ZONING ORDINANCE

OF THE

TOWN OF CASTINE, MAINE

ENACTED BY THE TOWN IN MEETING ASSEMBLED THE
1ST DAY OF JUNE 2013 AND AS THEREAFTER AMENDED.

ATTEST: THIS IS A TRUE DOCUMENT. THE *ZONING ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM JUNE 1, 2013 TO THE DATE HEREOF, EXCEPT AS AMENDED.

DATED: JUNE 7, 2025

SIGNATURE: _____ AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

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ZONING ORDINANCE OF THE TOWN OF CASTINE

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  Articles amended: 1, 3, 4, 5, 6, 8, 9, 11, 14, 15 and Zoning Map
- Amendment 3 ....May 7, 2002
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- Amendment 5 .. ..March 26, 2007
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ARTICLE 1: GENERAL PROVISIONS [Am 1, 26-Mar-01; Am2, 25-Mar-02; Am6, 24-Mar-08]

1.1. TITLE

This Ordinance shall be known as the "Zoning Ordinance of the Town of Castine, Maine". It shall be referred to herein as the "Ordinance".

1.2. REPEAL OF OTHER ORDINANCES

The Zoning Ordinance of the Town of Castine, Maine in existence at the time of the adoption of this Ordinance is hereby repealed. That repeal does not affect or prevent any pending or future prosecution for violations or abatement of violations of that repealed ordinance.

1.3. AUTHORITY

This Ordinance is adopted pursuant to Maine Constitution, Article VIII, Part Second, Section 1, Title 30-A M.R.S.A., § 3001 *et seq.*, Title 30-A M.R.S.A., § 4352 *et seq.*, and Title 38 M.R.S.A., § 435 *et seq.* [Am.2]

1.4. PURPOSES

A. To implement the policies, guidelines and recommendations of the current Castine Comprehensive Plan.

B. To promote and protect the character of Castine by dividing the Town into zoning districts according to the use of land and buildings and the intensity of such uses.

C. To enhance and protect the visual, natural, commercial, cultural, architectural, scenic and historic resources of the Town from unreasonable adverse impacts and to integrate new development harmoniously into the Town's natural and developed environment. [Am.6]

D. To promote the development of an economically sound and stable community.

E. To protect property rights and values by balancing the rights of landowners to use their land, with the rights of abutting and neighboring landowners to

enjoy their properties without unreasonable disturbance from abutting or neighboring uses. [Am.1] [Am.6]

F. To establish uniform procedures whereby the Town may review land use proposals; to establish fair and reasonable standards for reviewing those proposals; and to provide uniform procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

1.5. APPLICABILITY

This Ordinance shall apply to all land and water areas within the Town of Castine. All buildings or structures demolished, constructed, reconstructed, altered, enlarged or moved, and all uses of buildings, land and structures, and any division of land or alteration of lot boundaries, shall be in conformance with the provisions of this Ordinance. No existing or future building or structure, or water or land area shall be used except in conformity with this Ordinance. Any application pending at the time of the enactment of this Ordinance or any amendment hereto, and which has not yet received substantive review by the Planning Board, if a Planning Board permit is required, or by the Code Enforcement Officer, if a Code Enforcement Permit is required, shall be subject to this Ordinance or the amendments as though the application were submitted on or after the date of the enactment of the Ordinance or amendment.

1.6. CONFLICT WITH OTHER ORDINANCES OR WITHIN THIS ORDINANCE

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance or statute which also applies to the proposed development, or with other requirements of this Ordinance, the requirement imposing the more restrictive or higher standard shall govern.

1.7. SEVERABILITY

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

1.8. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP

The process for amending the Ordinance and the Official Zoning Map, including enactment of a wholly new ordinance or map, shall be as follows:

A. Initiation of the amendment

A proposal to amend the Ordinance or the Official Zoning Map may be initiated by:

1. The Planning Board, by a majority vote of its members;

2. The Selectboard, by a majority vote of its members;

3. The public, through a written petition signed by at least fifty (50) residents who are registered to vote in the Town of Castine.

