CHAPTER 16A
CITY OF PRESQUE ISLE

SHORELAND ZONING ORDINANCE

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Attested: Kimberly A Finnemore
Kimberly A. Finnemore, city Clerk

City Seal

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Shoreland Zoning Ordinance for the Municipality of Presque Isle, Maine

1. Purposes

A. 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

2. Authority

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

3. Applicability

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

normal high-water line of any great pond or river, or
upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

NOTE: Pursuant to 38 M.R.S.A. section 440, municipalities may extend or adopt zoning controls beyond the limits established in Section 3, above, in order to protect the public health, safety, and welfare and to avoid problems associated with floodplain development.

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4. Effective Date of Ordinance and Ordinance Amendments

A. This Ordinance, which was adopted by the municipal legislative body on _____, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this

Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

5. Availability

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

6. Severability.

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

7. Conflicts with Other Ordinances.

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

8. Amendments.

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

9. Districts and Zoning Map

A. Official Shoreland Zoning Map.

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

(1) Resource Protection
(2) Limited Residential
(4) General Development
(6) Stream Protection

B. Scale of Map.

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

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

C. Certification of Official Shoreland Zoning Map.

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

D. Changes to the Official Shoreland Zoning Map.

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

10. Interpretation of District Boundaries

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

NOTE: Municipalities are encouraged to incorporate specific written descriptions of district boundaries into the Ordinance so that disputes over district boundaries are minimized. The Maine Supreme Judicial Court has held that the Official Shoreland Zoning Map is the primary tool to which to refer in determining district boundaries under ordinances that are not more explicit in their district descriptions than the language of the Guidelines, and that where there is inconsistency between the Map and these general text descriptions of the shoreland districts as provided in the minimum guidelines, the Map prevails.

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11. Land Use Requirements.

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

12. Non-conformance

A. Purpose.

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

B. General

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

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

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

C. Non-conforming Structures

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

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

accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

(b) Expansion of any portion of a structure within 25 feet, horizontal distance, 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.

(a) 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 Section 12(C)(1) or Section 12(C)(1)(a), above.

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

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

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary

stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

(d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by theCode Enforcement Officer, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.

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

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 system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

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

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

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

(5) **Change of Use of a Non-conforming Structure**. The use of a non-conforming structure may not be changed to another use unless the Zoning Board of Appeals, after receiving a written application, determines that the new use will have no

greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

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

D. Non-conforming Uses

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

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

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

E. Non-conforming Lots

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

(2) **Contiguous Built Lots**: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a

principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on January 1, 1992, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

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

13. Establishment of Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development I Districts need not be included within the Resource Protection District.

(1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood

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

(2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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

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

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

B. Limited Residential District.

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

C. General Development I District.

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

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

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

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

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

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

D. Stream Protection District.

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

14. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

ZBA- Zoning Board of Appeals

Abbreviations:

RP - Resource Protection GD General Development

LR - Limited Residential

SP - Stream Protection

TABLE 1. LAND USES IN THE SHORELAND ZONE

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

[1] In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

[2] Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

[3] In RP not allowed in areas so designated because of wildlife value.

[4] Provided that a variance from the setback requirement is obtained from the Board of Appeals.

[5] Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

[6] See further restrictions in Section 15(L)(2).

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

[8] Except as provided in Section 15(H)(4).

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

[10] Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

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

12Permit not required but must file a written "notice of intent to construct" with *CEO.*

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

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

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

15. Land Use Standards.

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

NOTE: Municipalities should review the land use standards contained herein to determine whether they will result in a scale of development that is compatible with existing development or with the future desired scale of development. If not, more restrictive land use standards may be adopted by the municipality.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(2) General Development District		
(a) Residential dwelling unit	7000	200
(i) Additional Units	1000	NR

NOTE: In a district equivalent to a General Development District that is served by municipal water and sewer systems the Department may approve a municipal shoreland zoning ordinance that provides for greater residential densities than set forth in Section 15(A)(1) above.

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

(4) 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.

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

(6) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use except with in the General Development District

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NOTE: Municipalities may include provisions for clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

B. Principal and Accessory Structures

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

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

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

In addition:

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

(b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the

storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(b) Where the Planning Board deems necessary to accomplish the purpose of this ordinance setbacks shall be increased. The increased setback is a condition of permit approval.

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

NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

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(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

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

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(3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

(4) With the exception of General Development District The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland area shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland area, including land area previously developed.. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

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

NOTE: A municipality may choose not to adopt subparagraph B(5) below. However, if a municipality elects to adopt a provision similar to that subparagraph, it must be no less restrictive.

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

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

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

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, are no more than 24 inches;

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

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

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

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

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

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

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

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

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the

Natural Resource Protection Act is required from the Department of Environmental Protection.

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

NOTE: If a municipality elects not to regulate structures and uses extending over or below a water body or wetland, Section 15(C) should not be incorporated into the Ordinance.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization

(1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.

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

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

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

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

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

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

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

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

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

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

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

(b) Revegetation must occur in accordance with Section 15(S).

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

NOTE: A municipality may adopt a provision such as paragraph 11 below to allow the construction of decks over a river in a downtown revitalization project, in accordance with 38 M.R.S.A. § 439-A(4-B).

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

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

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

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

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

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

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the

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

D. Campgrounds.

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

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

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

E. Individual Private Campsites.

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

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

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

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

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

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

(6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local

Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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

F. Commercial and Industrial Uses.

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

(1) Auto washing facilities

(2) Auto or other vehicle service and/or repair operations, including body shops

(3) Chemical and bacteriological laboratories

(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

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

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(5) Commercial painting, wood preserving, and furniture stripping

(6) Dry cleaning establishments

(7) Electronic circuit assembly

(8) Laundromats, unless connected to a sanitary sewer

(9) Metal plating, finishing, or polishing

(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

(11) Photographic processing

(12) Printing

G. Parking Areas

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

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

(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

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

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

H. Roads and Driveways.

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

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

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

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

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

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

(4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).

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

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

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

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

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

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

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

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

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

I. Signs.

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

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

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

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

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

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

J. Storm Water Runoff

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

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

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

K. Septic Waste Disposal

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

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

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

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

L. Essential Services

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

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

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

M. Mineral Exploration and Extraction.

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

Mineral extraction may be permitted under the following conditions:

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

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

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

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

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

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

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

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

N. Agriculture

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

(2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

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

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

(4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

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

(6) Water withdrawls for agricultural irrigation are allowed within the shoreland area, as long as they are in compliance with Chapter 587 "In-stream flow standards" and with best management practices as applicable.

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

O. Timber Harvesting-Statewide Standards Options 2- please see Appendix B for regulatory information

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

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

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

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

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

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified

GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

(4x1)+(2x2) + (3x4) + (2x8) = 36 points

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

The following shall govern in applying this point system:

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

(ii) Each successive plot must be adjacent to, but not overlap a previous plot;

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

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;

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

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

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

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

(f) 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 Section 15.P(2).

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

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

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

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

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

(1) Hazard trees in the shoreland zone may be removed without a permit after consultationwith the Code Enforcement Officer if the following requirements are met:

(a) 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.

