected to be employed on the largest shift
Mixed Use	Total of individual uses

2. Parking Layout: A proposed parking layout drawing shall be submitted for Planning Board approval. A standard parking space shall be presumed to be nine (9) feet by eighteen (18) feet five (5) inches.

N. RESTAURANTS

1. The application for a site plan review permit shall state the maximum seating capacity of the restaurant: Any expansion or enlargement over the stated capacity shall require a new site plan review permit, and shall comply with setbacks, square footage, and all other requirements of this Ordinance.

2. All parking and loading facilities shall be screened from abutting residential lots (see Section 4, part 1, paragraph D).

3. No parking areas shall be permitted within 30 feet of the property line.

4. Storage and disposal of refuse, fuel, and other potentially hazardous materials shall be so conducted as to create no health hazard. Storage areas shall be enclosed and screened by safety fences, walls, or any combination thereof.

5. From May 1 to Labor Day, trash shall be removed at least twice a week.

O. RUINS

No owner or occupant of land shall permit fire or other building ruins to remain but shall repair or remove the same within one year after notice from the Code Enforcement Officer. Hazardous conditions must be corrected at once.

P. SANITARY PROVISIONS

1. The approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.

2. The use of an overboard discharge system in residential dwelling units constructed, created or established after the effective date of this Ordinance is prohibited.

3. No septic system shall be located such that the septic system will flow into the ground water recharge area of the Labrador Meadow Resource Protection District.

4. All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means.

5. A holding tank is not allowed for a first time residential use.

Q. SIGNS

1. Directional signs shall be placed at locations approved by the Selectmen. Such signs shall be of uniform size, color and type of lettering, and shall conform to specifications approved by the Selectmen; display business advertising signs shall be limited to one visible from each direction displayed at the owner's place of business not more than 100 feet in any direction from his place of business and only on property owned by such business.

2. No commercial sign which is located outside the 250-foot Shoreland Zone and which is visible from a public way or navigable waters shall exceed 20 square feet in area, nor shall it be located in such a way as to obstruct visibility on any public or private way.

3. No sign may be illuminated except by reflected light and the source of illumination must not be directly visible from either direction on a public road, navigable waters or from any residence.

4. Flashing, neon, or animated signs shall not be permitted.

5. See setbacks Section 3 (C) (1) (d) and/or Section 3 (C) (2) (c).

R. OUTDOOR LIGHTING

All outdoor lights shall be shielded so as not to interfere with the vision of a driver, or to shine directly onto any residence other than the property of the person displaying the light.

S. TRANSMISSION TOWERS

a. Transmission towers shall not exceed a height of 100 feet, and the setback from the property line shall, at a minimum, be equal to the height of the tower.
b. Applicants must consider location on municipal property.
c. New towers must be designed to accommodate multiple carriers.

PART 2. SHORELAND STANDARDS

The following standards shall apply to all land areas within two hundred fifty (250) feet of the maximum spring tidal level or upland edge of a wetland.

A. PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES EXTENDING OVER OR BEYOND THE MAXIMUM SPRING TIDAL LEVEL FOR SALT WATER , THE NORMAL HIGH WATER LEVEL FOR FRESH WATER OR WITHIN A WETLAND

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

2. The facility shall be located so as to minimize adverse effects on fisheries.

3. 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.

4. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the maximum spring tidal level for salt water, the normal high water level for fresh water or within a wetland unless the structure requires direct access to the water as an operational necessity.

5. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the maximum spring tidal level for salt water, the normal high water level for fresh water or within a wetland shall be converted to residential dwelling units in any district.

6. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the maximum spring tidal level for salt water, the normal high water level for fresh water or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

B. ROADS AND DRIVEWAYS

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

1. Roads and driveways shall be set back at least seventy-five (75) feet horizontal distance from the maximum spring tidal level for salt water, the normal high water level for fresh water, or the upland edge of a wetland. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet horizontal distance upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body 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 paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

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

3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses.

C. SIGNS

In addition to the sign standards contained in Section 4, General Standards, the following additional provisions shall govern the use of signs in the Resource Protection and Residential Districts:

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

2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.

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

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

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

6. No sign shall extend higher than fifteen (15) feet above the ground.

D. STORM WATER RUNOFF

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

2. Storm water runoff systems shall be maintained as necessary to ensure proper functioning.

E. TIMBER HARVESTING

1. Timber harvesting shall conform with the following provisions:

   a. Selective cutting of no more than forty (40) percent of the total volume of trees four and one half (4½) inches or more in diameter measured at 4½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:

      i. Within seventy-five (75) feet, horizontal distance, of the maximum spring tidal level for salt water, the normal high water level for fresh water or the upland edge of a wetland, no clear-cut openings shall be established and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

      ii. At distances greater than seventy-five (75) feet of the maximum spring tidal level for salt water, the normal high water level for fresh water, or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than five thousand (5000) square feet in the forest canopy. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

   b. Timber harvesting operations exceeding the 40% limitation in paragraph a. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.

   c. No accumulation of slash shall be left within fifty (50) feet of the maximum spring tidal level for salt water or the normal high water level for fresh water. In all other areas slash shall be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the maximum spring tidal level for salt water or the normal high water level for fresh water shall be removed.

   d. Skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width shall be retained between the exposed mineral soil and the maximum spring tidal level for salt water or the normal high water level for fresh water or upland edge of a wetland.

F. CLEARING OF VEGETATION

1. In any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. In areas other than the Resource Protection District:

   a. Within a strip of land extending seventy – five (75) feet, horizontal distance, from the maximum spring tidal level for salt water or the normal high water level for fresh water or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. Selective cutting of vegetation within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained.

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

      See Appendix A on the DEP Point System after Section 8.

   b. At distances greater than seventy–five (75) feet, horizontal distance, from the maximum spring tidal level for salt water or the normal high water level for fresh water or the upland edge of a wetland, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four and one half (4 ½) 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.

      In no event shall clearing of trees for development exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Growth District.

   c. Cleared openings legally in existence on the effective date of this Ordinance, traditional views, or historic open spaces may be maintained.

G. EROSION AND SEDIMENTATION CONTROL

All activities which involve filling, grading, excavation or other similar activities which result in unstabilized 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:

1. Mulching and revegetation of disturbed soil.

2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

3. Permanent stabilization structures such as retaining walls or riprap.

H. 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.

I. CAMPGROUNDS

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

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

b. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings, shall be set back a minimum of 75 feet from the maximum tidal level for salt water or normal high water for fresh water or the upland edge of a wetland or tributary stream.

J. INDIVIDUAL PRIVATE CAMPSITES

Individual, private campsites not associated with campgrounds are permitted provided the following condition are met:

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

b. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 75 feet from the normal tidal high-water mark or upland edge of a wetland or tributary stream.

c. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

d. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.

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

f. When a recreational vehicle, tent or similar shelter is placed on-site for more than 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 sewerage facilities.

K **Archeological Site:**

See Archeological Sites §5G 13

L. Retaining Walls and Stairs

1. Retaining Walls Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except that for low retaining walls and associated fill provided all of the following conditions are met:
    a) The site has been previously altered and an effective vegetated buffer does not exist.
    b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream , or upland edge of a wetland;
    c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
    d) The total height of the wall(s) in the aggregate are no more than 24 inches;
    e) Retaining walls are located outside the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on a 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 does not exist. The buffer area must meet the following characteristics:
        i) The buffer must include shrubs and other woody herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
        ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of 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 6 feet in width may traverse the buffer provided that a cleared line of sight to the water through the buffer strip is not created.

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

PART 3. SUBDIVISION REVIEW STANDARDS

In addition to other requirements of this Ordinance, including the standards set forth in Section 4, parts 1 and 2, and Section 5, the following standards shall apply to all proposed subdivisions in the Town of Southport:

A. STATUTORY CRITERIA

The proposed subdivision shall comply with the statutory criteria set forth in Title 30-A, MRSA Sections 4401-4407.

