Town of Harpswell Maine 2025

Shoreland Zoning Ordinance

Town of Harpswell

Shoreland Zoning Ordinance

Effective Dates
Re-enacted March 14, 1992
Amended
March 13, 1993
March 12, 1994
June 10, 1994
December 5, 1994
March 16, 1996
June 23, 1997
March 6, 1999
March 11, 2000
August 23, 2001
March 16, 2002
November 23, 2002
March 8, 2003
May 20, 2004
March 13, 2005
March 11, 2006
March 10, 2007
March 14, 2009
March 20, 2010
March 12, 2011
June 14, 2011
March 10, 2012
June 12, 2012
March 9, 2013
March 15, 2014
March 14, 2015
March 12, 2016
March 11, 2017
June 8, 2021
March 22, 2025

The Shoreland Zoning Ordinance previously adopted on June 27, 1974 and subsequently amended was repealed and replaced by this ordinance.

THIS UNOFFICIAL TABLE OF CONTENTS IS NOT A PART OF THE ORDINANCE AND IS PROVIDED FOR CONVENIENCE ONLY.

SHORELAND ZONING ORDINANCE
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SECTION 1. PURPOSES

The citizens of the Town of Harpswell, through enactment of this Shoreland Zoning Ordinance, commit to preserve and protect the Town of Harpswell's coastal marine heritage. The provisions contained herein are designed and intended to foster the continuation of traditional marine uses and encourage the development of new marine uses to the greatest extent practicable.

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

Throughout this ordinance there are "Citizen's Notes". These notes shall not be considered part of this ordinance as adopted by the Town, but shall only be considered as aids for citizens to use this ordinance and as guides to the intent of ordinance provisions and their proper interpretation.

SECTION 2. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 M.R.S. §§ 435-449, as may be amended from time.

SECTION 3. APPLICABILITY

This Ordinance applies to

- All land areas within two hundred fifty (250) feet, horizontal distance, of the
    - Upland edge of a coastal wetland, including areas affected by tidal action,
    - Upland edge of a freshwater wetland, or
    - Normal high-water line of any great pond or river
- All land areas within seventy-five (75) feet horizontal distance of the maximum high water line of a stream or tributary stream
- The portion of the Mitchell Field Marine Business District as shown on the Official Shoreland Zoning Map that is more than two hundred fifty (250) feet, horizontal distance, from the upland edge of the coastal wetland
- Eagle Island as shown on the Official Shoreland Zoning Map
- Any structure built on, over or abutting a dock, wharf, pier or other structure extending below the maximum high water line of a freshwater wetland, tributary stream, or below the upland edge of a coastal wetland

Citizen's Note: *Land use activity adjacent to protected natural resources requires a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A.§ 480-C, as may be amended from time to time. Please see Code Enforcement Officer for more information.*

SECTION 4. EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ORDINANCE

This Ordinance was originally enacted and became effective on March 14, 1992. Subsequent amendments become effective on the dates of their enactment, unless otherwise specified, and are listed on the Title Page. All amendments to and replacements of this Ordinance are subject to approval by the Department of Environmental Protection. If Department of Environmental Protection approval is made with conditions, the Ordinance shall be administered in accordance with those conditions pending further town legislative action. The Shoreland Zoning Ordinance previously adopted on June 27, 1974, and subsequently amended was repealed and replaced by this Ordinance.

SECTION 5. AVAILABILITY

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

SECTION 6. SEVERABILITY

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

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute administered by the Town, the more restrictive provision shall control unless the State shoreland zoning law provides otherwise.

SECTION 8. AMENDMENTS

This ordinance may be amended by majority vote of the Town. The effective date of an amendment shall be its date of enactment unless otherwise specified. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner of Environmental Protection. If the Commissioner of Environmental Protection fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, as if such amendment is approved by the Commissioner.

SECTION 9. LAND USE REQUIREMENTS

Except as this Ordinance specifies, no structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless variance is granted by the Board of Appeals.

SECTION 10. NONCONFORMANCE

10.1. Purpose. It is the intent of this Ordinance to promote land use conformities, except that lawful nonconforming conditions that existed before the effective dates of this Ordinance and of any amendments to this Ordinance shall be allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided in this Ordinance, a nonconforming condition shall not be permitted to become more nonconforming.

Citizen's Note*: Nonconformance should not be considered illegal or unacceptable. Nonconformance means lots of record or uses that are grandfathered because they were in conformance with the standards in effect before the effective date of this Ordinance and any amendments that created new nonconforming conditions. The concerned party is encouraged to read through this Ordinance and contact a Town official should a question arise.*

10.2. General

10.2.1. Transfer of Ownership. Nonconforming structures, lots and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this ordinance.

10.2.2. Repair and Maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repair or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as Federal, State, or local building and safety codes may require.

Citizen's Note*: See Definitions Addendum for the definitions of nonconforming structures, nonconforming uses, and nonconforming lots.*

10.3. Nonconforming Structures

10.3.1. Expansions. All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, wetland or property line setback requirements contained in **15.2.1**.

A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure if such addition or expansion does not increase the nonconformity of the structure and is in accordance with **10.3.1.1 10.3.1.2, 10.3.1.3, and 10.3.1.4** below.

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

10.3.1.2. Notwithstanding **10.3.1.1** above, if a legally existing nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable land use standards are met and the expansion is not otherwise prohibited.

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

10.3.1.3. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by **10.3.1.1** or **10.3.1.2** above.

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

10.3.1.3.2. For structures located less than one hundred (100) feet from the normal high-water line of a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or thirty percent (30%) larger than the total structure footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in **10.3.1.2.1** and **10.3.1.3.1**, above.

10.3.1.4. All other legally existing nonconforming principal and accessory structures located more than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that do not meet the property line setback requirements may be expanded or altered provided that the area of the expanded footprint that is nonconforming shall not be more than thirty percent (30%) larger than the area of the nonconforming footprint that existed on January 1, 1989, The maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater. This requirement shall apply as long as other applicable municipal land use standards are met and the

expansion is not prohibited or otherwise limited by **10.3.1.1, 10.3.1.2, or 10.3.1.3** above.

10.3.1.5. An approved plan for expansion of a nonconforming structure must be recorded by the applicant in the Cumberland County Registry of Deeds, within ninety (90) days of approval. The recorded plan must show the existing and proposed structure footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

Citizen's Note: *A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure. For the purposes of this Ordinance, an increase to the nonconformity of the structure shall mean:*

- *any expansion towards a water body, stream, tributary stream, coastal wetland, freshwater wetland or property line that decreases the shortest existing nonconforming setback distance from the water body, stream, tributary stream, coastal wetland, freshwater wetland or property line; or*
- *any expansion that would cause the structure to exceed the impermeable surface coverage requirements of Section 15.2.4; or*
- *any expansion that would cause the structure to exceed the height limits of Section 15.2.2.*

The shortest existing nonconforming setback distance from a water body, great pond, stream, tributary stream, coastal wetland, freshwater wetland or a property line may not be measured from an existing area used mainly for access to a structure, such as a small patio, terrace, landing, or small set of stairs.

Citizen's Note: *It should be understood that small patios, terraces, landings, or small sets of stairs within minimum setbacks do not change the setback of the adjacent structure and cannot be used to justify expansion of any other part of the structure into that setback.*

10.3.1.6. Foundations: Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing the decision on the criteria specified in Section **10.3.2.1**, Relocation.

10.3.2. Relocation, Reconstruction, or Replacement

10.3.2.1. Relocation. A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present sub-surface wastewater disposal system meets the requirements of State law and the State of

Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming. Any relocation approved by the Code Enforcement Officer pursuant to this subsection shall be endorsed in writing by the Code Enforcement Officer.

In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic systems 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 resource setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with **15.27**. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

10.3.2.1.1. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) 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.

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

10.3.2.2. Reconstruction or Replacement – More than Fifty Percent of Value. Any nonconforming structure that is located less than the required setback from a waterbody, stream, tributary stream, coastal wetland, freshwater wetland or from a property line, and that is removed, damaged, or destroyed, regardless of the cause, by more than fifty percent (50%) of the assessed value of the structure, as adjusted by the Town's assessment ratio as most recently certified by the Assessors to the State of Maine, before such damage, destruction, or removal, as determined by the Assessors or their designee in consultation with the Code Enforcement Officer, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such replacement or reconstruction is in compliance with the setback requirements to the greatest practical extent, as determined by the Code Enforcement Officer or Planning Board, in accordance with the purposes of this Ordinance. In no case, shall a structure be reconstructed or replaced so as to increase its nonconformity. Any reconstruction or replacement approved by the Code Enforcement Officer pursuant to this subsection shall be endorsed in writing by the Code

Enforcement Officer. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 10.3.1. above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section **10.3.2.1** above.

In determining whether the building reconstruction or replacement meets the water body, stream, tributary stream, coastal wetland, or freshwater wetland setback to the greatest practical extent, the Code Enforcement Officer or Planning Board shall consider, in addition to the criteria in Section **10.3.2.1** above, the physical condition and type of foundation present, if any.