(b) 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 (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

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

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

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

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

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

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

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

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

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

(b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in

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

R. Exemptions to Clearing and Vegetation Removal Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

S. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- 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 revegation must comply with the following requirements.

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

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

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

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

(a) All trees and saplings removed must be replaced with native noninvasive species;

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

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

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

(e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed,

then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

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

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

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

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

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

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

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

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

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

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

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

T. Erosion and Sedimentation Control

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

(a) Mulching and revegetation of disturbed soil.

(b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c) Permanent stabilization structures such as retaining walls or rip-rap.

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

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

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

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

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

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

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

U. Soils.

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

V. Water Quality.

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

W. Archaeological Site.

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

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

16. Administration

A. Administering Bodies and Agents

(1) **Code Enforcement Officer**. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

(2) Zoning **Board of Appeals**. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

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

B. Permits Required.

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

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

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

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

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

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

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

C. Permit Application

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

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

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

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

(5) Persuent to *38 M.R.S. § 439-A(10),* an applicant is required to provide to the municipal permitting authority preconstruction photographs and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site.

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

D. Procedure for Administering Permits.

Within 35 days of the date of receiving a written application, appropriate official , as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. appropriate officials, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the appropriate official has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the appropriate official 's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

After the submission of a complete application to the approproate officals as indicated in Section 14, the appropriate Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

(3) Will adequately provide for the disposal of all wastewater;

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will avoid problems associated with floodplain development and use; and

(8) Is in conformance with the provisions of Section 15, Land Use Standards.

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

E. Special Exceptions.

In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Zoning Board of Appeals may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

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

(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

(3) All proposed buildings, sewage disposal systems and other improvements are:

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

(b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas

subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

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

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

F. Expiration of Permit.

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service.

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

H. Appeals

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

(a) **Administrative Appeals**: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Zoning Board of Appeals.

NOTE: Whether an administrative appeal is decided on an "appellate" basis or on a "de novo" basis, or whether an enforcement decision is appealable to the board of appeals, shall be the decision of the municipality through its specific ordinance language. The Department is not mandating one alternative over the other. If a municipality chooses appeals procedures different from those in Section 16(H), it is recommended that assistance be sought from legal counsel to ensure that the adopted language is legally sound.

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

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

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

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

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

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

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

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

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

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

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

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Zoning Board of Appeals, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of

the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)

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

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

(3) **Administrative Appeals**

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

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

(4) **Appeal Procedure**

(a) **Making an Appeal**

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

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

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

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

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

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

(b) **Decision by Board of Appeals**

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

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

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

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

(5) **Appeal to Superior Court**. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Zoning Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Zoning Board of Appeals.

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

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

I. Enforcement

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

(2) **Code Enforcement Officer**

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

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

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

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

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

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

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17. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Expansion of a structure - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

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

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

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

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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

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

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

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

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

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

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

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

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

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

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

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

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

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

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

expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

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

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

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

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

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

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

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

Native – indigenous to the local forests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities **Riprap** - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

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

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

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

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

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

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

(1) in the case of electric service

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

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

(2) in the case of telephone service

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

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

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

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

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

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

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

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater wetland.

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

APPENDIX A

38 §437. Significant river segments identified

For purposes of this chapter, significant river segments include the following:

1. **Aroostook River.** The Aroostook River from St. Croix Stream in Masardis to the Masardis and T.10, R.6, W.E.L.S. townline, excluding segments in T.9, R.5, W.E.L.S.; including its tributary the Big Machias River from the Aroostook River in Ashland to the Ashland and Garfield Plantation townlines;

2. **Dennys River.** The Dennys River from the railroad bridge in Dennysville Station to the dam at Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;

3. **East Machias River.** The East Machias River from 1/4 of a mile above the Route 1 bridge in East Machias to the East Machias and T.18, E.D., B.P.P. townline, and from the T.19, E.D.,

B.P.P. and Wesley townline to the outlet of Crawford Lake in Crawford, excluding Hadley Lake;

4. **Fish River.** The Fish River from the bridge in Fort Kent Mills to the outlet of Eagle Lake in Wallagrass, and from the Portage Lake and T.14, R.6, townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;

5. **Machias River.** The Machias River from the Whitneyville and Machias townline to the Northfield T.19, M.D., B.P.P. townline;

6. **Mattawamkeag River.** The Mattawamkeag River from the outlet of Mattakeunk Stream in Winn to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake to the Route 2 bridge; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R 3, W.E.L.S. and Oakfield townline to Red Bridge in Oakfield; the Fish Stream from the Route 95 bridge in Island Falls to the Crystal-Patten townline; and the Baskehegan Stream from its inlet into Crooked Brook Flowage in Danforth to the Danforth and Brookton Township townline;

7. **Narraguagus River.** The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township townline, excluding Beddington Lake;

8. **East Branch of Penobscot.** The East Branch of the Penobscot from the Route 157 bridge in Medway to the East Millinocket and Grindstone Township townline;

9. **Pleasant River.** The Pleasant River from the railroad bridge in Columbia Falls to the Columbia and T.18, M.D., B.P.P. townline, and from the T.24, M.D., B.P.P. and Beddington townline to the outlet of Pleasant River Lake;

10. **Rapid River.** The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;

11. **West Branch Pleasant River.** The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township townline; and

12. **West Branch of Union River.** The West Branch of the Union River from the Route 9 bridge in Amherst to the outlet of Great Pond in the Town of Great Pond.

City of Presque Isle

APPENDIX B

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

BUREAU OF FORESTRY (MAINE FOREST SERVICE)

Chapter 21: STATEWIDE STANDARDS FOR TIMBER HARVESTING AND RELATED ACTIVITIES IN SHORELAND AREAS

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AUTHORITY: 12 M.R.S., chapter 805, subchapter 3-A; Public Laws 2003, chapter 335; Public Laws 2013, chapter 570

Summary: This rule establishes statewide standards for timber harvesting and related activities in shoreland areas. In general, timber harvesting activities in shoreland areas must protect shoreline integrity and not expose mineral soil that can be washed into water bodies, including non-forested freshwater and coastal wetlands and tidal waters. Timber harvesting and related activities in shoreland areas below the 300-acre drainage point must leave wind firm stands of trees that provide adequate shade. If located in shoreland areas, roads used primarily for timber harvesting and related activities must be constructed and maintained to standards designed to minimize the chance of exposed soil washing into water bodies, including wetlands. Stream crossings must not disrupt the natural flow of water and must not allow sediment into water bodies.

SECTION 1. PURPOSES

The purposes of this rule include the following: to establish statewide standards for timber harvesting and related activities in shoreland areas; to resolve inconsistencies among existing standards; to provide maximum opportunity for flexibility; to protect public resources while minimizing impacts on private resources; to further the maintenance of safe and healthful conditions; prevent and control water pollution from various agents, including sediment, temperature, toxic materials, and excessive nutrient inputs; to maintain shoreline stability; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect freshwater and coastal wetlands; and to conserve natural beauty, open space, and public recreational values.