B. TWO-PLAN REQUIREMENT

On a subdivision of 5 or more lots the applicant shall submit two preapplication sketch plans; a conventional subdivision plan with lots designed to meet the requirements of the Land Use Ordinance, and a cluster development plan, prepared in conformity with Section 4, part 1, paragraph E, showing how open space is to be preserved. The Board shall select the plan that best preserves open space and otherwise meets the goals of the Comprehensive Plan and the requirements of this Ordinance.

C. AFFORDABLE HOUSING REQUIREMENT

Developers of subdivisions of 10 or more lots or housing units shall submit evidence to the Planning Board that at least 10 percent of the proposed housing units can be afforded by households at or below 80% of the Town's median household income, as specified by the Maine Department of Economic and Community Development or the Maine State Planning Office. In making a determination on the affordability of the units, the Planning Board shall find that "shelter expenses" do not exceed 30% of the 80% median household income figure. Shelter expenses shall include mortgage and/or rental costs, taxes, homeowner/tenant insurance, heat and utilities.

5. SECTION FIVE
SITE PLAN REVIEW

A. APPLICABILITY

Site plan approval by the Planning Board shall be required for uses which specifically require site plan approval, as shown in Section 3 of this Ordinance, and a change of use when the new use is subject to site plan review.

B. CLASSIFICATION OF PROJECTS

Minor developments: The construction or addition of less than 5,000 square feet of gross nonresidential floor area; the installation of less than 5,000 square feet of impervious surfaces; the conversion of existing structures from one use to another use which requires site plan approval; the establishment or expansion of non-structural commercial uses involving 10,000 square feet or less of land area; or the establishment of a subdivision involving four or fewer lots.

Major developments: The construction or addition of 5,000 or more square feet of gross nonresidential floor area; the installation of 5,000 or more square feet of impervious surfaces; the establishment or expansion of a campground or mobile home park; or other projects requiring review which are not classified as a minor development; the establishment or expansion of non-structural commercial uses involving 10,000 square feet or more of land area; or the establishment of a subdivision involving five or more lots or any elderly housing subdivision.

The Planning Board shall classify all water dependent uses as major or minor. Criteria for said uses are explained in Section 5 G (14) and Section 8.

C. ADMINISTRATION

1. Pre-Application Meeting: Applicants are encouraged to schedule a meeting with the Planning Board to discuss their plans and gain an understanding of the review procedures, requirements and standards.

2. Applications in Writing: Applications for site plan approval shall be made in writing by the owner or his designated agent to the Building Inspector on the forms provided for this purpose.

   For major developments which are not a subdivision, a site inventory and analysis must first be submitted to the Building Inspector and reviewed by the Planning Board. For major developments which are a subdivision, the application will not be deemed complete until a site inventory and analysis has been submitted to the Planning Board. The Planning Board shall act on the completeness of the site plan inventory and analysis within 30 days of its receipt.

3. Fees : Seventy-five (75) dollars plus twenty (20) dollars per dwelling unit for residential projects; fifty (50) dollars per 2,000 square feet of gross floor area for commercial and institutional projects. This fee shall be paid by check payable to the Town of Southport. This fee shall not be refundable, and shall be in addition to any building permit fees.

4. Planning Board Agenda: The application with required documentation shall be placed on the Planning Board's agenda within thirty (30) days of its receipt.

   a. Any application which the Building Inspector or Planning Board determines to be incomplete shall not be placed on the agenda but shall be returned to the applicant with an indication of the additional information required. When this additional information has been supplied, the Building Inspector shall place the application on the Planning Board's agenda.

   b. The Planning Board shall make a final determination of the completeness of the application. Following receipt of a completed application, the Board shall approve or disapprove the site plan as soon as practicable. For subdivision applications, the Board's action shall be taken within 30 days of a public hearing, or, if no public hearing is held, within 60 days of having received a complete application.

   c. If the Board disapproves an application, the owner shall be notified in writing and the specific causes of disapproval shall be noted.

   d. If the Board shall vote to approve the site plan application, the Building Inspector shall issue a building permit, where applicable, provided that all other requirements of the Ordinance are met.

5. Professional Review:

   a. Professional Services The Planning Board may hire a consultant, at the applicant's expense, to review one or more submissions of an application. The Planning Board may require that the applicant deposit with the Town of Southport the full estimated cost of the consultant which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed.

   b. Additional Studies: The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinances are met. The costs of all such studies shall be borne by the applicant. In the case of proposed non-residential developments which can reasonably be expected to result in the consumption of ground water in excess of 2,000 gallons of water per day between June 1 and Labor Day, the Planning Board shall require the developer to submit a hydrogeologic study, prepared by a competent hydrogeologist selected by the Planning Board and paid for by the developer, Such study shall document the nature of water-bearing formations on the site, the impact of the proposed development on Southport's ground water, and the impact of the proposed development on the water supplies of adjacent properties. If the report documents adverse impacts on water supplies,

the report shall also recommend mitigation measures to minimize or eliminate adverse impacts on ground water supplies.

6. Public Hearing: Major developments shall require a public hearing. The Planning Board may hold a hearing on other applications to afford the public the opportunity to comment on the application. For subdivision applications, any public hearing shall be held within 30 days of receiving a completed application.

7. Notice to Abutters: Notice shall be sent to abutting property owners by certified mail, by the Town Clerk, of a pending application for Site Plan Review. All notification costs shall be paid by the applicant.

8. Financial Guarantee: The Planning Board may require the posting of a bond or escrow agreement to ensure completion of all improvements required as conditions of approval of such plan, in such form as approved by the Board and Town Selectmen. The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project.

9. Conditions: The Planning Board may attach reasonable conditions to Site Plan approvals to ensure conformity with the standards and criteria of this Ordinance.

10. Expiration of Approvals: For development which are not subdivisions, all Site Plan approvals shall expire within 1 year of the date of issuance unless work thereunder is commenced. If work is not completed within two years from the date of issuance, a new application must be made.

D. CONTENTS OF SITE INVENTORY AND ANALYSIS

The site inventory and analysis submission shall contain, at a minimum, the following information:

1. The names and addresses of the owner(s) of record and the applicant

2. The names and addresses of all consultants/general contractors working on the project

3. Five (5) copies of an accurate scale plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing at a minimum:

   a. the name of the development, north arrow, date, scale, map and lot numbers,

   b. the boundaries of the parcel,

   c. the topography of the site at an appropriate contour interval (2 foot to 5 foot) depending on the nature of the use and character of the site,

   d. major natural features of the site including wetlands, streams, ponds, flood plains, groundwater aquifers, significant wildlife habitats or other important natural features,

   e. existing restrictions or easements on the site,

f. the location and size of existing utilities or improvements servicing the site,

g. soils information which shall be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified.

4. Five (5) copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any hydrogeologic studies, traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.

5. Five (5) copies of a site analysis plan at the same scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine which portions of the site are unsuitable for development or use, which portions of the site are unsuitable for on-site sewage disposal, which areas of the site have development limitations which must be addressed in the development plan, areas where there may be off-site conflicts or concerns (e.g., ground water impacts, noise, lighting, traffic, etc.) and areas well suited to the proposed use.

E. REVIEW OF SITE INVENTORY AND ANALYSIS

The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project. If additional information or analysis is required, the Board shall advise the applicant of this in writing. The Board shall determine the issues and constraints that must be addressed in the application.