10.3.2.3. Reconstruction or Replacement – Fifty Percent or Less of Value. Any nonconforming structure that is located less than the required setback from a water body, stream, tributary stream, coastal wetland or freshwater wetland or from a property line and that is removed by fifty percent (50%) or less of the assessed value of the structure, as adjusted by the Town's assessment ratio as most recently certified by the Assessors to the State of Maine, as determined by the Assessors or their designee in consultation with the Code Enforcement Officer or damaged or destroyed by fifty percent (50%) or less of the assessed value of the structure, as adjusted by the Town's assessment ratio as most recently certified by the Assessors to the State of Maine as determined by the Assessors or their designee in consultation with the Code Enforcement Officer, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one (1) year of such damage, destruction, or removal.

10.3.2.4. Authority of Planning Board to Exercise Jurisdiction over an Application. Except as provided for below, for any application for relocation of a nonconforming structure made under 10.3.2.1, or for the reconstruction or replacement of a nonconforming structure involving more than fifty percent (50%) of its adjusted assessed value made under 10.3.2.2, the Code Enforcement Officer shall provide written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records that a relocation, reconstruction or replacement application has been received and is being reviewed. The opportunity for the Planning Board to take jurisdiction under this provision and to receive notice shall not apply in any of the following situations:

10.3.2.4.1. The relocation, replacement, or reconstruction will be carried out such that the structure complies with all applicable setback requirements, or

10.3.2.4.2. The structure being relocated is an accessory structure that meets all of the following requirements:

1) The floor area of the existing nonconforming structure is less than two hundred (200) square feet,
2) The footprint and height of the structure will not be increased,

3) The structure is and will continue to be accessory to the principal use of the property,
4) The structure will not be served by water, and
5) The structure has not been and will not be used for human habitation, or

10.3.2.4.3. The structure being reconstructed or replaced is an accessory structure that meets all of the following requirements:

1) The floor area of the existing nonconforming structure is less than two hundred (200) square feet,
2) The footprint of the replacement or reconstructed structure will not be larger than one hundred fifty percent (150%) of the footprint of the existing structure and the replacement or reconstruction will not increase the footprint of the existing structure that is nonconforming by more than thirty (30) percent in accordance with Section **10.3.1**,
3) The existing structure is accessory to the principal use of the property and the replacement or reconstructed structure will continue to be so,
4) The replacement or reconstructed structure will not be served by water, and
5) The replacement or reconstructed structure will not be used for human habitation.

During that forty (40) day time period, the Planning Board may elect to exercise jurisdiction over the relocation, reconstruction or replacement application's conformance with the requirements of **10.3.2.1** and **10.3.2.2**. The Planning Board's review, if any, shall be governed by the same review standards as govern the Code Enforcement Officer's review. The Code Enforcement Officer shall not issue any permit under this Section until the earlier of (a) forty (40) days after the date that the Code Enforcement Officer provides such written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records or (b) the date the Planning Board declines to exercise jurisdiction over the application. Any relocation, reconstruction or replacement application approved by the Planning Board pursuant to this subsection shall be endorsed in writing. Failure of any property owner to receive the notice sent under this subsection does not invalidate any action taken by the Code Enforcement Officer or Planning Board.

10.3.3. Change of Use of a Nonconforming Structure. The use of a nonconforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater impact on a stream, tributary stream, coastal wetland or freshwater wetland, or on the subject or adjacent properties and resources than the existing use.

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

10.4. Nonconforming Uses

10.4.1. Expansions. Expansions of nonconforming uses are prohibited, except that nonconforming residential and institutional uses may, after obtaining a permit from the Code Enforcement Officer, be expanded within existing structures or within expansions of such structures as allowed in Section 10.3.1 above; provided; however, expansions of nonconforming institutional uses in the Resource Protection Districts are prohibited.

***Citizen's Note**: Disputed decisions may be appealed to the Board of Appeals.*

10.4.2. Resumption Prohibited. A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use may not again be devoted to a nonconforming use. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes for the preceding five (5) year period.

The Planning Board may, for good cause shown by the applicant, grant up to one (1) year extension to the above time periods.

10.4.3. Change of Use. An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water-dependent uses in the CF I & II District, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 10.3.3 above. A non-residential use in a CF I district may not be changed to a residential use.

10.5. Nonconforming Lots

10.5.1. Nonconforming lots whether located in legal subdivisions or elsewhere are subject to the provisions of this section.

10.5.2. Nonconforming lots. A nonconforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width, and shore frontage are met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

The status of a nonconforming lot of record shall not change as a result of realigning a common boundary line with the owner of a contiguous parcel of land, provided that (a) neither lot ends up more nonconforming after the transaction than it was prior to the transaction, as evidenced in writing by a land surveyor licensed to practice in Maine; (b) the parties cause copies of the recorded deeds to be submitted to the Code Enforcement Officer within thirty (30) days of the recording of the deeds at the registry; and (c) no permits or approvals relating to such nonconforming lot shall be issued unless or until the applicant complies with subsections (a) and (b) herein.

10.5.3. Contiguous Built Lots. If two (2) or more contiguous lots or parcels are in a single or joint ownership of record as of the effective date(s) of this ordinance and any amendments thereto, if all or part of the lots do not meet the dimensional requirements of this ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold as a separate lot, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal 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.

10.5.4. Contiguous Lots - Vacant or Partially Built. If two (2) or more contiguous lots or parcels are in single or joint ownership of record as of the effective date(s) of this ordinance or any amendment thereto, if any of these lots do not individually meet the dimensional requirements of this ordinance or subsequent amendments, and if one (1) or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two (2) or more contiguous lots, at least one (1) of which is nonconforming, owned by the same person or persons on the effective date(s) of this ordinance or any amendments thereto and recorded in the Registry of Deeds, if the lot is served by a public sewer, or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Rules and:

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

10.5.4.2. Any lots that do not meet the frontage and lot size requirements of subparagraph 10.5.4.1. are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

10.5.5. Changes in Lot Boundaries of Vacant Lots in Subdivisions. The boundaries of a vacant lot in a subdivision approved under the Subdivision Ordinance may be modified provided the lot or lots so created, even though nonconforming, are less nonconforming than the approved lot or lots, and further provided that the new lot or lots will have no greater adverse impact on a stream, tributary stream, coastal wetland or freshwater wetland, or on the subject or adjacent properties and resources than the uses anticipated by the approved subdivision plan. Approval of boundary modification shall be obtained by action of the Planning Board.

10.6. Creation of Nonconforming Lot(s) for Preservation or Conservation Purposes

10.6.1. An existing conforming lot or a nonconforming lot referred to in Sections **10.5.2**. and **10.5.3.** of this Ordinance may be divided so as to create not more than two (2) lots, one or both of which are nonconforming lots, provided that the Planning Board finds that the following conditions are met:

10.6.1.1. One of the resulting lots is conveyed to a governmental body or a nonprofit tax exempt organization (preservation grantee) for conservation or preservation purposes.

10.6.1.2. The division does not create or exacerbate a public health or safety problem on the nonconforming lot not to be conveyed to a preservation grantee (the remaining lot) to the extent that the remaining lot does not have adequate (as defined by the appropriate code) well and septic waste disposal options.

10.6.1.3. If the lot conveyed to the preservation grantee is undeveloped land, or is to be returned to an undeveloped state, the deed or instrument of conveyance shall contain restrictions which require that the land be preserved or maintained in its natural state (although not necessarily "forever wild") in perpetuity for one (1) or more generally recognized purposes which benefit the natural, cultural, or architectural history of the Town or which preserves a diminishing or threatened place, parcel of land, resource, or habitat.

10.6.1.4. If the lot conveyed to the preservation grantee contains a pre-existing structure or improvement, the structure or improvement must have a demonstrable historic, cultural, or architectural importance and the deed or instrument of conveyance shall contain restrictions which require that the land and the improvements thereon be preserved and maintained so as to protect and preserve said historic, cultural, or architectural importance. No structure on the lot conveyed to a preservation grantee pursuant to this section may be inhabited as a dwelling.

SECTION 11. DISTRICTS AND ZONING MAP

11.1. Official Shoreland Zoning Map. The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

1) Resource Protection
2) Shoreland Residential
3) Shoreland Business
4) Commercial Fisheries I
5) Commercial Fisheries II
6) Mitchell Field Marine Business
7) Eagle Island Historic District

The most recent version of the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency is considered to be part of the Official Shoreland Zoning Map for the purpose of identifying the Resources Protection District adjacent to tidal waters.

11.1.1. Scale of Map. The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 1500 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

11.1.2. Certification of Official Shoreland Zoning Map. The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

11.1.3. Changes to the Official Shoreland Zoning. If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of Environmental Protection. Any changes to the Official Maps must be approved by a majority vote of the Town.

SECTION 12. INTERPRETATION OF DISTRICT BOUNDARIES

The depiction of the Resource Protection Districts and all Shoreland Zoning Districts on the Official Shoreland Zoning maps for the Town of Harpswell is illustrative of their general location. The boundaries of these districts shall be determined by measurement from maximum high water line of a stream, tributary stream, or the upland edge of a wetland, regardless of the location of the boundary shown on the map.

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads, and rights-of-way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines shown on the official map, the written description shall be the determining factor. The Board of Appeals shall be the final authority as to the location.