SECTION 2. AMENDMENTS TO MAINE FOREST SERVICE CHAPTER 20 RULE (FOREST REGENERATION AND CLEARCUTTING STANDARDS)

(Repealed)

SECTION 3. SCOPE AND APPLICABILITY

A. **SCOPE**. This rule governs all timber harvesting and related activities conducted in, over, or near water bodies, including rivers, streams, brooks, ponds, lakes, Great Ponds, freshwater and coastal wetlands, throughout the state, unless exempted in Section 3.C. of this rule.

B. **EXCLUSIONS.** The activities described in this subsection are not considered timber harvesting and must comply with the requirements for clearing or removal of vegetation

for activities other than timber harvesting under rules promulgated by the Department of Environmental Protection, Municipal Shoreland Zoning Ordinance or the Land Use Planning Commission, depending on which entity has jurisdiction.

1. Removal of vegetation in proximity to an existing developed area. For purposes of this provision, "developed area" means a footprint encompassing structures, access roads (other than land management roads), and maintained non-forested areas, on a lot with shore frontage on any great pond, stream, pond, river, or freshwater or coastal wetland. "In proximity to" describes an envelope around a developed area, and includes all areas that:

   a. are within 50 feet of the developed area,

   b. are between the developed area and the water body,

   c. occupy an area whose width in parallel with the shoreline extends 50 feet beyond each end of the footprint of the developed area at its widest point.

   In no case shall the envelope in proximity to a developed area be less than 20,000 square feet or less than 100 feet along the shoreline.

2. Removal of vegetation in the shoreland area from parcels less than two acres in size.

3. Removal of vegetation for the primary purpose of converting the land to a use other than forestland. If a change of land use occurs on the parcel or on any portion thereof within five years of the expiration of the Forest Operations Notification or the cessation of timber harvesting and related activities, whichever is later, the residual stand must comply with the requirements for clearing or removal of vegetation for activities other than timber harvesting under rules promulgated by the Department of Environmental Protection, Municipal Shoreland Zoning Ordinance or the Land Use Planning Commission, depending on which entity has jurisdiction. If the residual stand does not comply with these requirements after the change of land use, it constitutes prima facie evidence that a violation of the MFS Chapter 21 rule has occurred.

C. **EXEMPTION**. This rule does not govern timber harvesting and related activities in forested wetlands, unless the forested wetlands lie within a shoreland area.

D. **RELATIONSHIP TO OTHER LEGAL REQUIREMENTS**. Whenever provisions of this rule are less stringent than corresponding provisions of applicable federal, state, or municipal legal requirements, the more stringent provisions shall apply.

SECTION 4. DEFINITIONS

Unless otherwise provided herein, this rule incorporates by reference the definitions contained in MFS Rule Chapter 20 (*Forest Regeneration and Clearcutting Standards*). For the purpose of 12 M.R.S., chapter 805, subchapter 3-A and this rule, the following terms are defined as follows.

A. **Brook**: See "Stream Channel."

B. **Coastal Wetland** is defined by 38 M.R.S. §480-B (2) (Supp. 2013).

C. **Change of Land Use** means that following timber harvesting the subsequent primary use for a particular area is not growing forest products. Change of land use may include, but is not limited to, conversion to farm pasture, site for growing agricultural crops, residential dwelling unit, development site, or gravel pit. The division of forest land into smaller units does not by itself automatically constitute a change of land use.

D. **Cross-sectional area of a stream channel** is determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight line distance from the normal high water line on one side of the channel to the normal high water line on the opposite side of the channel. The average stream channel depth is the average of the vertical distances from a straight line between the normal high water lines of the stream channel to the bottom of the channel.

E. **Crossing** means any timber harvesting and related activity involving the passage of ground-based equipment from one side to the opposite side of a water body, or to an island or upland within a water body. Such activities include, but are not limited to construction of roads, fords, bridges, and culverts, as well as maintenance work on these crossings.

F. **Designated Agent** means a person, company or other entity that is authorized by the landowner to act on the landowner's behalf for timber harvesting and related activities on the landowner's property.

G. **Disruption of shoreline integrity** means the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

H. **Essential Wildlife Habitat** means areas identified by the Commissioner, Maine Department of Inland Fisheries and Wildlife in accordance with the provisions of 12 M.R.S., §§12801 *et seq.*(2005 and Supp. 2013) and any Department of Inland Fisheries and Wildlife rules implementing that subchapter.

I. **Forested Wetland** means a freshwater wetland dominated by woody vegetation that is at least 20 feet tall.

J. **Forest Stand** means a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

K. **Freshwater Wetland** means ponds, freshwater swamps, marshes, bogs and similar areas that are:

1. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and,

2. Not part of a Great Pond, coastal wetland, stream, or river.

L. **Great Pond** means any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres.

M. **Harvest Area** means the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

N. **Landowner** means a person, company, or other legal entity which holds title to land, including as a joint ownership or as tenants in common. Where the ownership of the timber located on the land is different than the fee ownership of the land itself, the owners of the timber are deemed a landowner and are jointly and severally responsible with the fee landowner to comply with this rule. Where a corporate landowner is a wholly owned subsidiary of another corporation, both parent and subsidiary are deemed the same landowner.

O. **Land Management Road** means a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

P. **Licensed Forester** means a forester licensed under 32 M.R.S. §5501(3) (Supp. 2013).

Q. **Normal High Water Line** means that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of nonforested freshwater wetlands adjacent to streams and other water bodies, the normal high water line is the upland edge of the freshwater wetland, not the edge of the open water.

R. **Permanent crossing** means any structure constructed or erected with a fixed location, in, on, or over a water body for a period exceeding 7 months in any 12 month period, including, but not limited to, culverts and bridges.

S. **Pond** means any inland body of water which in a natural state has a surface area between 4,300 square feet and 10 acres.

T. **Responsible party** means all of the following persons or entities, jointly and severally:

1. The landowner, or landowners, who owned the property at the time a timber harvest subject to this rule was conducted;

2. The landowner's designated agent at the time a timber harvest subject to this rule was conducted;

3. The Licensed Forester and/or the employer of the Licensed Forester who supervised a timber harvest subject to this rule; and

4. The timber harvester who conducted a timber harvest subject to this rule.

U. **Residual Stand** means a stand of trees remaining in the forest following timber harvesting and related activities.

V. **River** means a free-flowing body of water, including its associated flood plain wetlands, from that point at which it provides drainage for a watershed of:

1. fifty square miles to its mouth in the jurisdiction of the Land Use Planning Commission; and,

2. twenty-five square miles to its mouth in municipalities not subject to the jurisdiction of the Land Use Planning Commission.