F. SITE PLAN REVIEW APPLICATION

The complete application shall be submitted to the Building Inspector who shall forward it to the Chairman of the Planning Board. The submission shall contain:

1. A fully executed and signed copy of the application.

2. One (1) original of all maps and drawings on durable, permanent transparency material.

3. All Applications: Five (5) copies of written materials plus five (5) sets of maps or drawings containing the information listed below. The maps or drawings shall be no more than fifty (50) feet to the inch for that portion of the tract being proposed for development.

   a. General Information:

      (1) name of owner of record and address

      (2) the name of the proposed development

      (3) names and addresses of all property owners within five hundred (500) feet of the edge of the property line, with reference to tax map and lot number and an indication of which ones are abutters

      (4) sketch map showing location of the site within the Town

(5) boundaries of all adjacent property under the control of the owner or applicant

(6) the tax map and lot number of the parcel or parcels

(7) a copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property

(8) the name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared the plan

b. Existing Conditions -- Survey Map Requirements:

(1) land use classification(s) of the property and the location of land use district boundaries

(2) the bearings and distances of all property lines of the property to be developed and the source of this information

(3) location and size of any existing sewage disposal systems, culverts and drains

(4) location, names, and present widths of existing roads and rights-of-way within or adjacent to the proposed development

(5) the location, dimensions and ground floor elevations of all existing buildings on the site

(6) the location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site

(7) the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained

(8) the direction of existing surface water drainage across the site

(9) the location, front view and dimensions of existing signs.

c. Existing Conditions -- Other requirements:

(1) location of intersecting roads or driveways within two hundred (200) feet of the site

(2) location and dimensions of any existing easements and copies of existing covenants or deed restrictions including deeded rights-of-way or easements with proof of deed or easement.

d. Proposed Development Activity -- Survey Map Requirements:

(1) the location of all building setbacks, yards, buffers, and open space areas

(2) the location, dimensions, and ground floor elevations of all proposed buildings

(3) the location and dimensions of proposed driveways, parking and loading areas, and walkways

(4) the location and dimensions of all provisions for water supply and wastewater disposal

(5) the direction of proposed surface water drainage across the site

(6) location, front view, and dimensions of proposed signs

(7) location and type of exterior lighting

(8) proposed landscaping and buffering;

(9) proposed covenants and deed restrictions.

Space shall be provided on the plan for the signatures of the Planning Board and date together with the following words, "Approved: Town of Southport Planning Board."

e. Proposed Development Activity: Other Requirements:

(1) copies of applicable State approvals and permits (the Board may approve development plans subject to the issuance of specified State approvals)

(2) a schedule of construction, including anticipated beginning and completion dates.

4. Additional Requirements For Major Developments – Survey Map Requirements:

a. Existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine

b. A utility plan showing the location and nature of electrical, telephone, and any other utility services to be installed

c. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership.

Other Requirements:

a. A storm water drainage and erosion control program showing:

(1) the existing and proposed method of handling storm water run-offs

(2) the direction of flow of the run-off through the use of arrows

(3) Methods of controlling erosion and sedimentation during and after construction.

b. A groundwater impact analysis prepared by a groundwater hydrologist for projects involving common onsite water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons per day.

c. A planting schedule keyed to the site plan and indicating the general varieties and sizes of trees, shrubs, and other plants to be planted on the site.

d. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of the Town's roads.

e. Construction drawings for sanitary sewers, water and storm drainage systems, designed and prepared by a Maine-registered professional engineer.

f. A copy of such covenants or deed restrictions, if any.

g. Written offers of dedication or conveyance to the Town, in a form satisfactory to the Town Attorney, of all land included in the roads, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which open spaces, title to which is reserved by the developer, are to be maintained.

h. Cost of the proposed development and evidence of financial capacity to complete it.

i. A narrative and/or plan describing how the proposed development scheme relates to site inventory and analysis.

G. CRITERIA AND STANDARDS

The Planning Board shall approve the site plan unless the plan does not meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Planning Board. Proposed developments shall also comply with the standards set forth in Section 4 of this Ordinance.

1. Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable.

   Environmentally sensitive areas such as wetlands, steep slopes, flood plains and unique natural features shall be maintained and preserved to the maximum extent. Natural drainage areas shall be preserved to the maximum extent.

2. Access to the Site: Site plan approval shall not be granted if a proposed use would create traffic congestion which would interfere with the free passage of vehicles on public highways, or with vehicular or marine traffic through the bridge crossing Townsend Gut.

   The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

a. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or

b. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.

3. Access into the Site: The development shall provide for safe and convenient access.

a. Any exit driveway or proposed road shall provide a minimum sight distance of ten times the posted speed limit in each direction, as measured from the point at which the driveway or road meets the public or private right-of-way.

b. Access shall avoid conflicts with existing turning movements and traffic flows.

c. The maximum grade of any exit driveway or proposed street shall be six (6) percent at a stop-controlled intersection and four (4) percent at a signal-controlled intersection with a vertical curve 50 feet long to transition from the grade on the minor road to meet the cross slope of the major road.

4. Road Standards:

a. Safety All streets and roads shall be designed to provide safe vehicular travel and conform to existing topography.

b. Design Criteria

Right-of-way Width	33 feet
Traveled Way	18 feet
Minimum Grade	0.5%
Maximum Grade	10%
Roadway Crown	2%-6%
Minimum Angle, of Street Intersection	60 degrees
Minimum Radius at Intersection	15 feet
Aggregate Sub-Base	18 inches
Aggregate Travel Course	6 inches

The aggregate shall conform to and be applied and compacted according to Standard Specifications Highways and Bridges, Maine Department of Transportation.

c. Dead-Ends: All dead-end roads shall be provided with a turn-around capable of supporting the largest emergency vehicle requiring access as specified by the Planning Board.

d. Sight Distance: Vehicular sight distance, measured from the intersection with a Town Way or State Highway at a point ten feet back from the edge of the traveled way, with the height of the eye 3.4 feet, to the top of an object 4.5 feet above the center line of the traveled way, shall be 10 times the posted or legal speed limit.

e. Alignment: Changes in road horizontal alignment and grade shall be connected by horizontal or vertical curves, respectively, consistent with vehicular sight distances specified in paragraph d.

f. Drainage: No surface drainage shall conveyed or directed across a traveled way. Storm drainage design (culverts and ditches) shall be determined on the basis of estimated runoff by a Registered Professional Engineer according to generally accepted methodologies. Culverts shall conform to Maine Department of Transportation Standard Specifications.

g. Preparation for Road Construction

1) Removal: All tree stumps, roots, brush, organic matter, ledge, boulders, and rocks shall be removed within the cleared width to a depth of two feet below the subgrade of the roadway.

2) Subgrade: Where the stability of the subgrade is judged by the Planning Board to be unsatisfactory, the subsoil shall be removed and replaced with material meeting the specifications for gravel aggregate sub-base. Depth of removal and backfill shall be sufficient to provide acceptable stability.

3) Side Slopes: Except in ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical and shall be graded and seeded. Where a cut results in exposed ledge, the side slope shall be no greater than four feet vertical to one foot horizontal.

5. Internal Vehicular Circulation: The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.

6. Environmental Standards: The site plan shall be designed to protect the environment.

a. Site Preparation: Appropriate fill shall be used.

b. Conservation, erosion and sediment control:

(1) Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.

(2) Disturbed soils shall be stabilized as quickly as practicable.

c. Adverse Impacts:

No site plan application shall be approved that would reasonably be expected to:

(1) create or contribute to the danger of fire or explosion,

(2) produce excessive smoke, fumes, noxious odors, or water pollution,

(3) produce excessive or unpleasant noise,

(4) contribute to crime, vice or disorder.

7. Open Space:

a. Common open space areas shall be contiguous, where possible.

b. The development plan shall contain a notation that common open space areas shall not be further developed.

8. Exterior Lighting: Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

9. Landscaping: Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention shall be paid to the use of planting to break up parking areas.

10. Waste Disposal:

a. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

b. All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

11. Residential Compatibility:

The proposed use shall be compatible with the residential character of the Town with respect to aesthetic appearance, noise and activity levels, traffic flow, physical and visual access to tidal waters, and burden on schools and other Town services, and be in accord with the sense of the Comprehensive Plan.

12. Historic Properties:

Whenever a development proposal involves land on which known archaeological or historic sites or structures are located, the developer shall submit a plan detailing how the important archaeological or historical features of the site will be preserved. The Planning Board may impose conditions of approval on the development to ensure the preservation of the site or structures to the greatest possible extent.

13. Archaeological Sites:

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

consider and may act upon comments received from the Commission prior to rendering a decision on the application.

14. Water Dependent Uses:

All water dependent uses must be located on a site that has been used for that purpose historically or traditionally or meets all of the criteria below. Minor water dependent uses shall be located only on a waterfront lot. New major water dependent uses shall be located only in the Maritime Activities District.

a. Site is in a locality not exposed to violent winds, seas, or severe tidal surges;
b. Site must be accessible from a public road, by a private road owned by or under control of the proprietor, or by a right-of-way or easement specifically granted by the land-owner for that purpose.
c. The use must conform to the Shoreland Standards, Pages 4-8 to 4-12.
d. Water dependent uses and structures for other than residential purposes will require a site plan review and a Planning Board permit.
e. There shall be an undisturbed vegetated buffer of at least thirty (30) feet between the use, including building, parking and storage areas and non-vegetated surfaces, and any residential property line.