SECTION 13. ESTABLISHMENT OF DISTRICTS

13.1. Resource Protection District The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the areas listed below when they occur within the limits of the Shoreland Zone, except that areas which are developed and areas which meet the criteria for the Shoreland Business or Commercial Fisheries I & II Districts need not be included within the Resource Protection District.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, within two hundred fifty (250) feet, horizontal distance, of the upland edge of coastal wetlands consisting predominantly of salt marshes, salt meadows, and freshwater wetlands associated with great ponds that are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of May 1, 2006. For the purposes of this paragraph “freshwater wetlands associated with great ponds” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond, and have a surface elevation at or below the water level of the great pond during the period of normal high water. “Freshwater wetlands associated with great ponds” are considered to be part of that great pond.
2. Areas within the Shoreland Zone that are also within the one hundred (100) year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps, as amended, or Flood Hazard Boundary Maps whether or not these areas are depicted on the Official Shoreland Zoning Map, or as determined by a survey performed by a licensed surveyor establishing the base flood elevations for a parcel.

Citizen's Note: *To determine the location of the one hundred (100) year flood plain, see the Harpswell Flood Plain Ordinance, and the above-referenced maps currently in effect which are on file at the Town Office.*

3. Areas of two (2) or more contiguous acres with sustained slopes of twenty percent (20%) or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, that are not part of a freshwater or coastal wetland and that are not surficially connected to a water body during the period of maximum high water.
5. Areas within the Shoreland Zone that are adjacent to tidal waters and are subject to severe erosion or mass movement, such as steep coastal bluffs.

13.1.1. Principal Use. The Planning Board may approve a land use permit for a one-unit residential use and accessory residential structures in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure(s) can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the Cumberland County Registry of Deeds before the adoption of the Resource Protection District.
3. The proposed location of all buildings, sewage disposal systems, and other improvements are:
    a. located on natural ground slopes of less than twenty percent (20%); and
    b. located outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the one hundred (100) year floodplain elevation; and the development is in compliance with the municipal floodplain elevation; and the development is in compliance with the municipal floodplain ordinance.
4. The total footprint of all principal and accessory structures is limited to a maximum of one thousand five hundred (1,500) square feet. This limitation shall not be altered by variance.
5. All structures, except functionally water-dependent structures, are set back from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

13.1.2. Accessory Use. The Planning Board may approve a permit for a home occupation as an accessory use in a Resource Protection District subject to the standards outlined in Section 15.20 of this Ordinance.

13.1.3. Community Shoreland Access Special Exception. The Planning Board may approve a permit for the construction of and/or improvement to community shoreland access ways and associated accessory structures and uses in a Resource Protection District provided that the following conditions are met:

1. There is no location suitable for shoreland access, other than a location within the Resource Protection District, which is practicable.
2. The proposed location of structures, sewage disposal systems, and other improvements excluding raised boardwalks, stairs and open fences intended to restrict access to environmentally sensitive areas are:
    a. located on natural ground slopes of less than twenty percent (20%); and
    b. located outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one (1) foot above the one hundred (100) year floodplain elevation; and the development is in compliance with the municipal floodplain elevation; and the development is in compliance with the municipal floodplain ordinance.
3. All structures, except functionally water-dependent structures, raised boardwalks, stairs, and fences intended to restrict access to environmentally sensitive areas are set back from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed structure site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

13.2. Shoreland Residential District. The Shoreland Residential District includes areas of mixed residential, recreational, and light commercial development. Home occupations, including but not limited to commercial fishing, are an allowed accessory use within the Shoreland Residential District provided they meet the standards outlined in Section **15.20** of this Ordinance. The Shoreland Residential District includes areas other than those in the Resource Protection District, and areas which are used less intensively than those in the Shoreland Commercial District, or the Commercial Fisheries I & II District.

13.3. Shoreland Business District. The Shoreland Business District includes areas of mixed light commercial and residential uses. This district includes areas of one (1) or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited. See definition.

13.4. Commercial Fisheries I District. The Commercial Fisheries I District shall be defined as the C.F. District existing prior to March 14, 1992 limited to seventy-five (75) feet inland from the upland edge of the coastal wetland and includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land

Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

1. shelter from prevailing winds and waves;
2. slope of the land within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland ;
3. depth of the water within one hundred fifty (150) feet, horizontal distance, of the shoreline;
4. available support facilities including utilities and transportation facilities; and
5. compatibility with adjacent upland uses.

Principal and accessory residential use is prohibited within the Commercial Fisheries I District.

13.5. Commercial Fishing II District. The Commercial Fishing II District shall be defined as the remaining one hundred seventy-five (175) foot zone behind CF I, to two hundred fifty (250) feet inland from the upland edge of the coastal wetland.

In the CF II District, the residential standards as defined in Section 15.1 and Table I in Section 14 of this Ordinance shall apply. Both parts of CF I and CF II of any lot in the CF District existing prior to January 1, 1989, shall be included in calculating lot size.

13.6. Mitchell Field Marine Business District. The Mitchell Field Marine Business District includes the area of the shoreland area within two hundred fifty (250) feet of the upland edge of the coastal wetland as well as the adjacent upland area that is more than two hundred fifty (250) feet from the maximum high water line as shown on the Official Shoreland Zoning Map.

13.7. Eagle Island Historic District. The Eagle Island Historic District includes all land area that comprises Eagle Island.

13.7.1. Purpose. The protection, enhancement, and perpetuation of landmarks of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the citizens of Harpswell and the general public. It is recognized that the Eagle Island State Historic Site represents the unique confluence of time and place that produced significant historic, cultural and natural resources that constitute the heritage of the Town of Harpswell. It is the purpose of this district to:

13.7.1.1. protect and enhance the Eagle Island State Historic Site, which represents distinctive elements of Harpswell's historic, cultural and natural resources heritage;
13.7.1.2. foster civic pride in the accomplishments of the past;
13.7.1.3. protect and enhance Harpswell's attractiveness to visitors and the support and stimulus to the economy thereby provided; and
13.7.1.4. increase public awareness of the value of historic, cultural and natural resource preservation through public education about the Eagle Island State Historic Site.

13.7.2. Land Use Standards for Eagle Island.

13.7.2.1. Permitted land uses in the Eagle Island Historic District include (a) one-unit residential, museum, visitors' center, water related uses, boat house, wharf, and pier; (b)

structures accessory to the uses set forth in subsection (a); and (c) any educational, park, recreational, cultural or historic preservation uses related in any way to the uses set forth in subsection (a). Notwithstanding any other provision of this Ordinance to the contrary, there shall only be one (1) one-unit residential use allowed within the Eagle Island Historic District.

13.7.2.2. All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the maximum high water line of a tributary stream, or the upland edge of a wetland ; provided, however, that any new principal and accessory structures consistent in footprint, height and general location with structures historically located on Eagle Island may be set back at least twenty-five (25) feet, horizontal distance, from the maximum high water line of a tributary stream, or the upland edge of a wetland. The tributary stream, coastal wetland or freshwater wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses.

13.7.2.3. Principal or accessory structures and expansions of existing structures shall not exceed thirty-five (35) feet in height. All expansions of principal and accessory structures that increase the footprint of the structure shall not exceed thirty-five (35) feet in height.

13.7.2.4. The lowest floor elevation or opening of all building and structures including basements shall be elevated at least one (1) foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

13.7.2.5. The total footprint area of all structures and other impermeable surfaces within the district shall not exceed twenty percent (20%) of the total land area of the district.

13.7.2.6. A building permit shall be obtained from the Code Enforcement Officer for the construction, expansion, replacement, rehabilitation or alteration of any structure containing uses set forth in Section **13.7.2.1** above.

13.7.2.7. Except as set forth herein, permitted land uses shall be conducted in accordance with all other applicable provisions of federal, State and local law, including, without limitation, the State of Maine Subsurface Wastewater Disposal Rules.

13.7.2.8. Sections **15.2** and **15.9** of this Ordinance do not apply to the Eagle Island Historic District.

13.7.3. **Conflicts.** Notwithstanding any other provision of this Ordinance to the contrary, in the event that any provision of this Section **13.7** conflicts with any other provision of this Ordinance, Section **13.7** shall prevail.

SECTION 14. TABLE OF LAND USES IN THE SHORELAND ZONE

14.1. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform to all of the applicable land use standards in Section 15 of this Ordinance. The land use activities that are prohibited or allowed with or without permits are indicated in Table 1. The district designation for a particular site shall be determined by measurement from maximum high water line of a stream, tributary stream, or the upland edge of a wetland, regardless of the location of the boundary shown on the map.