W. **Shoreland area** means all land areas within:

1. 250 feet, horizontal distance, of the normal high water line of:

   a. Rivers below the 50 square mile drainage point in the jurisdiction of the Land Use Planning Commission;

   b. Rivers below the 25 square mile drainage point in municipalities not subject to the jurisdiction of the Land Use Planning Commission;

   c. Great Ponds and nonforested freshwater wetlands 10 acres or larger;

   d. Any coastal wetland;

   e. Any size pond or freshwater wetland identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat;

2. 75 feet, horizontal distance, of the normal high water line of:

   a. Streams between the 300 acre drainage point and the 50 square mile drainage point in the jurisdiction of the Land Use Planning Commission;

   b. Streams between the 300 acre drainage point and the 25 square mile drainage point in municipalities not subject to the jurisdiction of the Land Use Planning Commission;

3. Adjacent to:

   a. The normal high water line of streams above the 300 acre drainage point; and,

   b. Ponds or freshwater wetlands larger than 4,300 square feet but less than 10 acres that are not identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat.

X. **Shoreline**: See "Normal High Water Line" and "Coastal Wetland."

Y. **Significant wildlife habitat** is defined by 38 M.R.S §480-B (10) (Pamph. 2013).

Z. **Skid Road or Skid Trail** means a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

AA. **Slash** means the residue, e.g., treetops and branches, left on the ground after a timber harvest.

BB. **Stand**: see "Forest Stand."

CC. **Stream**: means a stream channel upstream from the point at which it becomes a river.

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

EE. **Timber harvesting** means the cutting or removing of timber for the primary purpose of selling or processing forest products.

FF. **Timber harvesting and related activities** means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, and other activities conducted to facilitate timber harvesting.

GG. **Used for navigation** means those rivers, streams or brooks used by motorized watercraft.

HH. **Water body** means any river, stream, stream channel, brook, freshwater wetland, coastal wetland, pond, lake, Great Pond, or any other hydrological feature regulated by this rule.

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

JJ. **Windfirm** means the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

NOTE: In the context of this definition, an assessment of windfirmness will include assessment of soil conditions, depth to bedrock, and live crown ratios and height/diameter ratios on residual trees. Trees with live crown ratios of 30 percent or greater and/or trees with height/diameter ratios of 90 or less could be considered indicators of windfirmness.

SECTION 5. SHORELINE INTEGRITY AND SEDIMENTATION

A. **APPLICABILITY**. The requirements of Section 5 apply to all timber harvesting and related activities conducted in all shoreland areas as defined in this rule.

B. **STANDARDS**. Persons conducting timber harvesting and related activities in shoreland areas must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream

channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected. This section does not apply to crossings of water bodies conducted in compliance with Section 11 of this rule.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

SECTION 6. SLASH TREATMENT

A. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high water line of any water body. This section does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

B. No accumulation of slash shall be left within 50 feet of:

1. the normal high water line of Great Ponds, rivers, non-forested wetlands larger than 10 acres, and tidal waters in the jurisdiction of the Land Use Planning Commission; and,

2. the normal high water line of Great Ponds, rivers, non-forested wetlands larger than 10 acres, and tidal waters in municipalities not subject to the jurisdiction of the Land Use Planning Commission.

Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil may be left in place, provided no part thereof extends more than 4 feet above the ground.

C. Between 50 feet and 250 feet of the normal high water line of a water body identified in subsection 6.B. above, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

SECTION 7. STANDARDS FOR TIMBER HARVESTING AND RELATED ACTIVITIES IN SHORELAND AREAS REQUIRING A 250-FOOT ZONE

A. **APPLICABILITY**. The requirements of Section 7 apply to all timber harvesting and related activities in shoreland areas within 250 feet, horizontal distance, of the normal high water line of:

1. Rivers below the 50 square mile drainage point in the jurisdiction of the Land Use Planning Commission

2. Rivers below the 25 square mile drainage point in municipalities not subject to the jurisdiction of the Land Use Planning Commission;

3. Great Ponds and nonforested freshwater wetlands 10 acres or larger;

4. Any coastal wetland; and,

5. Any size pond or freshwater wetland identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat.

B. SHADE AND TREE RETENTION STANDARDS

Timber harvesting and related activities in shoreland areas subject to the requirements of Section 7 must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. The requirements of this section may be satisfied by following one of the following three options:

1. **Option 1 (40% volume removal)**, which requires:

   a. Harvesting of no more than 40 percent of the total volume on each acre involved of trees 4.5 inches DBH or greater in any 10 year period is permitted. For the purposes of these standards volume may be considered to be equivalent to basal area;

   b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

   c. Within 75 feet, horizontal distance, of the normal high water line of shoreland areas regulated under this section, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high water line, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet apart. Such cleared openings will be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered equivalent to basal area.

2. **Option 2 (60 square foot basal area retention)**, which requires:

   a. The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

   b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

   c. Within 75 feet, horizontal distance, of the normal high water line of shoreland areas regulated under this section, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high water line, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet apart. Such cleared openings will be included in

the calculation of total volume removal. For the purposes of these standards, volume may be considered equivalent to basal area.

3. **Option 3 (outcome based)**, which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the Bureau and approved by the Bureau, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S. §§8881 *et seq.* (Supp. 2013) which option they choose to use. If landowners choose Option 1 or Option 2, compliance with this section will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the required application.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

SECTION 8. STANDARDS FOR TIMBER HARVESTING AND RELATED ACTIVITIES IN SHORELAND AREAS REQUIRING A 75-FOOT ZONE

A. **APPLICABILITY**. The requirements of Section 8 apply to all timber harvesting and related activities in shoreland areas within 75 feet, horizontal distance, of the normal high water line of:

1. Streams between the 300 acre drainage point and the 50 square mile drainage point in the jurisdiction of the Land Use Planning Commission; and,

2. Between the 300 acre drainage point and the 25 square mile drainage point in municipalities not subject to the jurisdiction of the Land Use Planning Commission.

B. SHADE AND TREE RETENTION STANDARDS

Timber harvesting and related activities in shoreland areas subject to the requirements of Section 8 must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. The requirements of this section may be satisfied by following one of the following three options:

1. **Option 1 (40% volume removal)**, which requires:

   a. Harvesting of no more than 40 percent of the total volume on each acre involved of trees 4.5 inches DBH or greater in any 10 year period is permitted. For the purposes of these standards volume may be considered to be equivalent to basal area;

   b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

c. There must be no cleared openings.

2. **Option 2 (60 square foot basal area retention)**, which requires:

a. The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

c. There must be no cleared openings.

3. **Option 3 (outcome based)**, which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the Bureau and approved by the Bureau, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S. §§8881 *et seq.* (Supp. 2013) which option they choose to use. If landowners choose Option 1 or Option 2, compliance with this section will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the required application.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

4. **Exception**. Timber harvesting and related activities conducted in the jurisdiction of the Land Use Planning Commission between the 300 acre drainage point and the 25 square mile drainage point are not subject to the requirements of Section 8.B. of this rule, but must be conducted to retain sufficient vegetation to maintain shading of surface waters.

SECTION 9. SKID TRAILS, YARDS, AND EQUIPMENT OPERATION

A. **APPLICABILITY**. The requirements of Section 9 apply to the construction, maintenance, and use of skid trails and yards in shoreland areas. This section does not apply to crossings of water bodies conducted in compliance with Section 11 of this rule.

B. **STREAM CHANNELS**. Equipment used in timber harvesting and related activities shall not use stream channels as travel routes except when:

1. surface waters are frozen and snow covered; and,

2. the activity will not result in any ground disturbance.