6. SECTION SIX
NON-CONFORMANCE

A. GENERAL REQUIREMENTS

1. Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and may continue to be used, subject to this Ordinance.

2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures, and such other changes as Federal, State, or local building and safety codes may require.

B. NON-CONFORMING STRUCTURES

1. Expansions: A non-conforming structure may be expanded after obtaining a permit from the Building Inspector if such addition or expansion does not increase the non-conformity of the structure. Additions to structures otherwise requiring site plan approval, as set forth in Section 3, shall first be submitted to the Planning Board for site plan approval. After January 1, 1989, additions to existing non-conforming structures within 75-feet of the maximum spring tidal level for salt water or the normal high water for fresh water or tributary streams must be approved by the Planning Board, and shall be subject to the following:

   a. The added floor area of that portion of the structure within the 75-foot setback (the maximum spring tidal level for salt water or the normal high water for fresh water) may not exceed the original floor area within this setback by more than 30%.

   b. The added volume of that portion of the structure within the 75-foot setback (from the maximum spring tidal level for salt water or the normal high water for fresh water) may not exceed the original volume within this setback by more than 30%.

   c. The length of the addition within the 75-foot setback, measured parallel to the water may not add more than 50% to the total length of the original structure, in or beyond the 75-foot setback, measured parallel to the water.

   d. When considering expansions or additions within the 75-foot setback, the Planning Board shall pay particular attention to avoiding increases in non-conformity. The 75-foot setback rules shall be applied individually and separately to each side of the proposed structure. In no case shall an existing non-conformity (i.e. one portion of one side of the building shoreward into the 75-foot setback area) be construed as allowing that same non-conformity in expansions of the other sides of the structure. The Planning Board shall require a certified survey showing all existing buildings, proposed construction in reasonable detail, as well as the 75 foot setback.

Foundations: Whenever a new, enlarged or replacement foundation is constructed under a non-conforming structure, the structure and the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in paragraph 6B3(c) below. If the completed foundation does not extend beyond the exterior dimensions of the structure except for expansion in conformity with Section 6B1 above and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the up-hill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered an expansion of the structure. Foundations that cause the structure to exceed the maximum allowable building height will not be allowed. See Section 3C1e on height restrictions.

2. Relocation:

a. A non-conforming structure may be relocated within the boundaries of the parcel provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Waste Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the structure relocation meets the setback requirements to the "greatest practical extent", the Planning Board shall base its decision on the criteria in Section 6(B)(3)(c) below.

b. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more that five trees are planted, no one species of tree shall make up more than fifty percent (50%) of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation, and ground cover that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

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

d. On a non-conforming lot of record on which only a residential structure exists, and on which it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Building Inspector 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.

3. Reconstruction or Replacement:

a. (i) Any non-conforming structure that is located (a) on a legally existing lot that does not meet the zoning district's minimum lot size, (b) within the Shoreland Zone (Fresh Water or Salt Water), and (c) less than the required setback from a water body, tributary stream,

upland edge of a wetland, property line or road, and that is damaged, destroyed or removed by more than fifty percent (50%) of the market value of the structure before such damage, destruction, or removal, as determined by the Building Inspector, may be reconstructed or replaced; provided, however, that an approval must be obtained from the Planning Board (without the need for a variance) within one (1) year of the date of said damage, destruction, or removal, and provided further that such reconstruction or replacement does not exceed the maximum height requirement of the zoning district; does not increase the pre-reconstruction/pre-replacement lot coverage; and complies with the setback requirements to the greatest practical extent as determined by the Planning Board in accordance with subsection (3)(c) below.

(ii) Any non-conforming structure that is located (a) on a legally existing lot that does meet the zoning district's minimum lot size, (b) outside of the Shoreland Zone (Fresh Water or Salt Water), and (c) less than the required setback from a water body, tributary stream, upland edge of a wetland, property line or road, and that is damaged, destroyed or removed by more than fifty percent (50%) of the market value of the structure before such damage, destruction, or removal, as determined by the Building Inspector, may be reconstructed or replaced in compliance with all setback and other dimensional requirements; provided, however, that a permit is obtained from the Building Inspector within one (l) year of the date of said damage, destruction, or removal and, if applicable, any necessary variance is obtained from the Board of Appeals within one (l) year of the date of said damage, destruction, or removal. Any reconstruction or replacement approved by the Building Inspector pursuant to this subsection shall be endorsed in writing by the Building Inspector.

(iii) Notwithstanding any other provision of this subsection (3)(a) to the contrary, any non-conforming structure that is located less than the required setback from a water body, tributary stream, upland edge of a wetland, property line or road and that is damaged or destroyed by fire or any cause other than the negligence or a willful act of the owner or the owner's agent may be reconstructed on the same footprint as the structure that was destroyed, provided that a permit is obtained from the Building Inspector within one (l) year of the date of said damage or destruction. In no case shall a structure be reconstructed or replaced in a manner that causes the structure to be more non-conforming. Any reconstruction or replacement approved by the Building Inspector pursuant to this subsection shall be endorsed in writing by the Building Inspector

b. Any non-conforming structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repair, as determined by the Building Inspector, may be reconstructed in place with a permit from the Building Inspector.

c. In determining whether the building relocation, reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the existence of a permanent foundation, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted.

NOTE: A non-conforming structure with a permanent foundation may be rebuilt on the existing foundation. A non-conforming structure without a permanent foundation (or if the permanent foundation is removed or replaced by more than 50% for any reason) must be relocated to meet the setbacks to the greatest practicable extent..

d. If the Planning Board determines that a reconstructed or replacement structure of the same volume and floor area as the old structure can be located completely outside the shoreland setback area, no portion of the reconstructed or replacement structure is to be built within that setback area. If after the Planning Board's determination of compliance with the setback to the greatest practical extent is made, a portion of the reconstructed or replacement structure is to be located within the shoreland setback area, that portion of the old structure's volume or floor area located within that setback may not be expanded by more than 30% of the volume or floor area within that setback area.

4. Change of Use of a Non-Conforming Structure: (Shoreland Areas Only) The use of a non-conforming structure may be changed to another use if the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body or wetland, or on the subject or adjacent properties and resources than the existing use, except as prohibited by Section 4, Part 2(A)(5).

C. NON-CONFORMING USES

1. Expansions Expansion of a non-conforming use shall require a site plan review permit issued by the Planning Board. In addition to site plan review requirements, such expansion shall be subject to the following:

   a. An addition to a structure located within 75 feet of the maximum spring tidal level for salt water or the normal high water for fresh water which contains a non-conforming use shall be subject to the provisions of Section 6B;

   b. An addition to a structure located beyond 75 feet of the maximum spring tidal level for salt water or the normal high water for fresh water which contains a non-conforming use shall not increase the area or volume of the original structure existing on the effective date of this Ordinance by more than 30%;

   c. A new structure associated with an existing non-conforming use and located beyond 75 feet of the maximum spring tidal level for salt water or the normal high water for fresh water shall not increase the area or volume of the original structure(s) existing on the effective date of this Ordinance by more than 30%;

   d. When a non-conforming use occupies only part of a non-residential structure legally existing on the affective date of this Ordinance, the use of other parts of the building for the non-conforming use shall not be considered an expansion of a non-conforming use. An expansion in the magnitude of business shall not be considered an expansion of a non-conforming use;

   e. An addition to a non-conforming use which is not within a structure shall not increase the original area of the non-conforming use existing on the effective date of this Ordinance by more than 30%.

2. Resumption Prohibited: A non-conforming use which is superseded by a conforming use, may not again be devoted to a non-conforming use. A non-conforming use which has been abandoned for more than one year may not be resumed. An extension may be granted for good cause by the Planning Board.