TABLE 1 LAND USES IN THE SHORELAND ZONE

Land Uses	Shoreland Districts					
	RP	**SR**	**SB**	**CF I**	**CF II**	**MFMB**[16]
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	yes	yes	yes	yes	yes	yes[15]
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes	no
4. Deleted						
5. *Clearing of vegetation for approved construction and other allowed uses	CEO	yes	yes	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes	yes
9. Mineral exploration	no	no	no	no	no	no
10. Mineral extraction including sand and gravel extraction	no	no	no	no	no	no
11. Surveying and resource analysis	yes	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes	yes
13. *Agriculture	PB	yes	yes	no [1]	yes	no
14. Aquaculture	PB	PB	PB	PB	PB	PB[16]
15. Principal structures and uses						
15.1. One and two-unit residential uses, including driveways	PB[10]	CEO	CEO	no	CEO	no
15.2. Multi-unit residential	no	no	no	no	no	no
15.3. *Commercial	no[13]	no [13]	PB	PB[4]	PB[2]	PB[16]
15.3.1 Commercial Fishing	no[13]	CEO	CEO	CEO	CEO	CEO
15.4. *Industrial	no	no	PB	no	no	PB[16]
15.5. *Governmental and Institutional	no[9]	PB	no	no	no	PB
15.6. Small non-residential facilities for marine, scientific or nature related purposes	no	PB	PB	PB	PB	PB[17]
15.7. Non-agricultural Fertilizer Use						
15.7.1 Chemical fertilizer, sludge and non-composted manure	no	no	no	no	no	no
15.7.2 Organic Fertilizer and composted manure	Yes[21]	Yes[21]	Yes[21]	Yes[21]	Yes[21]	Yes[21]

15.8. Community Shoreland Access	PB[20]	CEO	CEO	CEO	CEO	CEO
16. Accessory Structures and uses	PB[11]	CEO[11]	CEO[11]	CEO[11]	CEO[11]	CEO
17. Structural Repair	yes	yes	yes	yes	yes	yes
17.1 Structural alteration/replacement: residential	CEO	CEO	CEO	CEO	CEO	No
17.2 Structural alteration/replacement: non-residential	CEO/ PB	CEO/ PB	CEO/ PB	CEO/ PB	CEO/ PB	CEO/PB
18.1. Non-commercial piers, docks, wharves, bridges, and other structures and uses extending over or below the maximum high water line or upland edge of a wetland	PB[14]	CEO[14/18]	CEO[14/18]	CEO[14/18]	CEO[14/18]	CEO[14/18]
18.2. Commercial piers, docks, wharves, bridges, and other structures and uses extending over or below the maximum high-water line or upland edge of a wetland	PB[14]	CEO/PB 14/19	CEO/PB 14/19	CEO/PB 14/19	CEO/PB 14/19	CEO/PB 14/19
18.3 Community piers, docks and wharves	PB	PB	PB	PB	PB	PB
19. Conversions of seasonal residences to year-round residences	no	LPI	LPI	no	LPI	no
20. *Home occupations	PB[8]	yes [8]	yes [8]	yes [8]	yes [8]	no
21. Sewage disposal systems	PB[10]/ LPI	LPI	LPI	LPI	LPI	LPI
22.*Essential services	PB	PB	PB	PB	PB	PB
23. Service drops for allowed uses	yes	yes	yes	yes	yes	yes
24. Public and private recreational areas involving minimal development but no structure	PB	PB	CEO	CEO	CEO	CEO
25. *Individual, private campsites	CEO	CEO	CEO	no	CEO	no
26. *Campgrounds	no [5]	PB	PB	no	PB	no
27. *Road construction	no [6]	CEO	CEO	CEO[4]	CEO	CEO
28. *Parking areas – residential	CEO/PB	CEO	CEO	CEO	CEO	no
29. *Parking areas – non-residential	no[9]	PB	PB	PB [4]	PB	PB
30. *Marinas	no	no	PB	PB [7]	PB [7]	PB[16]
31. Boat Repair Facility	no	no	PB	PB	PB	PB[16]
32. Filling and earthmoving of <50 cubic yards	CEO	yes	yes	yes	yes	yes
33. Filling and earthmoving of >50 cubic yards but less than 1,000 cubic yards	PB	CEO	CEO	CEO[4]	CEO	CEO
34. Filling and earthmoving of >1000 cubic yards[12]	PB	PB	PB	PB[4]	PB	PB
35.*Signs	CEO	CEO	CEO	CEO	CEO	CEO
36. Uses similar to allowed uses	CEO	CEO	CEO	CEO[4]	CEO	CEO
37. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
38. Uses similar to uses requiring a PB permit	PB	PB	PB	PB[4]	PB	PB
39. Projects which use more than 1000 gallons of water/day	CEO	CEO	CEO	CEO	CEO	PB
40. Mobile Food Handlers	no	BOS	BOS	BOS	BOS	no
41. Clearing of Vegetation[22]	CEO	CEO	CEO	CEO	CEO	CEO

14.2. Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)
No - Prohibited
PB - Requires site plan review or a land use permit issued by the Planning Board if site plan review is not required
CEO - Requires permit issued by the Code Enforcement Officer
LPI - Requires permit issued by the Local Plumbing Inspector

ABBREVIATIONS:

RP - Resource Protection
SR - Shoreland Residential
SB - Shoreland Business
CF I - Commercial Fisheries I
CF II - Commercial Fisheries II
MFMB - Mitchell Field Marine Business

FOOTNOTES: Land Use Table

*For further information on the * uses in land use chart see Section 15.

1. No - except grand-fathered properties.
2. Marine related services only. Retail stores limited to nine hundred (900) or less square feet in size.
3. No - except limited Commercial Fishing activities.
4. Functionally water-dependent and accessory to Commercial Fishing uses only.
5. Except when area is zoned for resource protection solely due to flood plain criteria in which case a permit is required from the PB.
6. Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.
7. Primarily commercial fishing related use.
8. Home occupations that provide public restrooms and showers or serve food to the public require a CEO permit. All home occupations are subject to the provisions of Section 15.20 of the Shoreland Zoning Ordinance regardless of whether they are located within the Shoreland Zone.
9. Additions or expansions to existing Town Office Complex may be allowed with Planning Board approval.
10. Only as provided in Section 13.1.1. of the Shoreland Zoning Ordinance.
11. When a structure is accessory to both residential and non-residential uses, the more restrictive provisions of the ordinances shall apply.
12. May require site plan review approval. See Town of Harpswell Site Plan Review Ordinance.

13. Except for other allowed commercial uses listed in the Table that are allowed in the respective district.

14. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

15. Hunting is prohibited on all property at Mitchell Field that is owned by the Town of Harpswell.

16. At least forty-five percent (45%) of the gross leasable lot area within the district must be utilized for aquaculture, marinas, boat repair facilities, and/or functionally water-dependent uses as defined in the Definitions Addendum. Not more than fifteen percent (15%) of the gross leasable lot area in the district may be used for commercial or industrial uses that are not functionally water-dependent businesses, aquaculture, marinas, and/or boat repair facilities nor other marine-related businesses as defined in the Definitions Addendum provided that these uses may not be located within two hundred fifty (250) feet of the upland edge of the coastal wetland. Marine-related business uses are allowed within the district provided that the limitations set forth above are met. The use of the pier and the causeway leading to the pier is limited to activities involving public access and recreation and activities related to and in support of functionally water-dependent uses and marine related businesses that are located within the Mitchell Field Marine Business District provided that the private use of these facilities does not unduly restrict reasonable public access to and use of the pier.

17. The limitation on the size of non-residential facilities for marine, scientific, or nature related purposes shall not apply in the Mitchell Field Business Districts if the Planning Board finds that the scale and location of the facility are consistent with the objectives of shoreland zoning and the Mitchell Field Master Plan.

18. Permits applications for non-commercial, private piers, docks or wharves with a maximum width of six (6) feet as measured parallel to the shoreline and which do not extend below the low water line shall be reviewed and issued by the Code Enforcement Officer. Non-commercial, private piers greater than six (6) feet wide as measured parallel to the shoreline or which extend below the low water line are prohibited.

19. Permits applications for commercial piers, docks or wharves with a maximum width of twelve (12) feet as measured parallel to the shoreline and which limit the length of the structure to the minimal amount necessary to provide access to the boats intended to use the facility shall be reviewed and issued by the Code Enforcement Officer. Permits for commercial piers greater than twelve (12) feet wide as measured parallel to the shoreline or which exceed the minimum length necessary to provide access to the boats intended to use the facility shall be reviewed and issued by the Planning Board.

20. Only as provided in Section 13.1.2. of the Shoreland Zoning Ordinance.

21. Organic fertilizer and composted manure may not be applied within twenty five (25) feet of the maximum high water line of a stream, tributary stream, or the upland edge of a wetland as outlined in Section 15.21.1 of this ordinance.

22. Section 15.15 sets out when a permit from the Code Enforcement Officer is required.

Citizen's Note: *Land use activity adjacent to protected natural resources requires a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A.§ 480-C, as may be amended from time to time. Please see Code Enforcement Officer for more information.*

SECTION 15. LAND USE STANDARDS

No developer, person, or group shall restrict the use of property in any Shoreland Zone, neither now nor in the future, that limits commercial fishing or its related uses, as a home occupation. (i.e. lobstering, dragging, clamming, trap storage)

All land use activities within the Shoreland Zone shall conform to the following provisions, if applicable:

15.1 Minimum Lot Area, Shore Frontage and Lot Width Standards

15.1. Minimum Lot Standards Table

	Minimum Lot Area[1] (square feet)	Minimum Shore Frontage[2] (feet)
Residential per dwelling unit		
1. Within the Shoreland Zone adjacent to Tidal Areas.	40,000	150
2. Within the Shoreland Zone adjacent to Non-Tidal Areas	40,000	200
3. Offshore Islands	40,000	150
Commercial per principal structure		
1. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas Zoned for Commercial Fisheries I and II and Mitchell Field Marine Business	40,000	200
2. Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries I and II (for Commercial Uses Only)	NONE	NONE
3. Within the Shoreland Zone Adjacent to Tidal Areas Zoned Mitchell Field Marine Business District for all uses	20,000	150
4. Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
Public and Private Recreational Facilities		
1. Within the Shoreland Zone adjacent to Tidal and Non-Tidal areas	40,000	200
Community Docks		
1. Within the Shoreland Zone adjacent to Tidal and Non-Tidal Areas if improved with no structure other than the community dock	NONE[3 *]	60
Notes		

1. See 15.1.1 for land that cannot be included in the lot area.		
2. See Section 15.1.3 for sliding scale regarding frontage.		
3. Lot area must be sufficient, as determined by the Planning Board, to accommodate parking spaces for vehicles, vehicular circulation on the lot, loading and unloading area, any float storage and any access ramp.		