C. **DESIGN, CONSTRUCTION, AND CLOSEOUT**. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body. Upon termination of their use, skid trails and yards must be stabilized.0

D. **SETBACKS**

1. Except for crossings of stream channels or freshwater wetlands, equipment used in timber harvesting and related activities, including but not limited to the use of skid trails and yards, must be operated to avoid the exposure of mineral soil within 25 feet of any water body or wetland regulated by this rule. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, plus an additional 10 feet for each 5 percent increase in slope above 10 percent. These requirements are presented in an alternative format in the slope table in Section 12 of this rule.

2. The provisions of this subsection apply only to a face sloping toward the water body or freshwater or coastal wetland, provided, however, that no portion of such exposed mineral soil on a back face is closer than 25 feet from the normal high water line of a water body or upland edge of a freshwater or coastal wetland. The setback requirements of this subsection shall not apply to skid trail approaches to crossings of stream channels or freshwater wetlands.

3. Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

E. **Exception**. Timber harvesting and related activities in shoreland areas of streams draining less than 300 acres and wetlands adjacent to such streams may be conducted in a manner not in conformity with the setback requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

SECTION 10. LAND MANAGEMENT ROAD CONSTRUCTION AND MAINTENANCE STANDARDS

A. **APPLICABILITY**. The requirements of Section 10 apply to the construction, maintenance, and use of land management roads in shoreland areas. This section does not apply to crossings of water bodies conducted in compliance with Section 11 of this rule.

B. **ROAD DESIGN, CONSTRUCTION, AND MAINTENANCE.** Land management roads, including approaches to crossings of stream channels and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body. Surface water on or adjacent to crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse. Because roadside ditches may not extend to the resource being crossed, filter strips must be established in accordance with the slope table in Section 12 of this rule.

C. **SETBACKS.** Land management roads and associated ditches, excavation, and fill must be set back at least:

1. 100 feet from the normal high-water line of a Great Pond or a river that flows to a Great Pond, rivers draining more than 50 square miles in the jurisdiction of the Land Use Planning Commission, rivers draining more than 25 square miles in municipalities not subject to the jurisdiction of the Land Use Planning Commission, nonforested freshwater wetlands 10 acres or larger, any coastal wetland, and any pond or freshwater wetland identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat;

2. 50 feet from the normal high water line of streams draining more than 300 acres but less than 50 square miles in the jurisdiction of the Land Use Planning Commission and streams below the 300 acre drainage but above the 25 square mile drainage point in municipalities not subject to the jurisdiction of the Land Use Planning Commission; and,

3. 25 feet from the normal high water line of streams draining less than 300 acres and ponds or freshwater wetlands larger than 4,300 square feet but less than 10 acres that are not identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat.

4. Exceptions

   a. The minimum 100 foot setback specified in subsection 1 above may be reduced to no less than 50 feet, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Bureau's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

   b. The minimum 50 foot setback specified in subsection 2 above may be reduced to no less than 25 feet, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Bureau's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling

basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body or the disruption of shoreline integrity. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

5. On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, plus an additional 10 feet for each 5 percent increase in slope above 10 percent, but in no case may the land management road setback be less than that indicated in the slope table presented in Section 12 of this rule.

6. New land management roads are not permitted within the shoreland area along Significant River Segments as identified in 38 M.R.S. §437 (Supp. 2013), nor in Resource Protection Districts as identified in municipal shoreland zoning ordinances nor in Recreation Protection Subdistricts (P-RR) as identified by the Land Use Planning Commission, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Bureau's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high water line and screened from the river by existing vegetation.

D. **MAINTENANCE**. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the slope table set forth in Section 12 of this rule. Where such filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

E. **ROAD CLOSEOUT AND DISCONTINUANCE**. Maintenance of the water control installations required above must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

F. **UPGRADING EXISTING ROADS**. Extension or enlargement of presently existing roads must conform to the provisions of this section. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 10.C if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Bureau's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body. If, despite such

precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

G. **ADDITIONAL MEASURES**. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and stream crossings must take reasonable measures to avoid sedimentation of surface waters.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

SECTION 11. CROSSINGS OF WATER BODIES

A. **APPLICABILITY**. The requirements of Section 11 apply to all crossings of stream channels, rivers, ponds, lakes, Great Ponds, nonforested freshwater wetlands, coastal wetlands, and freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat.

B. **ALL CROSSINGS**

1. Crossings must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal stream flows.

2. **Determination of flow**. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable to the Bureau as means of calculating the 10 year and 25 year frequency water flows and thereby determining crossing sizes as required in this section: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. *Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals*. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

3. **Upgrading existing crossings**. Extension or enlargement of presently existing crossings must conform to the provisions of this section. Any nonconforming existing crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high water line must conform to the provisions of this section.

4. **Bureau Permits and Permit by Rule**

a. **Permits**. An application for a permit must be submitted to the Bureau at least 60 days prior to the construction of any new permanent crossing or the replacement of a permanent crossing of any waterbody subject to a 250' shoreland area as defined by §(4)(W)(1) of this rule, non-forested freshwater wetlands larger than 4,300 square feet and any crossing that will not conform to permit by rule standards. An individual permit application is required for each crossing. The permit application must contain all information required by the Bureau, including a description of how negative impacts to the resource will be avoided and minimized to

the extent practicable. When granting a permit the Bureau may impose such reasonable terms and conditions as the Bureau considers appropriate in order to satisfy the purpose set forth in its governing statutes and rules.

b. **Permit by Rule**. Crossings must conform to standards of this section to qualify for permit by rule. If a crossing does not conform to these standards an application for a full permit must be submitted per §(11)(B)(4)(a) above. A permit by rule must be submitted to the Bureau prior to construction, maintenance, alteration, and replacement of permanent crossings of waterbodies subject to a 75' shoreland area or adjacent shoreland area as defined by §(4)(W)(2) and (3) of this rule except all non-forested freshwater wetlands greater than 4,300 square feet which require a permit as described in §(11)(B)(4)(a). Multiple crossings within one township or municipality may be submitted on one permit by rule form. The permit by rule must contain all information required by the Bureau, including:

i. a map showing the location of all proposed permanent crossings. Maps must be of sufficient quality and scale for a person unfamiliar with the area to locate the crossing;

ii. for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and,

iii. a statement signed by the permit applicant that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this chapter.

c. **Exception** A permit or permit by rule is not required for the repair and maintenance of an existing crossing or for the replacement of an existing crossing, including ancillary crossing installation activities such as excavation and filling, in any protected natural resource area, as long as:

i. Erosion control measures are taken to prevent sedimentation of the water;

ii. The crossing does not block passage for fish in the protected natural resource area;

iii. For replacement crossings of a river, stream or brook:

a. The replacement crossing is designed, installed and maintained to match the natural stream grade to avoid drops or perching; and

b. As site conditions allow, crossing structures that are not open bottomed are embedded in the stream bottom at least 25% of the culvert or other structure's diameter, except that a crossing structure does not have to be embedded more than 2 feet.

iv. The Bureau is notified prior to the activity in accordance with §(11)(B)(6) of this rule.