3. Change of Use: A non-conforming use may be changed to another non-conforming use provided that the Planning Board finds, after receiving a written application, that the proposed use is equally or more appropriate to the District, and that it will have no greater adverse impact on adjacent properties than the former use.

The determination of appropriateness shall be based on the probable impact on ground water resources, and the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this Ordinance shall apply to such requests to establish new non-conforming uses.

In determining whether or not greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on ground water, public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. NON-CONFORMING LOTS

1. Non-conforming Lots: A vacant, non-conforming lot of record legally existing as of the effective date of this Ordinance or amendment may be built upon, without a variance, provided that such lot is in separate ownership and not adjacent to any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to other requirements shall be obtained by action of the Board of Appeals. If more than one principal structure is built, located or created on a non-conforming lot, the minimum lot size and the frontage requirement of the District shall be met for each unit.

2. Adjacent, Developed Lots: If two or more adjacent lots are in the same ownership of record at the time of adoption or amendment 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 lots of at least 30,000 square feet are created and that all such lots meet the requirements of the State Subsurface Wastewater Disposal Rules.

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

3. Adjacent Lots – Vacant or Partially Built: If two or more adjacent lots are in the same 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, 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.

7. SECTION SEVEN
APPEALS

A. APPOINTMENT AND COMPOSITION

1. The Board of Selectmen shall appoint members of the Board of Appeals. The terms of the members shall be arranged that one new member shall be appointed each year to replace one whose term has expired. Vacancies shall be filled to complete the unexpired term of any member.

2. The Board shall consist of three (3) members and one associate member serving staggered terms of three (3) years.

3. The Board shall elect annually a chairman and secretary from its membership. The secretary shall keep the minutes of the proceedings which shall show the vote of each member upon each question. All minutes of the Board shall be public record.

B. POWERS AND DUTIES

1. Administrative Appeals:

The Board of Appeals shall have the following powers:

To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by the Building Inspector, the Code Enforcement Officer or the Plumbing Inspector in his or her review of and action on a permit application under this Ordinance except in matters as described in subsection (a) below. The applicant must submit a completed 'Administrative Appeals Application' to the Board of Appeals.

The Board of Appeals may, upon application of an aggrieved party, after a hearing, affirm, modify, or set aside a decision, order or rule by the Building Inspector, Code Enforcement Officer, Plumbing Inspector, or the Planning Board in the administration of the Ordinance, except as follows:

a. Any and all decisions or determinations of the Code Enforcement Officer to not issue a warning or notice of violation or to otherwise not pursue enforcement action under the Ordinance is discretionary and is not appealable to the Board of Appeals.

2. When the Board of Appeals reviews a decision of the Building Inspector, Code Enforcement Officer or Plumbing Inspector, the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and

decide the matter afresh, undertaking its own independent analysis of the evidence and the law, and reaching its own decision.

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

3 Variance Appeals:

To authorize variances upon appeal, within the limitations set forth in this Ordinance.

a. Variances may be granted only from dimensional requirements including frontage, lot area, lot width, height, percent of lot coverage, and setback requirements.

b. Variances shall not be granted for uses otherwise prohibited by this Ordinance.

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

(1) The proposed structure would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and

(2) The strict application of the terms of this Ordinance would result in undue hardship.

The term “undue hardship” shall mean all of the following:

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

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

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

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

d. Disability Variance: The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures

necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, Section 4553 and the term "structures necessary for access to or egress from the property" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure. For disability variances no published notices are necessary.

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

f. If a variance is granted under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local Registry of Deeds within ninety (90) days of the final approval of the variance or the variance is void.

The variance is not valid until recorded as provided in this provision. Proof of recording shall be submitted by the applicant to the Building Inspector prior to issuance of the building permit.

g. In areas subject to the Mandatory Shoreland Zoning Act, the Department of Environmental Protection shall be notified of any hearing twenty (20) days prior to the meeting.

h In areas subject to the Mandatory Shoreland Zoning Act, a copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within seven (7) days of the decision. This provision shall not be considered to be a condition of the validity of the variance.

C. APPEAL PROCEDURE

1. Time Limit:

An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Building Inspector, Code Enforcement Officer, Plumbing Inspector or the Planning Board except as set forth in 7(B)(1)(a). Such appeal shall be taken within thirty (30) days of the date of the decision appealed from.

2. Written Notice:

Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why it should be granted.

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

c. An appeal for a variance shall be put into the form of an agenda by the Board of Appeals and advertised in a local newspaper at least seven (7) days before the deliberation of the Board or before any public hearing held by the Board respecting said appeal. Notice shall be sent to all abutters of the property in question by certified mail (return receipt requested). A fee of seventy-five ($75.00) shall accompany the appeal.

3. Record of Case:

Upon being notified of an appeal, the Building Inspector, Code Enforcement Officer, Plumbing Inspector or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

4. Public Hearing:

The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

5. Decision by Board of Appeals:

In deciding any appeal the Board of Appeals may interpret the provisions of the Land Use Ordinance and related state statutes. The provisions of 30-A MRSA Section 2691 (3) shall govern the procedures of the Board of Appeals with respect to its meetings, hearings, deliberations, and decisions.

a. Quorum: A majority of the board shall constitute a quorum. A member who abstains shall not be counted in determining whether a quorum exists.

b. Majority Vote: The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to decide on any matter which it is required to decide.

c. Burden of Proof: The person filing the appeal shall have the burden of proof.

d. Action on Appeal: Following the public hearing on an appeal, the Board may affirm, affirm with conditions, or reverse the decision of the Building Inspector, Code Enforcement Officer, Plumbing Inspector or Planning Board. The Board may reverse the decision of the Code Enforcement Officer, the Building Inspector, Plumbing Inspector or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance. When errors of administrative procedures or interpretations are found, the case shall be remanded back to the Building Inspector, Code Enforcement Officer, Plumbing Inspector or Planning Board for correction.

e. Time Frame: The Board shall decide all appeals after the close of the hearing, and shall issue a written decision on all appeals within seven (7) days of its decision.

f. Findings: All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

6. Appeal to Superior Court: Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

7. Reconsideration:

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

8. SECTION EIGHT
DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

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

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

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

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

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

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

The words "Town" or "Municipality" means the Town of Southport, Maine.

The term "Squirrel Island" shall mean "Squirrel Island District" and any reference to the Squirrel Island District shall include all of Squirrel Island.

All setbacks are measured horizontally.

B. DEFINITIONS

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

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

Abandonment: The discontinuance of use of a building or land for a particular purpose for more than one (1) year.

Abutter: The owner of any property with one or more common boundaries, or across the street from another property.

Accessory Use or Structure: A use or structure which is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term "incidental" in this context shall mean subordinate and minor in significance but attendant to the principal use or structure.

Addition: An alteration to a structure which would increase any horizontal dimension, (whether or not it contributes to Floor Area), height (exclusive of chimneys, antennae, etc.) or land area covered. An addition must form an integral part of the original structure and not merely be connected by railings, steps, or walkways, any connecting elements being architecturally or structurally homogeneous with it.

Aggrieved Party: A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across a road or street or body of water from land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Alteration: Any change or modification in construction, or change in the structural members of a building, or in the use of a building.

Apartment: A room or suite of rooms used by a family or an individual, separate from similar units and containing independent living, cooking, sleeping, bathing and sanitary facilities.

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

Area of Structure: The "footprint" (amount of land) of a structure measured horizontally in square feet. This measurement shall include porches and decks and other Additions, but exclude the footprint of exterior stairs and roof overhang.

Automobile Graveyard: A yard, field or other area used to store three (3) or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title 29, Section 7, or parts of such vehicles. Automobile graveyard does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. Automobile graveyard includes an area used for automobile dismantling, salvage and recycling operations.

Authorized Agent: An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner (s).

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

Base Flood: A flood with a magnitude having a one percent chance of occurring in any given year; also called the "100-year" flood.