15.1.1. The following land shall not be included in the calculation of the area of a lot for the purposes of meeting minimum lot size or other density or dimensional requirements:

15.1.1.1 Land below the maximum high water line of a stream, or tributary stream,
15.1.1.2 Land below the upland edge of a coastal wetland,
15.1.1.3 Land below the upland edge of a freshwater wetland with a contiguous area of more than twenty thousand (20,000) square feet,
15.1.1.4 Land which is part of a road, or a transportation right-of-way, or easement serving more than two (2) lots, except rights-of-way or easements used exclusively for pedestrian access, and
15.1.1.5 Land created by the filling or draining of a stream, tributary stream, or coastal or freshwater wetland.

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

15.1.3. Sliding Scale: Lot frontage in the Shoreland Zone is governed by the average shore frontage of three (3) lots to either side of the lot to be divided. Lots shall be either, not less than, one hundred (100) feet frontage or one hundred fifty (150) feet or greater of frontage.

A two hundred – two hundred ninety-nine (200 – 299) foot lot (frontage) surrounded by three (3) lots on either side, averaging one hundred forty nine (149) feet or less frontage, could be divided into lots with one hundred (100) feet minimum shore frontage. If surrounded by three (3) lots to either side with an average of one hundred fifty (150) feet frontage or greater, the lot could not be divided.

HENCE: If a parcel is surrounded by three (3) lots either side, averaging less than one hundred forty nine (149) feet frontage, lot can be divided into one hundred (100) feet frontage lots. If a parcel is surrounded by three (3) lots either side averaging greater than one hundred fifty (150) feet frontage, lot must be divided into one hundred fifty (150) feet frontage or greater lots.

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

15.1.5. If more than one (1) residential dwelling unit, principal governmental, institutional commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit

principal structure, or use except in the Mitchell Field Marine Business District. In the Mitchell Field Marine Business District, the lot must conform to the minimum lot area requirement for each principal structure. In the Mitchell Field Marine Business District, the lot must conform to the minimum shore frontage requirement, however if there is more than one principal structure on a lot within two hundred fifty (250) feet of the upland edge of the coastal wetland, the lot must meet the minimum shore frontage requirement for each principal structure.

15.2. Principal and Accessory Structures

***Citizen's Note**: See Land Use Chart for proper permitting authority. Check definition of a structure.*

15.2.1. Setbacks. All new principal and accessory structures shall be set back from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland, and from all other lot lines including a property line with any road as shown in Table 15.2.1, except as provided in subsection 15.2.1.1, 15.2.1.2, 15.2.1.3, and 15.2.1.4.

***Citizen's Note**: See definition of water bodies Definitions Addendum.*

Setback Requirements (horizontal distance in feet)		
	Resource Protection District	All Other Districts
Minimum setback from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland for non-marine uses (see 15.2.1.6)	250 feet – see 15.2.1.4.	75 feet
Minimum setback from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland for marine uses (see 15.2.1.1 for specific uses)	None	None
Minimum setback from a property line	25 feet	25 feet
Setbacks for piers, docks and wharves	See 15.2.1.2	See 15.2.1.2
Setbacks for seawalls and retaining walls	See 15.2.1.5	See 15.2.1.5
Minimum setback from the Mitchell Field Marine Business District boundary	=	See 15.2.1.7
Setbacks in the Eagle Island Historic District	=	See 13.7.2.2

15.2.1.1. The stream, tributary stream, coastal wetland or freshwater wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses or commercial fishing related structures, or marine-related businesses in the Mitchell Field Marine Business District.

15.2.1.2. For piers, docks, and wharves that do not serve as community docks, the sideline setback shall be twenty-five (25) feet. For piers, docks, and wharves that serve as community docks, the sideline setback shall be ten (10) feet for all parcels with shared

access and twenty-five (25) feet for all parcels that do not have shared access to the pier, dock or wharf. The Code Enforcement Officer may permit the sideline setback to be reduced if the abutter(s) agrees in writing and it is duly recorded in Cumberland County Registry of Deeds.

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

15.2.1.4. In a Resource Protection District, the shoreline setback requirement for structures, roads, parking spaces or other related objects specifically allowed in the RP District shall be a minimum of seventy-five (75) feet horizontal distance.

15.2.1.5. Seawalls and/or retaining walls which are necessary to stabilize shoreline erosion shall not be required to meet the structure setback requirement; provided that the seawall or retaining wall is permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A.§ 480-C, as may be amended from time to time. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement; provided, however, that low retaining walls and associated fill necessary for erosion control need not meet the structure setback requirement if the following conditions are met:

15.2.1.5.1. The site has been previously altered and an effective vegetated buffer does not exist;

15.2.1.5.2. The wall(s) is (are) at least twenty-five (25) feet, horizontal distance, from the maximum high-water line of a stream, tributary stream, or upland edge of a wetland;

15.2.1.5.3. 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;

15.2.1.5.4. The total height of the wall(s), in the aggregate, is no more than twenty-four (24) inches;

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

15.2.1.5.6. 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

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

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

15.2.1.5.7.2. Vegetative plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

15.2.1.5.7.3. Only native species may be used to establish the buffer area;

15.2.1.5.7.4. A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the maximum high-water line, or upland edge of a resource; and

15.2.1.5.7.5. A footpath not to exceed the standards set forth in Section 15.15.2.1 of this Ordinance may traverse the buffer.

15.2.1.6. 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 Code Enforcement Officer or Planning Board, as appropriate, are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

15.2.1.7. In the Mitchell Field Marine Business District, all principal and accessory structures including parking and service areas and equipment or material storage areas shall be set back at least fifty (50) feet from the northern, eastern and southern boundaries of the Mitchell Field Business District.

15.2.2. Height Principal or accessory structures and expansions of existing structures shall not exceed thirty-five (35) feet in height. All expansions of principal and accessory structures that increase the footprint of the structure shall not exceed thirty-five (35) feet in height. For any principal or accessory structure existing as of March 10, 2007 that lawfully exceeds thirty-five (35) feet in height, such structure may be expanded without the need for a variance provided that (a) the expansion does not increase the footprint of the structure; and (b) the expansion

does not exceed the greatest height of the existing structure. Expansions of nonconforming structures must comply with all other expansion limitations of this Ordinance. The Code Enforcement Officer shall review any proposed expansion of a structure and shall determine, in writing, whether the requirements of this subsection are met prior to the issuance of any permit. Any non-residential structure exceeding twenty-five hundred (2,500) square feet must apply for Site Plan Review. This subsection does not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

The height of a structure shall be determined by using the vertical distance, as measured from the mean original grade at the downhill side of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances which have no floor area. Notwithstanding the preceding sentence, cupolas or similar portions of a structure having no floor area and exceeding any of the following dimensions (a) a side wall of sixteen (16) square feet; (b) a side wall of four (4) feet in height; (c) sixteen (16) square feet of horizontal area; or (d) a twelve (12) pitch roof, shall be included in the measurement of the height of a structure.

If the measurement cannot be made from the original grade where the structure is to be located, the Code Enforcement Officer shall establish a reasonable approximation of original grade for the purposes of determining height.

15.2.3. Lowest Floor Elevation: The lowest floor elevation or opening of all buildings and structures including basements shall be elevated at least one (1) foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

15.2.4. Impermeable Surface Area: The total impermeable area of all structures, driveways, parking lots, and other impermeable surfaces within the Shoreland Zone including impermeable areas previously developed shall not exceed the percentage of the lot set forth in Table 15.2.4.

Table 15.2.4 Maximum Impermeable Surface Area

District	Maximum Percent of Impermeable Surface Area
Resource Protection	Twenty (20)
Shoreland Residential	Twenty (20)
Shoreland Business	=
- boat repair and construction facility, marina uses, and commercial fishing uses	Seventy (70)
- all other uses	Twenty (20)
Mitchell Field Marine Business	Seventy (70)
Commercial Fisheries I	Seventy (70)
Commercial Fisheries II	=
- functionally water dependent or functionally water dependent accessory uses only	Seventy (70)
- all other uses	Twenty (20)
Eagle Island Historic District	Twenty (20)

15.2.5. Notwithstanding the requirements stated above, community shoreland access, 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 maximum high water line of a stream, tributary stream, or upland edge of a wetland unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time; and that the applicant demonstrates that no reasonable access alternative exists on the property.

15.2.6. During the construction or reconstruction of a one-unit residential use, a property owner may place an accessory temporary living accommodation on the lot in conformance with this section. Prior to installing the accessory temporary living accommodation on the lot, the property owner must obtain a temporary certificate of compliance from the Code Enforcement Officer. The Code Enforcement Officer shall issue the temporary certificate of compliance only if he/she finds that all of the provisions of this section have been met. The temporary certificate of compliance shall be for a period of not more than twelve (12) months. The owner may apply for up to two (2) twelve (12) month renewals of the temporary compliance permit and the Code Enforcement Officer shall approve such renewals only if he/she finds that the property owner is in compliance with all of the provisions of this section.

The placement and use of the accessory temporary living accommodation shall conform to all of the following requirements:

15.2.6.1. The accessory temporary living accommodation shall be a travel trailer, recreational vehicle, tent, or other similar enclosure that is not permanently attached to the ground.