For purposes of this subsection, "repair and maintenance" includes but is not limited to the riprapping of side slopes or culvert ends; removing debris and blockages within the crossing structure and at its inlet and outlet; and installing or replacing culvert ends if less than 50% of the crossing structure is being replaced.

5. **Other Agency Permits**

a. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a stream channel or river, including crossings of Significant River Segments and freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat, may require a permit from the US Army Corps of Engineers. When a permit is required, the crossing is not required to meet the standards of this section provided it conforms with all applicable state and federal requirements and any permit conditions.

b. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

6. **Notice to Bureau**. Notification to the Bureau is required prior to construction, maintenance, alteration, and replacement of crossings. Written notice of all temporary and permanent water body crossing construction, maintenance, alteration, and replacement activities in shoreland areas regulated by this rule must be given to the Bureau prior to the commencement of such activities. Multiple crossings within one township or municipality may be submitted on one notification form. Such notice must contain all information required by the Bureau, including:

a. a map showing the location of all proposed permanent crossings. Maps must be of sufficient quality and scale for a person unfamiliar with the area to locate the crossing;

b. for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and,

c. a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this chapter.

C. **SKID TRAIL CROSSINGS**

1. **Design and Construction**

a. All skid trail crossings of streams and rivers below the 25 square mile drainage point require a bridge or culvert sized according to the requirements of subsection 2 below.

b. Streams above the 25 square mile drainage point may be crossed using temporary structures that are not bridges or culverts but which meet the requirements of the following subsection c; or

i. when stream channels are frozen and snow-covered; or

ii. when stream channels are composed of a hard surface which will not be eroded or otherwise damaged.

c. All skid trail crossings of streams must be designed, constructed, and maintained, such that:

iii. sedimentation of surface waters is reasonably avoided;

iv. there is no substantial disturbance of the bank or stream channel;

v. fish passage is not impeded; and,

vi. water flow is not unreasonably impeded.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

2. **Bridge and Culvert Sizing**. The following requirements apply to skid trail crossings of stream channels when surface waters are unfrozen:

d. Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows or with a cross-sectional area at least equal to 3times the cross-sectional area of the stream channel.

e. Temporary bridge and culvert sizes may be smaller than provided in subsection a above if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body is avoided. Such crossing structures must be at least as wide as the channel and, if not culverts, placed above the normal high water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

i. use of temporary skidder bridges;

ii. removing culverts prior to the onset of frozen ground conditions;

iii. using water bars in conjunction with culverts;

iv. using road dips in conjunction with culverts.

f. Culverts utilized in stream crossings must:

i. be installed at or below stream bed elevation;

ii. be seated on firm ground;

iii. have soil compacted at least halfway up the side of the culvert;

iv. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and

v. have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

g. Stream crossings allowed under this section, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a crossing may be required to pass a 100-year flood event.

3. **Closeout**. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

h. Bridges and culverts installed for stream crossings by skid trails must either:

i. comply with the standards for stream channel crossings by land management roads as set forth in this rule, or

ii. be removed and areas of exposed soil stabilized.

i. Crossing structures that are not bridges or culverts must either:

i. be removed immediately following timber harvesting and related activities, or,

ii. if frozen into the stream bed or bank, as soon as practical after snowmelt.

j. Stream channels, banks and approaches to crossings of water bodies must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If,

despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

4. **Freshwater wetlands**. Skid trail crossings, other than those areas below the normal high water line of water bodies, must avoid freshwater wetlands and must maintain the existing hydrology of such wetlands, unless there are no reasonable alternatives, as determined by the Bureau in a written decision prior to construction.

5. **Exception**. Timber harvesting and related activities in shoreland areas of streams draining less than 300 acres and wetlands adjacent to such streams may be conducted in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

D. LAND MANAGEMENT ROAD STREAM CROSSINGS

1. **Design, construction, and maintenance**. Land management road stream channel crossings, including approaches to stream channel crossings, ditches and other related structures, must be designed, constructed, and maintained such that:

   a. concentrated water runoff does not enter the water body or tributary stream;

   b. sedimentation of surface waters is reasonably avoided;

   c. there is no substantial disturbance of the stream bank or stream channel not directly associated with culvert or bridge installation;

   d. fish passage is not impeded; and,

   e. water flow is not unreasonably impeded.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

2. **Bridge and culvert sizing**. The following requirements apply to land management road crossings of stream channels when surface waters are unfrozen:

   a. Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25 year

frequency water flows or with a cross-sectional area at least equal to 3 times the cross-sectional area of the stream channel.

b. Culverts utilized in stream crossings must:

i. be installed at or below stream bed elevation;

ii. be seated on firm ground;

iii. have soil compacted at least halfway up the side of the culvert;

iv. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and

v. have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.

c. If a perennial water course to be crossed is to be used for navigation, the crossing must consist of a bridge span or pipe arch with at least 4 feet of clearance during normal high water for boat traffic.

d. If the stream being crossed is a perennial watercourse and has a slope of more than 2%, a bridge or pipe arch must be used to maintain the natural streambed.

e. Fill sideslopes in a stream or floodplain wetland must be maintained at a slope no shallower than 3 horizontal to 1 vertical and no steeper than 1.5 horizontal to 1 vertical. Fill side slopes must be stabilized at the completion of the activity.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

f. Temporary bridge and culvert sizes may be smaller than provided in subsection a above if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body is avoided. Such crossing structures must be at least as wide as the channel and, if not culverts, placed above the normal high water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

vi. use of temporary skidder bridges;

vii. removing culverts prior to the onset of frozen ground conditions;

viii. using water bars in conjunction with culverts; and/or,

ix. using road dips in conjunction with culverts.

3. Stream crossings allowed under this section, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a crossing may be required to pass a 100-year flood event.

4. **Road closeout and discontinuance**. Maintenance of the water control installations required above must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

a. Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

b. Crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body.

c. Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

x. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;

xi. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the stream channel; or

xii. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the water body.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

NOTE: For guidance on reasonable measures, consult the Bureau publication, "Best Management Practices for Forestry: Protecting Maine's Water Quality" (2004). This publication is available from the Bureau and on the Bureau's website, www.maineforestservice.gov.

5. **Freshwater wetlands**. Land management road crossings, other than those areas below the normal high water line of water bodies, must avoid freshwater wetlands and must maintain the existing hydrology of such wetlands, unless there are no reasonable alternatives, as determined by the Bureau in a written decision.

SECTION 12. SLOPE TABLE

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in the rule, but in no case shall be less than shown in the following table.

Average Slope of land between exposed mineral soil and normal high water line	Width of strip between exposed mineral soil and normal high water line (feet along surface of ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

SECTION 13. RESPONSIBILTY

All responsible parties as set forth in §(4)(T)(1)-(4) of this rule may be jointly and severally responsible for compliance with this rule, and liable for violations of this rule.

SECTION 14. VARIANCE

A variance to the strict application of this rule may be granted as specified in MFS Rule Chapter 20 ("Forest Regeneration and Clearcutting Standards", Section 6).