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

Boarding, Lodging Facility: Any residential structure where four (4) or more lodging rooms with or without meals are provided for compensation and where a family acting as owner or operator resides in the building. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

Building: Any three-dimensional enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including swimming pools, hot tubs, foundations or pilings in the ground, and all parts of any kind of structure above ground including decks, railings, dormers, and stairs. Sidewalks, fences, driveways, parking lots, retaining walls, electrical transmission poles and lines, signs and flagpoles are not construed as buildings. (see Structure)

Buildable Land: Land normally suitable for the construction of buildings, but excluding wetlands, unstable slopes of greater than 30%, and areas in subdivisions reserved for common rights-of-way.

Building Height: The vertical distance between the rooftop of a building, or otherwise its highest point, and the highest point of the ground on which it is built.

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

Campground: Land upon which one or more tents are erected or trailers are parked for temporary use for compensation on sites arranged specifically for that purpose. A campground may include uses in accessory structures such as a small store, snack bar or recreation hall serving primarily the needs of campers.

Cemetery: Property used for the interring of the dead.

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

Closed Loop Geothermal Heat Exchange Well: A geothermal heat exchange well with a sealed and pressurized loop of pipe containing a heat exchange solution, which is circulated below the earth's surface and utilizes the earth for the purpose of heat transfer.

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

Cluster Development: A development consisting exclusively of residential dwelling units, planned and carried out as a whole or as a programmed series of developments, controlled by one developer on a tract of five (5) or more lots, which contemplates an innovative, more compact group of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent common open space and the permanent retention of the natural character of the land.

Coastal Wetlands: All tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during maximum spring

tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Code Enforcement Officer: A person or persons charged with administering and enforcing this Ordinance.

Commercial Building: Any building or other structure, except a single or two-family dwelling, intended for commercial use, or which houses goods or equipment for that purpose. Buildings which are primarily dwellings or accessories to dwellings used for a home business are not considered commercial.

Commercial Use: Any activity or usage of land whose primary purpose is profit or financial gain. This definition does not apply to small businesses carried on in the home which meet the criteria for a home business (see Home Occupation).

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

Conforming: A building, structure or land use, or portion thereof, which complies with the provisions of this Ordinance.

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

Density : The number of dwellings per unit area.

Development : Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, drilling, paving, storing of materials, laying out subdivisions.

Disability: Defined by the Americans with Disabilities Act of 1990 and its amendments and enforcing regulations (www.ada.gov). As defined there, it means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities of such individual. In general major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

District: A specified portion of the Town of Southport, delineated on the land use map, within which certain regulations and requirements apply, as distinct from those that apply to other districts.

Dwelling: Any permanent structure which provides cooking and dining facilities, sanitary facilities, sleeping accommodations and other necessities for extended occupancy. Cabins, camps, efficiency units, hotel or motel rooms, intended for short term occupancy by transients, shall not be considered dwellings, but rather commercial buildings. Rooms in private residences rented by

the owner to overnight guests (e.g. so-called "bed and breakfast") shall be considered a home occupation.

1. Single Dwelling Unit: Any structure designed to contain one dwelling unit, with one kitchen, and with all rooms generally being internally accessible to one another.

2. Duplex: A building designed to contain two separate dwelling units, with two kitchens, and the rooms of one unit not generally internally accessible to one another.

3 Multi-Unit Dwellings: A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families and kitchens not exceeding the number of dwelling units.

4. Dwelling Unit: A room or suite of rooms used by a family or an individual, separate from similar units and containing independent living, cooking, sleeping, bathing and sanitary facilities.

Existing: As applied to a structure or usage, present and functioning at the time any pertinent regulation or amendment was enacted.

Expansion: An increase in the size (volume or area) or number of structures connected with an activity for the purpose of increasing the magnitude or scope of that activity.

Family: One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

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

Flea Market: A continuing or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the general public. This does not apply to yard sales.

Flood Plain, Flood Plain Map: The land area susceptible of being flooded by a "Hundred-year flood" or greater, as depicted on the Flood Insurance Rate Map of the Federal Emergency Management Agency.

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

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

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

Footprint: See "Area of Structure" definition.

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

Fresh water wetland: Fresh water wetlands include fresh water swamps, other than forested wetlands, marshes, bogs and similar areas, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and

2. Inundated or saturated by surface or 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.

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

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

Geothermal Heat Exchange Well: A hole drilled, driven or bored into the earth for the purpose of using the heat exchange capacity of the earth for heating and cooling.

Hardship: See Undue Hardship.

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

Home Occupation: An occupation or profession which is carried on in a detached, single-family dwelling unit or accessory structure by the full-time permanent occupant of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof (by way of illustration and not of limitation, the term home occupation shall include foods such as breads, cookies or preserves, rugs, birdhouses, fishing flies, and quilts). The term "home occupation" shall include both professional and personal services, within the limits on number of employees established in other sections of this Ordinance.

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

Industrial Structure: Any building or structure, except a single or two-family dwelling, intended for the making of goods and articles by hand or machinery including assembly, fabrication, finishing, packaging and processing. The term shall include any building or structure which houses goods or equipment for that purpose.

Industrial Use: The making of goods and articles by hand or machinery including assembly, fabrication, finishing, packaging and processing.

Junkyard: A yard, field or other area used to store:

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;

2. Discarded scrap and junked lumber;

3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrape iron, steel and other scrap ferrous or nonferrous material;

4. Garbage dumps, waste dumps and sanitary fills.

Kitchen: A room containing all of the following: i) Sink ii) Refrigerator iii) Stove

Light Industry: An industrial structure and/or use, as defined in this Ordinance, which meets all of the following criteria:

1. The number of employees does not exceed 10;
2. All aspects of the industrial process are carried on within the industrial structure;
3. The noise level of the industrial process does not exceed 50 decibels at any property line;
4. There are no land, water or air waste discharges or emissions other than sanitary facilities which meet the requirements of the State's wastewater disposal rules.

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

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**.**

Lot Coverage: The percentage of a lot area covered by all buildings.

Lot Lines: The lines bounding a lot as follows:

1. Front Lot Line – the boundary line separating the lot from a street right-of-way, or in the case of corner or through lots, from two or more street rights-of-way, or paved surface where the right-of-way is not determined.

2. Rear Lot Line – the lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines, not less that ten feet long, lying at the farthest possible distance from the front lot line and parallel to it.

3. Side lot line – any boundary line other than the front lot line or the rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the Lincoln County Register or Deeds.

Lot, Shorefront: Any lot abutting a body of water regulated by the Shoreland Zoning Ordinance.

Lot, Through: Any interior lot having frontage of two more or less parallel roads or between a road and a body of water, or between two bodies of water. In a corner lot, these two boundaries intersect.

Lot Width: The distance between the two side lot lines measured at the front setback line.

Lots, Contiguous: Next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous. Land which is separated by a public road is not contiguous.

Manufactured Housing: A dwelling unit constructed in a manufacturing facility and transported on its own or an independent chassis in one or more sections, to the building site. A single unit with its own chassis, capable of being towed over a highway at will is a MOBILE HOME.

Marine Repair: An establishment engaged in repairing and servicing boats and motors.

Marine Retail: An establishment engaged in the sale of water-related products and services. Such establishments may include marine hardware, local fresh, unprepared seafood sales, boat sales, boat rentals, and minor boat/motor repair, marine electronics sales and service and boat storage.

Maximum Spring Tidal Level: A line determined by a certified surveyor from data in tide tables published by the National Ocean Service. See Coastal Wetlands.

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

New Building: A structure that does not rebuild or replace a dwelling or other building.

Non-Conforming: A building, structure, use of land, or portion thereof, legally existing at the effective date of adoption of this Ordinance or an amendment to it, which thereafter fails to conform to all applicable provisions of this Ordinance.

Normal High Water For Fresh Water Wetlands or Waterbodies That line along the shore of a great pond, river, stream brook or other non-tidal body of water 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. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of open water.

Operational Necessity: A requirement or condition necessary to fulfill efficiently, safely and economically the function or purpose for which a structure or land use was intended.

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

Permit: A document formally sanctioning an activity not prohibited by law, but which may be regulated or have conditions attached by law.

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

Planned Unit Development: (See Cluster Development)

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

Plot Plan: A sketch plan of the property showing any existing buildings and any proposed construction in reasonable detail. In the Residential, Growth and Resource Protection Districts, lot lines, lot size and setbacks must be shown.