15.2.6.2. The temporary living accommodation shall have a maximum of three hundred (300) square feet of area that can be occupied.

15.2.6.3. The accommodation shall be used only for the temporary living quarters of the property owner and her/his immediate family while construction is in progress on the home.

15.2.6.4. The temporary living accommodation shall be located on the lot in full conformance with the shoreland and property line setbacks.

15.2.6.5. The temporary living accommodation shall not be located on any type of permanent foundation and if the accommodation is a travel trailer, recreational vehicle, or similar mobile enclosure with integral wheels, the wheels shall remain on the vehicle while it is on the lot.

15.2.6.6. The owner shall prepare a written sewage disposal plan describing the proposed method and location of provisions for sewage disposal. The plan must be approved by the local plumbing inspector. When disposal is off-site, written authorization from the receiving facility or land owner is required.

A property owner who has been issued a temporary certificate of compliance for the placement of an accessory temporary living accommodation on the lot shall remove the temporary living

accommodation within fifteen (15) days of being notified by the Code Enforcement Officer in writing that the use is not in compliance with the standards and/or that the temporary certificate of compliance has expired, or shall disconnect the unit from all permanent utilities and sewage disposal provisions within fifteen (15) days of receiving a certificate of compliance for the new or replacement home. Failure to remove the accessory temporary living accommodation or disconnect it from all permanent utilities and sewage disposal provisions as required shall constitute a violation of this Ordinance subject to the penalties described in Section 13.6 of the Basic Land Use Ordinance in accordance with Section 16. Administration.

15.3. Piers, Docks, Wharves, Bridges, And Other Structures And Uses Extending Over Or Below The Maximum High Water Line Of a Stream, Tributary Stream, Upland Edge of the Coastal Wetland Or Within a Freshwater Wetland.

15.3.1. No more than one pier, dock, wharf or similar structure extending or located below the maximum high-water line of a water body or within a wetland is allowed on a single lot. This limit shall not apply to functionally water-related uses, marine-related businesses, commercial fishing activities and marinas.

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

15.3.3. The location shall not interfere with existing developed or natural beach areas.

15.3.4. The facility shall be located so as to minimize adverse affects on fisheries.

15.3.5. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.

15.3.5.1. Non-commercial, private piers, docks and wharves shall have a maximum width of six (6) feet and shall not extend below the low water line (not including ramps and floats).

15.3.5.2. Commercial piers, docks and wharves shall be limited to twelve (12) feet in width unless the need for a wider facility is justified by the applicant and approved by the Planning Board.

15.3.5.3. The maximum width of community docks is as set forth in Section 15.23 of this Ordinance.

15.3.6. No new structure shall be built on, over or abutting a pier, wharf, dock, or other structure extending beyond the maximum high water line of a stream, tributary stream, upland edge of the coastal wetland or within a freshwater wetland . Commercial fishing structures requiring direct access to the water as an operational necessity are allowed.

15.3.7. No existing structure built on, over or abutting a pier, dock, wharf or other structure extending beyond the maximum high water line of a stream, tributary stream, upland edge of the coastal wetland or within a freshwater wetland shall be converted to residential dwelling units in any district.

15.3.8. Except in the Commercial Fisheries I District, structures built on, over or abutting a pier, wharf, dock, or other structure extending beyond the maximum high water line of a

stream, tributary stream, upland edge of the coastal wetland or within a freshwater wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

Citizens Note: *Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time, and from the Army Corp of Engineers.*

15.3.9. No new wharf, pier, dock, and/or float shall be constructed on a lot shown on a recorded subdivision plan that has deeded rights of access to a wharf, pier, dock, and/or float; provided, however, that the Planning Board may authorize a new community dock within that subdivision pursuant to Section **15.23** of this Ordinance if the applicant can demonstrate that the new community dock will significantly improve access to a wharf, pier, dock, and/or float for at least one-third (1/3) of the lots within the subdivision and protect natural resources from overdevelopment.

15.3.10. New permanent piers and docks on non-tidal waters shall not be allowed unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time.

15.3.11. Vegetation may be removed in excess of the standards of **15.15** of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Code Enforcement Officer. Construction equipment must access the shoreline by barge when feasible as determined by the Code Enforcement Officer.

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

15.3.11.2 Revegetation must occur in accordance with **15.27**.

15.4. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures, Harpswell's Site Plan Review Ordinance, and the following:

15.4.1. The total land area of the campground in square feet, not including roads and driveways, must equal the number of campsites times five thousand (5,000). Land below the maximum high water line of a stream, tributary stream, upland edge of the coastal wetland or within a freshwater wetland shall not be included in calculating total land area.

Campsites within the Shoreland Zone, either in whole or in part, shall contain at least five thousand (5,000) square feet. Campsites with shore frontage must have a minimum of fifty (50) feet of shore frontage.

Campsites located outside of the Shoreland Zone shall contain at least one thousand (1,000) square feet.

15.4.2. The areas intended for placement of a recreational vehicle, tent, or shelter, and utility buildings, or service buildings shall be set back a minimum of seventy-five (75) feet from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland; and twenty-five (25) feet from campground property lines.

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

15.5.1. One campsite per lot existing on the effective date of this ordinance, or forty thousand (40,000) square feet of lot area within the Shoreland Zone, whichever is less, may be permitted. When a private campsite is located on a lot that contains another principal use or structure, the lot must contain the minimum lot area required for the principal use or structure plus the minimum lot area required for the private campsite.

15.5.2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the maximum high water line of a stream, tributary stream or the upland edge of a wetland; and twenty-five (25) feet, horizontal distance, from any individual private campsite property line.

15.5.3. Only one Recreation Vehicle shall be allowed on a campsite. 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.

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

15.5.5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and must be approved by the local plumbing inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

15.5.6. An individual private campsite shall not be utilized for the placement of any recreational vehicle(s), tent(s), or similar shelter(s) for more than one hundred twenty (120) days in any calendar year. This one hundred twenty (120) day limitation applies to all individual private campsites whether or not they have been utilized prior to effective date of this amendment. Placement of any recreational vehicle(s), tent(s) or similar shelter(s) on an individual private campsite for more than one hundred twenty (120) days in any calendar year requires compliance with all requirements of this Ordinance applicable to a dwelling, including the installation of a subsurface wastewater disposal system in compliance with the Maine Subsurface Wastewater Disposal Rules. This Section does not prohibit the storage of an unoccupied recreational vehicle, tent, or similar shelter on land other than an individual private campsite.

15.5.7. No recreational vehicle, tent, or similar shelter may be occupied unless it is located: (1) in a campground allowed under Section 15.4; (2) on an individual private campsite allowed pursuant to Section 15.5; or (3) on the same lot as a dwelling and used for no more than one hundred twenty (120) days in a calendar year, by the residents of the dwelling or their guests.

15.6. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within two hundred fifty (250) feet horizontal distance of the maximum high water line of a stream, tributary stream, or the upland edge of a wetland; in the Mitchell Field Marine Business District and in any other portion of the Shoreland Zone:

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

15.7. Parking Areas. This section applies when an area is developed for one thousand (1,000) square feet or more of parking.

15.7.1. Parking areas shall meet the Shoreland setback requirements for structures for the district in which such areas are located, except that:

15.7.1.1. The setback requirement for parking areas in the Commercial Fisheries I District may be reduced to no less than twenty-five (25) feet, horizontal distance, from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland if the Code Enforcement Officer determines that no reasonable alternative exists, and

15.7.1.2. The setback requirements for parking areas serving public boat launching facilities, in districts other than the Commercial Fisheries I District may be reduced to no less than fifty (50) feet, horizontal distance, from the maximum high water line of a stream, tributary stream, or upland edge of a wetland if the Code Enforcement Officer finds that no other reasonable alternative exists.

15.7.2. Parking areas shall be adequately sized for the proposed use and shall be designed to minimize runoff and erosion. Where feasible, runoff will be retained on site and prevented from flowing directly into a stream, tributary stream, coastal wetland or freshwater wetland.

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

15.8.1. Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance, from the maximum high water line of a stream, tributary stream, or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Code Enforcement Officer. If no other reasonable alternative exists, the Code Enforcement Officer 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 stream, tributary stream, coastal wetland or freshwater wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the stream, tributary stream, coastal wetland or freshwater wetland.

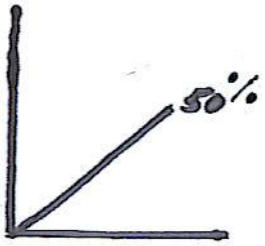
On slopes of greater than twenty percent (20%) the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above twenty percent (20%). This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

15.8.1.1. Section 15.8.1 does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section **15.8.1** except for that portion of the road or driveway necessary for direct access to the structure.

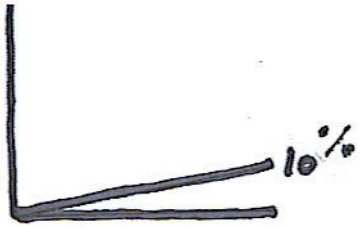
15.8.2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a stream, tributary stream, coastal wetland or freshwater wetland.

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

15.8.4. Road and driveway banks shall be no steeper than a fifty percent (50%) slope and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subsection **15.16**.