SECTION 15. VIOLATIONS

Any responsible party, including but not limited to a landowner, a landowner's agent or a contractor, who orders, contracts for, or conducts any activity in violation of this rule commits a civil violation, and shall be penalized in accordance with 12 M.R.S., chapter 809.

SECTION 16. EFFECTIVE DATE

A. The effective date of this rule in organized municipalities that have either accepted the statewide standards in accordance with 38 M.R.S. §438-B, sub-§2 or have adopted an ordinance identical to the statewide standards in accordance with 38 M.R.S. §438-B, sub-§3 is January 1, 2016.

B. The effective date of this rule in a municipality that either accepts the statewide standards in accordance with 38 M.R.S. §438-B, sub-§2 or adopts an ordinance identical to the statewide standards in accordance with 38 M.R.S. §438-B, sub-§3 after the effective date

specified in subsection A is the date the municipality's shoreland zoning ordinance is certified by the Commissioner of the Department of Environmental Protection.

C. The effective date of this rule in the jurisdiction of the Land Use Planning Commission is the first day of January of the second year following the year in which the Commissioner of Conservation Agriculture, Conservation and Forestry determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1999-2003 have either accepted the statewide standards in accordance with 38 MRSA M.R.S. §438-B, sub-§2 or have adopted an ordinance identical to the statewide standards in accordance with 38 MRSA M.R.S. §438-B, sub-§3. Within 30 days of making the determination that the 252-municipality threshold has been met, the Commissioner of Conservation shall notify the Secretary of State in writing and advise the secretary of the effective date for the statewide standards.

Timber harvesting and related activities are not subject to this rule if, prior to the effective date of the rule, (1) notification has been filed with and accepted by the Bureau, and (2) timber harvesting has begun. Timber harvesting and related activities not subject to this rule are subject to the rules of the proper authority that were in effect at the time notification was filed and accepted by the Bureau and timber harvesting began.

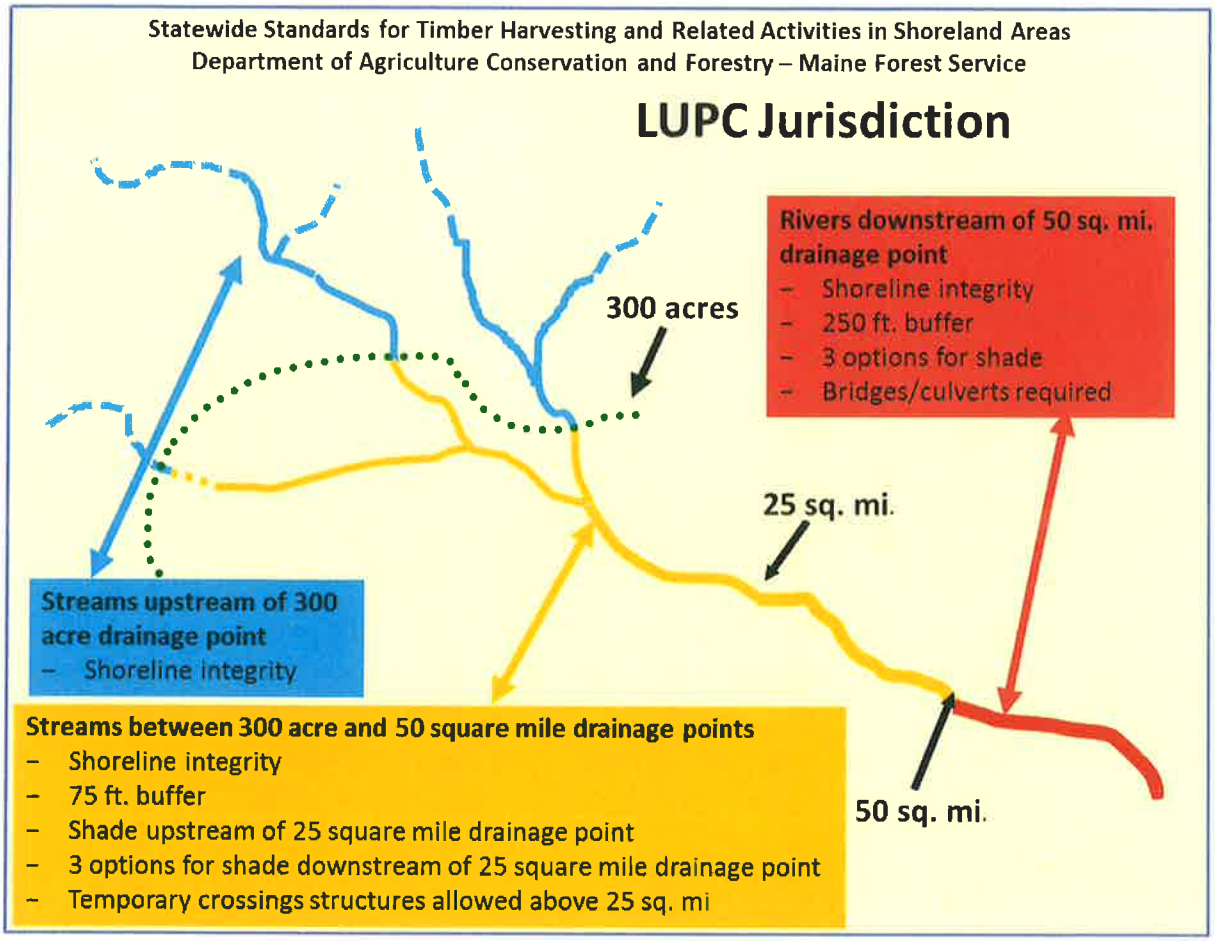
STATUTORY AUTHORITY: 12 M.R.S. ch. 805 sub-ch. 3-A; P.L. 2003 ch. 335; P.L. 2013, ch. 570

RECEIVED June 16, 2005 – filing 2005-235 CORRECTIONS:
February, 2014 – agency names, formatting

AMENDED:
August 30, 2015 – filing 2015-139 (Final adoption, major substantive)