Principal Use: The primary use and chief purpose of a lot or structure.

Public Utility: Any person, firm, corporation, or municipal department or commission authorized to furnish gas, electricity, water, communication services or transportation to the public.

Public Utility Services: Facilities for the transmission or distribution of water, fuel, electricity or essential communications but not public utility buildings.

Public Utility Building: A building owned by a public utility used for administrative purposes or in connection with the transmission or distribution of water, fuel, electricity or essential communications.

Reasonable Return: Means that the extent to which a property fulfills the purpose for which it was purchased is commensurate to what could reasonably be expected in similar properties in the neighborhood, given a similar investment.

Recreational Vehicle: A self propelled or drawn vehicle, or vehicular attachment, designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling, such as a camper, travel trailer, or tent trailer.

Residential: Pertaining to a building or a land use whose primary purpose is to provide dwellings for people, with accessory structures for the convenience and comfort of the occupants.

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

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

Right-of-way: Land reserved for State highways, Town roads, private roads, public access and utility access.

Road: An existing State, County, or Town way or a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds or a road dedicated for public use and shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term shall also include private, undedicated roads which are described in a recorded document. The term "road" shall not include those ways which have been discontinued or abandoned.

Seasonal Restaurant**:** A restaurant operating for no more than five (5) months in a calendar year.

Setback: The minimum horizontal distance from a lot line (or in the case of shore lots the maximum spring tidal line) to the nearest part of a building, including porches, steps, railings, etc.. When these lines may partially or totally surround the building, all issues related to setback shall be determined for each side of the building independently.

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 shore line.

Shoreland Zone Fresh Water: The land area located: within two hundred and fifty (250) feet, horizontal distance, from the normal high water line of any great pond or river; within two hundred and fifty (250) feet of the upland edge of a freshwater wetland; or within seventy five (75) feet of the normal high water of a stream.

Shoreland Zone Salt Water: The land area located within two hundred and fifty (250) feet, horizontal distance, of the maximum spring tidal level of salt water; within two hundred and fifty (250) feet of the upland edge of a coastal wetland.

Sign: Any accessory structure, device, letter, banner, symbol, or other representation visible from a public way, which is used or is in the nature of an advertisement, announcement of direction.

Site: A defined portion of a lot or lots.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or attached to something having a fixed location, including but not limited to buildings, billboards, signs, wharves, boardwalks, dams and towers.

Subdivision: The division of a tract or parcel of land as defined in Title 30-A MRSA Section 4401 et. seq.

Temporary Use or Structure: An accessory use and/or structure, the existence of which shall be limited to one (1) year, and which conforms to all lot setbacks and dimensional requirements.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal to trees in the Shoreland Zone on a lot that has less than two (2) acres within the Shoreland Zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 4F, *Clearing of Vegetation.*

Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by a 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. Tributary streams in the Shoreline Zone requires a 75' setback. Setbacks outside the Shoreland Zone are determined by the DEP.

Undue Hardship: As used in this Ordinance, the words "undue hardship" shall mean all of the following:

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

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

Use: The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

Variance: A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the Ordinance would result in undue hardship for the property owner. Variances can be granted for measurements only, such as setbacks, heights, lot size, frontage limits, areas, etc.. Variances are not granted for the establishment or expansion of uses in districts where they are prohibited.

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 down to the level of the first floor. The region below the first floor counts as additional volume if all of the following are met: i) Headroom is at least seven (7) feet ii) There is a permanent floor (not dirt or gravel) iii) The region is fully enclosed from the weather

Water Dependent Uses:

Minor Water Dependent Uses:

Uses which require direct access to the water as an operational necessity such as piers, docks, wharf freight sheds and other similar uses which cannot be located away from the water and:

1. The total area of use shall be less than or equal to 25% of the area of the lot occupied; and

2. The total area of use including buildings and non-vegetated surfaces (not including roads and driveways) shall be less than or equal to three thousand (3,000) square feet; and

3. The total footprint of all water dependent non-residential buildings on the site will be less than or equal to one thousand (1,000) square feet.; and

Minor water dependent uses are allowed in the Growth District, the Residential District and the Maritime Activities District subject to site plan review and approval by the Planning Board and the criteria of Section 5, subsection G.14.

Major Water Dependent Uses:

1. Uses which require direct access to the water as an operational necessity such as piers, docks, wharf freight sheds, other similar uses which cannot be located away from the water.

2. Also included are the storage, repair or construction of boats away from the water.

3. A major water dependent use is one which meets one or more of the following criteria:

   a. The total area of use will be more than 25% of the area of the lot occupied; or

   b. The total area of use including buildings and non-vegetated surfaces (not including roads and driveways) exceeds three thousand (3,000) square feet; or

   c. The total footprint of all water dependent non-residential buildings on the site exceeds one thousand (1,000) square feet.

4. Major water dependent uses are allowed only in the Maritime Activities District subject to site plan review and approval by the Planning Board.

Water Related Uses (Squirrel Island only): Uses which require direct access to the water as an operational necessity such as piers, docks, wharf freight sheds and other similar uses which cannot be located away from the water.

Wetland : All coastal and freshwater wetlands. See the definitions of Coastal and Freshwater wetlands

Appendix A

This appendix is an integral part of the Town Land Use Ordinances as recommended by DEPARTMENT OF ENVIRONMENTAL PROTECTION

Point System for cutting in the Shoreland Zone

(1) Within a shoreland area zoned for Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

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

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

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) 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.

(b) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other natural vegetation is maintained. "Natural Vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4-1/2) feet above ground level for each 25 foot by 25 foot grid. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until three (3) saplings have been recruited into the plot)
For the purposes of this section a "we1l-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 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

Adjacent to other water bodies, tributary streams, and wetlands, a "we11-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

NOTE: *As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:*

(3x1) + (3x2) + (3x4) = 21 points

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points (21 - 12 = 9) may be removed provided that no cleared openings are created

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

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a. above.

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

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

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

(3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, 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 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 development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed, This provision shall not apply to the General Development or Commercial Fisheries/Maritime Activities District.

(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.

(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.

Appendix B

SMALL WIND-POWERED ENERGY SYSTEMS

Section 1. General Requirements for Small Wind-Powered Energy Systems: The following general requirements shall apply to all small wind-powered energy systems:

a. Each lot shall be limited to one small wind-powered energy system.

b. Small wind-powered energy systems shall not exceed a maximum system height of 100 ft. This is an allowed exception to the structure height limitations set forth in the Building Permit and the Shoreland Zoning ordinances.

c. Wind turbines and their support structures, if painted, shall be painted a non-reflective, non-obtrusive color.

d. Small wind-powered energy system towers shall not be lighted unless required by the Federal Aviation Administration (FAA) or other public authority.

e. Wind turbines and their towers shall not be used for displaying any advertising except for reasonable identification of the manufacturer.

f. Prior to commencing any construction, a Building Permit must be obtained in accordance with the Building Permit or Shoreland Zoning Ordinances, as applicable.

g. Wind turbines and their towers are not permitted in the Resource Protection District.

Section 2. Setback Requirements: The following setbacks and separation requirements shall apply to all small wind-powered energy systems:

a. Property Lines: Each small wind-powered energy system shall be set back a distance equal to 150 (one hundred and fifty) percent of its system height from adjoining property lines and at least 75 feet from the normal high-water line or the upland edge of a wetland.

b. Roads: Each small wind-powered energy system shall be set back from the nearest public or private road a distance of no less than 110 (one hundred and ten) percent of its system height from the nearest boundary of the underlying right of way for such road.

c. Communication and electrical lines: Each small wind-powered energy system shall be set back from the nearest aboveground public electric power line or telephone line a distance of no less than 110 (one hundred and ten) percent of its system height from the existing power line or telephone line.