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



15.8.6. In order to prevent road and driveway surface drainage from directly entering a stream, tributary stream, coastal wetland or freshwater wetland, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet, horizontal distance, plus two (2) times the average slope, in width between the outflow point of the ditch or culvert and the maximum high water line of a stream, tributary stream, or upland edge of a wetland. Surface drainage that is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

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

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

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

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

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

15.9. Signs. The following provisions shall govern the use of signs in the Resource Protection, Shoreland Residential, Mitchell Field Marine Business, and Shoreland Business Districts, in addition to the Harpswell Sign Ordinance. The more stringent provisions shall apply. A permit must be obtained from the Code Enforcement Officer.

15.9.1. Display signs relating to a business or to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed sixteen (16) 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.

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

15.9.3. Residential users may display a single sign not over five (5) square feet in area relating to the sale of the premises.

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

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

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

15.9.7. Signs may be illuminated only by shielded, non-flashing lights. In the Mitchell Field Business District, the shielding must prevent the light source from being seen from the water.

15.10. Storm Water Runoff

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

15.10.2 Low Impact Development (LID) Best Management Practices (BMPs) as set forth in the Maine Stormwater Management Design Manual published by the Maine Department of Environmental Protection shall be employed to manage stormwater runoff.

15.10.3 Any activity involving the construction or expansion of more than two thousand five hundred (2,500) square feet of impermeable surface area must submit a stormwater management plan as part of the application for any permit or approval demonstrating how LID BMPs will be used. The plan must be prepared by a registered professional engineer or, if the activity involves less than ten thousand (10,000) square feet of impermeable surface area, a Maine certified erosion control contractor.

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

15.11. Subsurface Wastewater Disposal

15.11.1. All subsurface sewage disposal systems shall be permitted and installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

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

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

15.11.2. All new, replacement, renovated or expanded structures or uses generating waste, shall provide evidence of the type specified in **13.3.4.** of the Basic Land Use Ordinance that an adequate wastewater disposal system can be constructed or that an adequate waste water disposal system already exists.

15.11.3. Existing use - continuation of use: The use of any legal system which exists on the effective date of this ordinance, or which had previously been approved for installation, may be continued without change except as may be specifically covered by the Maine State Plumbing Code or deemed necessary by the plumbing inspector, for the general safety and welfare of the occupants and the public.

15.11.4. Change in use - it shall be unlawful to make any change in the use of any system, or to erect, enlarge, or change the use of a structure that uses an existing system without the approval of the plumbing inspector and certification that such change does not result in any hazard to public health, safety, and welfare.

15.11.5. The minimum setback for new subsurface sewage disposal fields shall be not less than one hundred (100) horizontal feet from the maximum high-water line of a stream, tributary stream, or the upland edge of a wetland. The minimum setback distances from a stream, tributary stream, coastal wetland or freshwater wetland for new subsurface sewage disposal fields shall not be reduced by variance.

15.11.6. Replacement systems shall meet the standards for replacement systems as contained in the Rules.

15.11.7. The owner of the proposed system may locate the system or components partially on property not owned or controlled by the owner of the system, provided that the owner of the property where the system is to be located executes an easement in perpetuity for the construction, operation, replacement, and maintenance of the system, giving the system's owner authorization to cross any land or right-of-way between the two parcels. The easement shall be filed and cross-referenced in the Cumberland County Registry of Deeds and the Code Enforcement Office prior to issuance of a disposal system permit. The easement shall provide sufficient buffer around the disposal field and fill material extensions for future replacement and maintenance of the system.

Citizen's Note*: The Town recommends that all new and replacement system owners install low-flow flushes and shower heads.*

15.12. Utilities and Essential Services

15.12.1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors and above ground facilities must be located so as to avoid crossing open areas and scenic views as identified in the Comprehensive Plan.

15.12.2. The installation of essential services other than road side distribution lines is not allowed in a Resource Protection Zone, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists.

Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

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

15.12.4. Damaged or destroyed public utility distribution and transmission lines, towers, and related equipment may be replaced without a permit. When replacement does occur, the damaged or destroyed public utility line, towers, and related equipment shall be removed within one (1) year.

15.12.5. Utilities in the Mitchell Field Marine Business District shall be installed underground unless the Planning Board finds as part of a subdivision or site plan review that underground installation is not feasible due to site or soil conditions or the nature of the utility.

15.13. Agriculture

15.13.1. All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201-4209, as may be amended from time to time).

15.13.2 Manure shall not be stored or stockpiled within one hundred (100) feet horizontal distance of the maximum high water line of a stream, tributary stream, or the upland edge of a wetland. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

15.13.3. New agricultural activities, not in existence before adoption of this Ordinance involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland Zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered a violation of this Ordinance.

Citizens Note*: Assistance in preparing a soil and water conservation plan may be available through the Cumberland County Soil and Water Conservation District office.*

15.13.4. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from a stream, tributary stream or coastal wetland; or within twenty-five (25) feet, horizontal distance, of the upland edge of a freshwater wetland. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

15.13.5. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of a stream, tributary stream, and coastal wetland; within twenty-five (25) feet, horizontal distance, of a freshwater wetland. Livestock grazing associated with on going farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

15.14. Timber Harvesting [Removed March 14, 2015 and administered by the State Bureau of Forestry]

Citizen's Note: *Before cutting or clearing any vegetation check with the Code Enforcement Officer to determine if the cutting or clearing is allowed and if a permit is needed.*

15.15. Clearing or Removal of Vegetation for Activities other than Timber Harvesting The standards of this section apply to any clearing or cutting of vegetation. A permit from the Code Enforcement Officer is required for certain activities in accordance with Section 15.15.7.

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

15.15.2. Except in areas described in Section 15.15.1 and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high water line of a stream, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

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

15.15.2.2. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation, including existing ground cover, shall be maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to a water body, tributary stream, or a wetland, shall be defined as maintaining a rating score of sixteen (16) or more in any twenty-five (25) by fifty (50) foot square area (1,250 square feet) as determined by the following rating system:

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - <4"	1
4 - <8"	2
8 - <12"	4
12" or greater	8

The following shall govern in applying this point system:

15.15.2.2.1. The twenty-five (25) foot by fifty (50) foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

15.15.2.2.2. Each successive plot must be adjacent to, but not overlap a previous plot;

15.15.2.2.3. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

15.15.2.2.4. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

15.15.2.2.5. Where conditions permit, no more than fifty percent (50%) of the points on any twenty-five (25) foot by fifty (50) foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of Section **15.15.2.2**, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each twenty-five (25) foot by fifty (50) foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

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

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

Pruning of dead tree branches on the bottom one-third (1/3) of trees is permitted.

In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with **15.25** unless existing new tree growth is present.

In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities including associated construction and related equipment operation within or outside the shoreline buffer must comply with the requirements of **15.15.2.**

15.15.3. At distance greater than seventy-five (75) feet, horizontal distance, from the maximum high water line of a stream, tributary stream, 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 percent (40%) of the volume of trees four (4) inches or more in diameter, measured four and one half (4-1/2) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared opening for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate,

twenty-five percent (25%) of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision applies to the portion of the lot within the shoreland zone, including the buffer area but shall not apply to the Commercial Fisheries I and II Districts and Shoreland Business District when for a commercial use.

15.15.4. 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.

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

15.15.6. The clearing or removal of vegetation in the Commercial Fishing I and II Districts within the buffer strip may be allowed, provided that the clearing or removal of vegetation is necessary for a principal commercial fishing use located on the parcel and the primary income for the landowner or lessee is derived from the same principal commercial fishing use.

15.15.7. Prior to commencing any of the following clearing or cutting activities except for the removal of hazard storm-damaged or dead trees in accordance with **15.25** the property owner or her/his representative shall obtain a permit from the Code Enforcement Officer in accordance with **15.15.8.**

15.15.7.1. The cutting or removal of vegetation in a Resource Protection District except that which is necessary for uses expressly authorized in that district.

15.15.7.2. The cutting or clearing of any trees two (2) inches or more in diameter, measured at four and one half (4-1/2) feet above ground level within a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high water line of a stream, tributary stream, or the upland edge of a wetland.

15.15.7.3. The cutting or clearing of any trees four (4) inches or more in diameter, measured at four and one half (4-1/2) feet above ground level in the area extending more than seventy-five (75) feet, horizontal distance, from the normal high water line of a stream, tributary stream, or the upland edge of a wetland.

15.15.8. The application for a permit shall contain the following information:

15.15.8.1. Name of the owner of the property and any professionals or contractors involved in the activity and contact information

15.15.8.2. The Map and Lot number and street address of the parcel.

15.15.8.3. A plan of the parcel identifying the locations of the clearing or cutting. The areas depicted on the plan must be clearly identified on the ground and all trees to be removed must be flagged or otherwise clearly identified.

15.15.8.4. If cutting of any trees two (2) inches or more in diameter, measured at four and one half (4-1/2) feet above ground level within the seventy-five (75) foot buffer strip is

proposed, an analysis of how the cutting or other removal will comply with the provisions of 15.15.2.

15.15.8.5. If cutting of any trees four (4) inches or more in diameter, measured at four and one half (4-1/2) feet above ground level beyond the seventy-five (75) foot buffer strip is proposed, an analysis of how the cutting or other removal will comply with the provisions of **15.15.3.** This shall include information of any other cutting or clearing with the prior ten (10) years, the current volume or basal area of trees on the lot, and the percentage of that area proposed to be cut or otherwise removed.