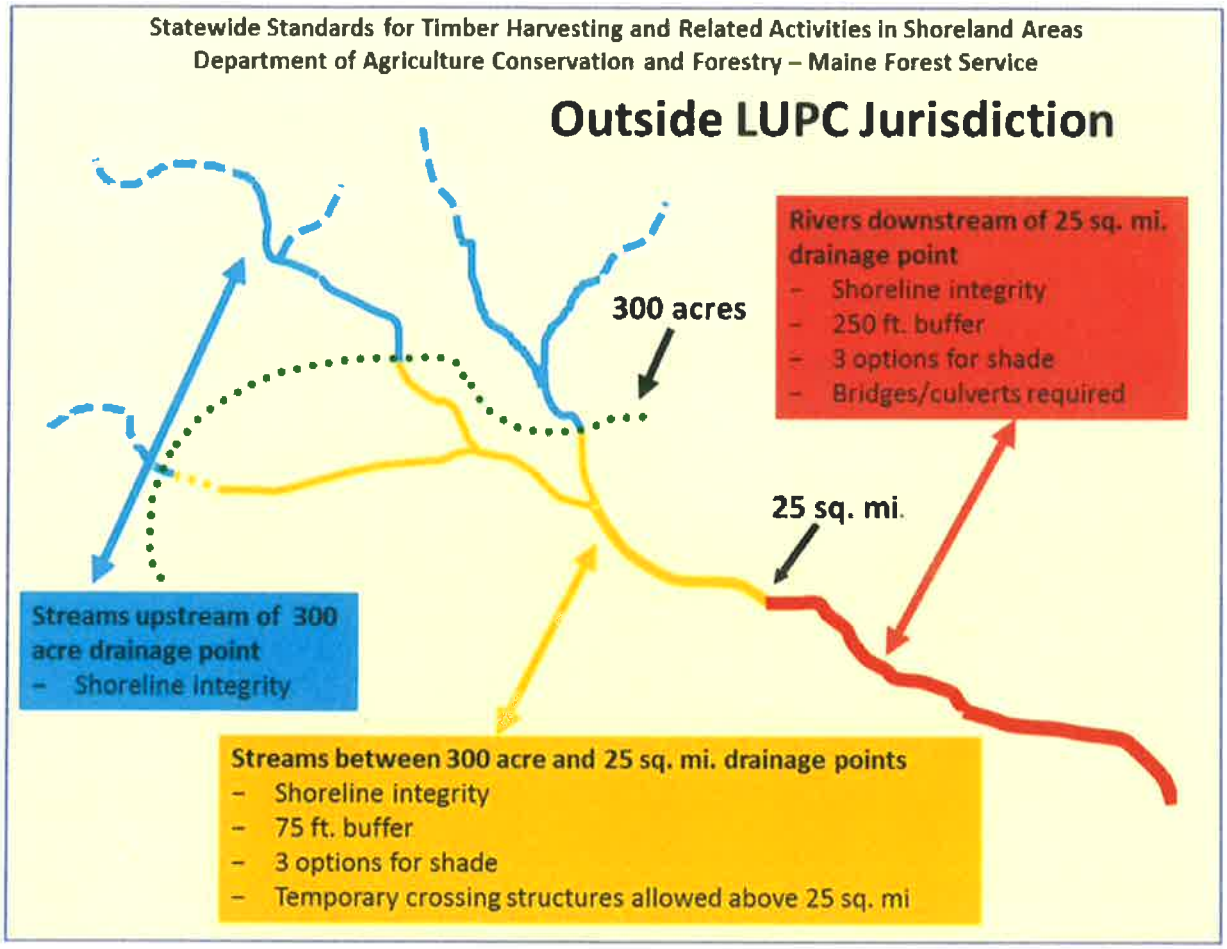
APPENDIX 1. DIAGRAMS OF APPLICATION OF THIS RULE

Figure 1. Application of this rule in the jurisdiction of the Land Use Planning Commission



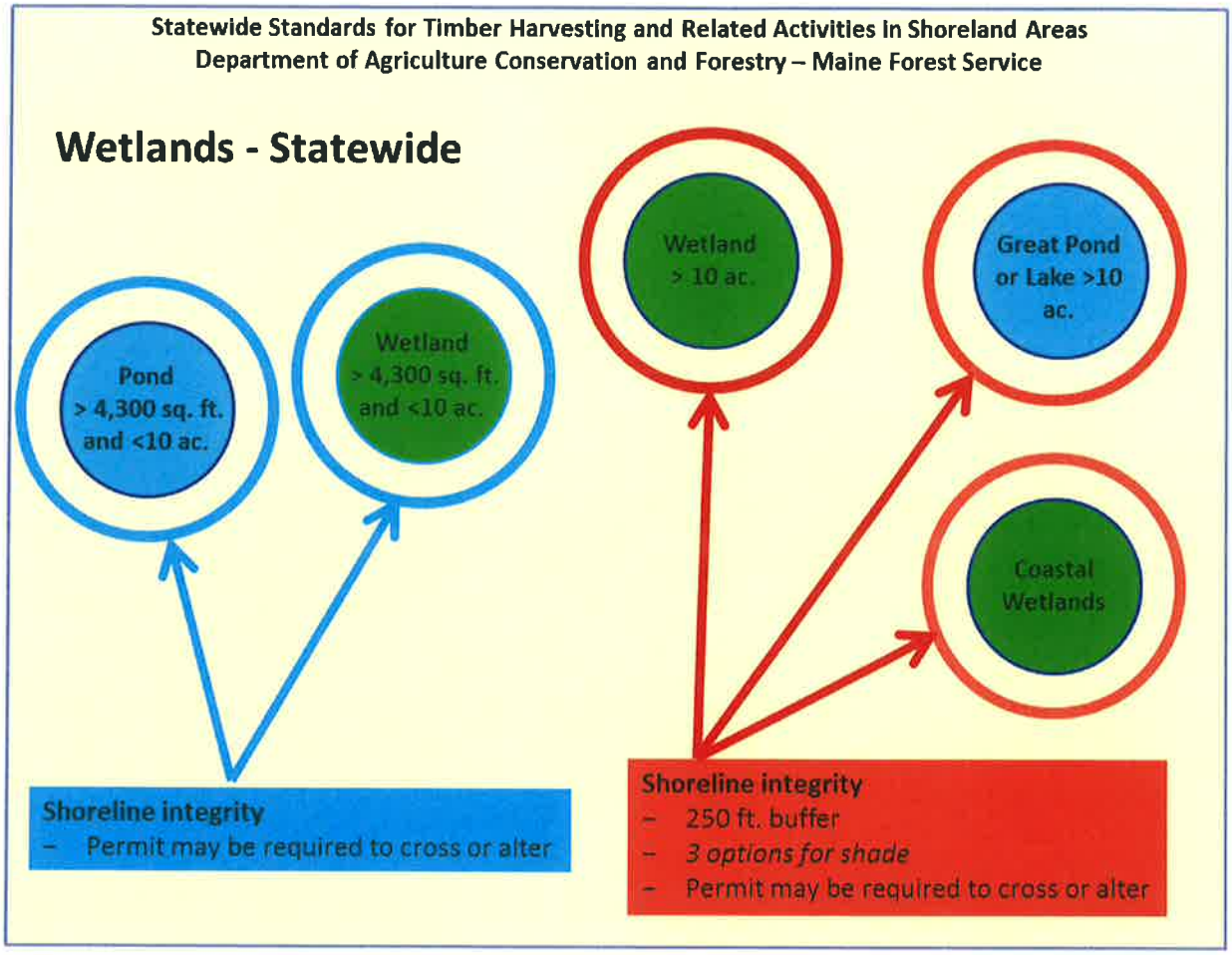
NOTE: This diagram is for informational purposes only. In the case of discrepancies, the written rule shall govern.

Figure 2. Application of this rule in municipalities not subject to the jurisdiction of the Land Use Planning Commission



Note: This diagram is for informational purposes only. In the case of discrepancies, the written rule shall govern.

Figure 3. Application of this rule to wetlands statewide



Note: This diagram is for informational purposes only. In the case of discrepancies, the written rule shall govern.