Section 3. Noise Limitation Requirements: All small wind-powered energy systems shall meet the following requirements:

a. An automatic braking, governing, or feathering system shall be required to prevent uncontrolled rotation.

b. Prior to approval, the applicant shall provide documentation from the manufacturer that the wind energy system will not produce noise levels in excess of 66 db as measured at the applicant's property lines.

c. After installation, the owner shall have sound level measurements taken at the property lines of the lot on which the generator is sited to determine operating decibel levels. Copies of all readings taken shall be provided to the Code Enforcement Officer to append to the original building permit application.

d. Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent approved by the Code Enforcement Officer. The report shall be submitted to the Code Enforcement Officer for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded, in which case the owner of the system shall pay the fee.

e. If the maximum decibel readings are exceeded, the installation shall be considered a nuisance.

f. The nuisance must be corrected within 90 days of notification. If the violation cannot be corrected, the small wind energy system shall be removed or relocated.

Section 4. Minimum Ground Clearance: The blade tip of any wind turbine shall, at its lowest point, have a ground clearance of no less than 20 feet.

Section 5. Signal Interference: The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone, or television signals, caused by any small wind energy system.

Section 6. Safety: The following safety requirements shall be adhered to:

a. All wiring between the wind turbine and the residence/facility served shall be underground.

b. Wind turbine towers shall not be climbable up to 15 feet above ground level.

c. All access doors to wind turbine towers and electrical equipment shall be locked.

d. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment, and wind energy facility entrances.

Section 7. Permitting Requirements: In addition to the application and supporting documentation required by the Building Permit or Shoreland Zoning ordinances, the applicant for a small wind-powered energy system shall provide the following information to the Building Inspector:

a. Structural drawings of the wind tower, base pad, footings, and guy wires, prepared by the manufacturer or a professional engineer.

b. Drawings and specifications of the generator, hub, and blade, prepared by the manufacturer or a professional engineer.

c. Photographs of the proposed site and the specific small wind-energy system to be installed.

d. Proof that the applicant has notified abutters by certified mail, return receipt requested, of the proposed installation.

Section 8. Enforcement: This Ordinance shall be enforced by the Code Enforcement Officer. The Selectmen may take such actions as are necessary and proper to restrain, correct, remove, or punish violations of this Ordinance in accordance with 30A MRSA § 4452.

Section 9. Definitions: As used in this Ordinance, the following terms shall have the meanings indicated:

Ambient Decibel Levels: Measurements made during winds of 0 mph and up to 25 mph (gusts) as reported by Wiscasset Municipal Airport.

Hub Height: The distance measured from ground level to the center of the turbine hub.

Maximum Decibel Levels: Measurements taken at startup and maximum output speeds of the turbine including braking or furling conditions.

Small Wind-Powered Energy System: A wind energy conversion system consisting of a tower, wind turbine, and associated control conversion electronics which will be used primarily to produce electrical power, having a maximum generating capacity of 100kW and a maximum system height of 100 feet.

System Height: The hub height plus the length of the blade extended to its highest point.

Tower: The structure on which the wind-powered energy system is mounted.

Tower Height: The height above grade of the fixed portion of a tower, excluding the wind turbine.

Wind Turbine: The parts of the wind system including the blades, generator, and tail.

Appendix C

GEOTHERMAL HEAT EXCHANGE WELLS

A. General Requirements: The following general requirements shall apply to all geothermal heat exchange wells:

1. Only closed-loop geothermal systems shall be permitted.
2. Prior to construction, all such systems shall require a valid permit issued by the Building Inspector according to Section 2 of these Land Use Ordinances.
3. In order for a valid permit to be issued, in addition to the requirements of Section 2, all systems shall meet the requirements set forth in the Maine Groundwater Association's Rules for Geothermal Heating Systems.

    a. The rules can be found on the Maine Groundwater Association website http://www.mainegroundwater.org/uploads/Maine_Well_Drillers_Rules.pdf
    b. The rules are issued by the Maine Department of Health and Human Services, the Bureau of Health, and can also be found in CMR Chapter 232 – Well Drillers and Pump Installers Rules.

9 SECTION NINE
Index

This index is for the convenience of the user. It does not list all of the ordinances pertaining to a particular entry.

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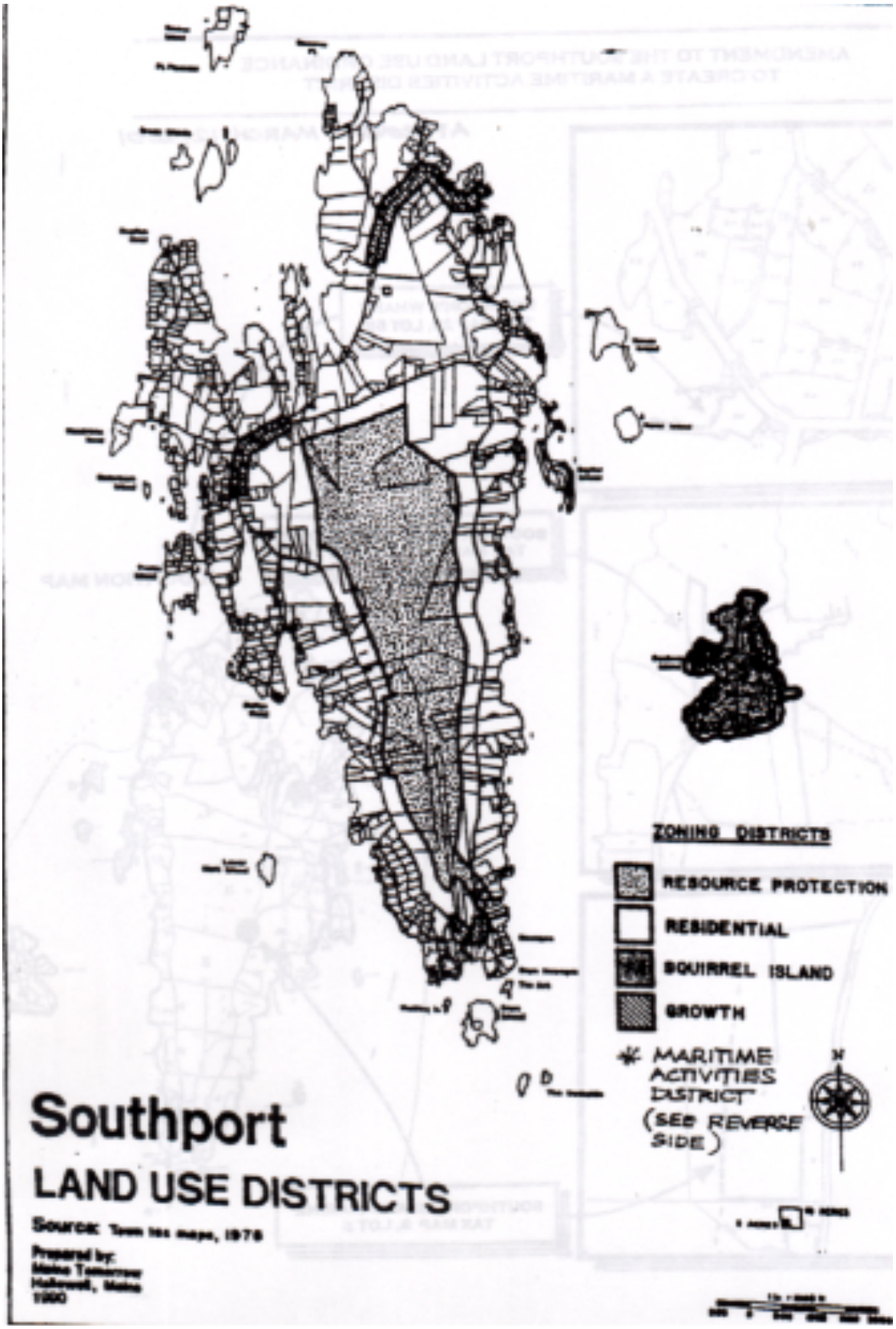
ZONING DISTRICTS
RESOURCE PROTECTION
RESIDENTIAL
SQUIRREL ISLAND
GROWTH
* MARITIME ACTIVITIES DISTRICT (SEE REVERSE SIDE)
N
Southport
LAND USE DISTRICTS
Source: Town tax maps, 1978
Prepared by:
Maine Tomorrow
Hallowell, Maine
1980

AMENDMENT TO THE SOUTHPORT LAND USE ORDINANCE TO CREATE A MARITIME ACTIVITIES DISTRICT
(AS AMENDED MARCH 4, 2019)