15.16. Earthmoving, Erosion, and Sedimentation Control

15.16.1. All activities that require a permit and involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions 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:

15.16.1.1. Mulching and re-vegetation of disturbed soil.

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

15.16.1.3. Permanent stabilization structures such as retaining walls or riprap. Permanent stabilization structures permitted by this section must be approved in advance, in writing, by the Code Enforcement Officer and shall be no larger than necessary to stabilize the area. No retaining wall shall be approved if there is an alternative method of stabilization available.

Citizens Note: *The above does not apply to normal maintenance of existing private roads and driveways. Soil erosion and sedimentation of watercourses and water bodies may be minimized by an active program meeting the requirements of the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices", dated March 1991. A copy is on file in the Code Enforcement Office. Additional copies may be obtained from the Maine Dept. of Environmental Protection or the Cumberland County Soil and Water Conservation District.*

15.16.2. In order to create the least potential for erosion, development should be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

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

15.16.4. Any exposed ground area shall be temporarily stabilized by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within one (1) year of the initial date of exposure. In addition:

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

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

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

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

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

15.18. Water Quality. No activity shall deposit on or into the ground or discharge to the water 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 a stream, tributary stream, coastal wetland or freshwater wetland,

No activity shall locate, store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances.

15.19. Archeological and Historic Sites. All proposed land use activities shall be designed to protect archeological and historic sites that have been identified in the Town's Comprehensive Plan, or by the Maine Historic Preservation Commission or the National Park Service. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or determined by the Maine Historic Preservation Commission to be eligible to be listed on, the National Register of Historic Places shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) business days prior to action being taken by the applicable permitting authority; provided, however, that the Code Enforcement Officer may, in the event of an emergency as determined by the Code Enforcement Officer, take appropriate action to allow only such limited land use activity as is necessary to protect the public health, safety and welfare in order to cure the emergency

situation. The Town permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

15.20. Home Occupations. Home occupations are allowed in all zoning districts. Those home occupations that provide public restrooms or showers or that serve food to the public need a permit from the Code Enforcement Officer. In all cases, the home occupation will be in compliance with the State of Maine Subsurface Wastewater Disposal Rules. Except for home occupations related to commercial fishing, all home occupations, regardless of whether they are located within the Shoreland Zone, are subject to the performance standards of this section.

15.20.1. Any home occupation that involves a prohibited activity or use listed in Section 15.6 of this ordinance shall be prohibited.

15.20.2. A home occupation shall be accessory to a residential use and clearly incidental and secondary to the residential use of the dwelling unit.

15.20.3. Except for family and group day care homes, and bed and breakfast home occupations, no home occupation shall be located in more than one (1) structure nor shall any one (1) or more home occupation utilize more than twenty-five percent (25%) of the gross floor area of the dwelling (excluding basement floor areas) if located in the dwelling or more than nine hundred (900) square feet of gross floor area of the accessory structure if located in an accessory structure.

15.20.4. Any home occupation must be carried on by a resident or occupants of the dwelling unit. In addition to the resident or occupants of the dwelling unit, no more than two (2) full time employees, or part-time employees' equivalent to two (2) full time employees, may be employed in the home occupation. In Resource Protection districts within the Shoreland Zone, no more than one (1) full time employee, or that number of part-time employees required to do the work of one (1) full time employee, may be employed in the home occupation.

15.20.5. A home occupation shall not create a nuisance through generation of objectionable conditions such as noise, smoke, dust, odors, accumulation of animal waste, glare, or other nuisance conditions.

15.20.6. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off street parking shall be provided for the vehicles of each employee and the maximum number of users the home occupation may attract during peak operating hours. Parking areas beyond those needed for the residential use shall be designed to minimize runoff and erosion. Where feasible runoff will be retained on site and prevented from flowing directly onto a neighboring property or into a water body.

15.20.7. A home occupation shall not generate substantially greater traffic volumes than would normally be expected in the neighborhood.

15.20.8. A home occupation may not generate special or hazardous waste in amounts larger than those normally associated with the residential use of the property.

15.20.9. A home occupation shall be compatible with the residential use of the property and surrounding residential uses.

15.20.10. Except for home occupations related to commercial fishing, Planning Board review and approval is required for home occupations in a Resource Protection District unless the home occupation:

a) is carried on entirely within the residential dwelling unit on the property,

b) has no employees other than the occupants of the dwelling unit,

c) has no retail sales,

d) generates no additional traffic than would normally be associated with the residential use of the property, and

e) generates no special or hazardous wastes, as defined under Maine law.

15.21. Fertilizer Use

The use of fertilizers is regulated by the Outdoor Pesticides Control and Fertilizer Use Ordinance.

15.22. "In-Law" Apartments. An apartment for a relative related by blood, marriage or adoption to the record owner(s) of the property may be added to any dwelling unit provided that (a) the property is owner-occupied; (b) a building permit is obtained; (c) all of the requirements of this Ordinance, with the exception of shore frontage, road frontage, and minimum lot size, are met; and (d) all requirements of the Maine Subsurface Wastewater Disposal Rules in accordance with 22 M.R.S.A. § 42, as may be amended from time to time, are met. The immediate removal of the "in-law" apartment shall be required upon discontinued use or occupation of the "in-law" apartment by the above-qualified relative of the record owner(s). The record owner(s) shall be responsible for informing the Code Enforcement Office when such use or occupation is discontinued. The record owner(s) shall annually register with the Code Enforcement Officer the legal name, mailing address and relationship to the record owner(s) of the relative occupying the "in-law" apartment and shall maintain a certificate of compliance with the Code Enforcement Officer. The Code Enforcement Officer shall have the right to inspect all "in-law" apartments to ensure compliance with this section.

15.23. Community Piers, Docks and Wharves

15.23.1. Community piers, docks and wharves shall have a maximum width of six (6) feet and shall not extend below the mean low water mark (not including ramps and floats). The proposed community pier, dock or wharf shall not otherwise prohibit or unreasonably impede legitimate passage along a beach or through navigation over the waters for recreational or aquacultural purposes.

15.23.2. For community piers, docks, and wharves located wholly within a subdivision, the sideline setbacks shall be ten (10) feet. For community piers, docks and wharves that abut a parcel located outside of the subdivision, the sideline setback from that adjoining parcel shall be increased to twenty-five (25) feet. The Planning Board may permit the sideline setback to be reduced if the abutter(s) agree in writing and it is duly recorded in Cumberland County Registry of Deeds.

15.23.3. The applicant shall provide sufficient legal documentation to demonstrate right, title or interest in the location of the community pier, dock or wharf and that the community pier,

dock or wharf will remain as a community pier, dock or wharf for the life of any such community pier, dock or wharf. The applicant shall submit to the Planning Board the proposed easement deed or declaration of protective covenants demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the use of the community pier, dock or wharf, which shall be reviewed by the Town Attorney as to form. Upon approval by the Planning Board, the easement deed or declaration of protective covenants shall be recorded in the Cumberland County Registry of Deeds prior to the issuance of any building permit for the community pier, dock or wharf.

15.23.4. An area where the float(s), if any, will be stored shall be designated on the plan.

15.23.5. Parking areas shall be adequately sized for the number of lots to be served by the community pier, dock or wharf, with a minimum of one parking space for every three (3) non-common open space lots within the subdivision to be served by the community pier, dock or wharf. Parking areas shall be designed to minimize runoff and erosion. Where feasible, runoff will be retained on site and prevented from flowing directly into the coastal wetland, stream, tributary stream, or freshwater wetland.

15.23.6. The design and construction shall not interfere with recreational intertidal lateral access.

15.23.7. The landward approach to a community pier, dock, or wharf shall minimize harm to vegetation on a coastal wetland, freshwater wetland or coastal bank.

15.24. Swimming Pools. All swimming pools, as that term is defined in 22 M.R.S. § 1631(2), shall comply with the fence enclosure requirements set forth in 22 M.R.S. §§ 1631-1632, as may be amended from time to time. Failure to do so shall constitute a violation of this Ordinance.

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

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

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

15.25.1.2. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five percent (25%) of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in

diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

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

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

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

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

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

15.25.2.1.1. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

15.25.2.1.2. Stumps from the storm-damaged trees may not be removed;

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

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

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

15.26. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in **15.15**, provided that all other applicable requirements of this ordinance are complied with, and the removal of vegetation is limited to that which is necessary:

15.26.1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this ordinance, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of **15.15** apply;

15.26.1.2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of **15.2** are not applicable;

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

15.26.1.4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section **15.13** are complied with;

15.26.1.5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a Shoreland Business District, Commercial Fisheries 1 or 2 Districts or Mitchell Field Marine Business District that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along a coastal wetland.

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

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

15.26.1.6.2. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

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

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

15.27. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in **15.15** to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

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

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

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

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

15.27.4.1. All trees and saplings removed must be replaced with native noninvasive species;

15.27.4.2. Replacement vegetation must at a minimum consist of saplings;

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

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

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

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

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

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

15.27.5.2. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

15.27.5.3. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

15.27.5.4. No one species shall make up fifty percent (50%) or more of the number of planted woody vegetation plants; and

15.27.5.5. Survival of planted woody vegetation and vegetation under three (3) feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five (5) years

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

15.27.6.1. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

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

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

SECTION 16. ADMINISTRATION

This Ordinance shall be administered and enforced in accordance with Sections 12, 13, and 14 of the Town's Basic Land Use Ordinance, as may be amended from time to time, and the Definitions Addendum, as may be amended from time to time.