B. Consideration of the amendment

The following procedures shall be followed in considering a proposed amendment.

1. Proposals initiated by the public or by the Selectboard shall be presented to the Planning Board for review and consideration.

2. The Planning Board shall, within thirty-five (35) days of proposing an amendment or receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment. The Planning Board shall be deemed to have proposed or received a proposed amendment when the text is presented in written form at a duly convened business meeting of the Planning Board. A text submitted for review and consideration at a Planning Board work session shall not be deemed to be a proposed amendment. The public hearing on any proposed amendment shall be held within sixty (60) days of proposal or receipt by the Planning Board and may be adjourned to a later certain date unless a majority of the members of the Planning Board or a majority of the members of the Selectboard object. The public hearing on the proposed amendment shall be concluded at least thirty (30) days prior to the regular or special Town Meeting at which the proposed amendment is to be voted upon.

3. Notice of the public hearing shall be given as required by State law.

4. The wording of a proposed amendment initiated by public petition may not be modified at or as the result of any public hearing held by the Planning Board unless the proposed modified wording is submitted to a new public hearing.

5. The wording of a proposed amendment initiated by the Selectboard may be modified only upon the concurrence of a majority of the Selectboard.

6. The wording of an amendment proposed by the Planning Board may be modified upon the concurrence of a majority of the Planning Board.

7. In the case of a proposed amendment received by the Planning Board from the Selectboard or the public, the Planning Board shall vote to approve or disapprove the proposed amendment. This vote shall be by majority vote of its members and must occur at the public hearing or at a public meeting held not later than fourteen (14) days following the public hearing. Such vote of the Planning Board shall be reported in writing within fourteen (14) days following the vote, and the report shall set forth the Planning Board's reasons for approval or disapproval together with any recommendations. The vote by the Planning Board is advisory, only, and shall not affect the proposed amendment in any way.

C. Town Meeting action on the amendment

The proposed amendment shall be submitted to the Town Meeting for approval or disapproval as follows:

1. The proposed amendment shall be placed on the warrant for the next regular Town Meeting, unless a special Town Meeting is called for that purpose in accordance with State law.

2. Notice of Town Meeting required to amend or enact a zoning ordinance or map shall be given as required by State law.

3. A proposed amendment shall require a simple majority of the voters voting at the Town Meeting to enact the amendment.

D. Notifying the State

Upon adopting any amendment affecting shoreland areas, as described in Title 38 M.R.S.A., § 435, the Town Clerk shall notify the Commissioner of the Department of Environmental Protection (DEP) of the amendment, as required by Title 38 M.R.S.A., § 438-A(3). All applications considered after the enactment of, and subject to, such an amendment, shall be evaluated by the standards set forth in the amendment. In the event the application is approved, and the DEP later modifies or disapproves the amendment, any such approval is void and must be re-evaluated by the approving authority in accordance with the standards eventually approved by the DEP. In the event the DEP fails to act on the amendment within forty-five (45) days of submission to the DEP, the amendment shall be deemed to be approved by the DEP.

E. List of Amendments

The Town Clerk shall keep a list of the effective dates and the substance of all amendments to this Ordinance.

1.9. Annual Administrative Report

The CEO, Planning Board and Zoning Board of Appeals shall each report annually, in writing, to the Selectboard, in the month of January, reporting their respective experience and recommendations with regard to the administration and application of the Ordinance during the previous year. The failure of any person or board to make such a report shall not affect the validity of the Ordinance in any way.

1.10. Effective Date

The effective date of this Ordinance or any amendment hereto is the date of its enactment by Town Meeting, unless otherwise specified by the Town Meeting vote.

ARTICLE 2: CONTRACT ZONING [Am10, 26-Mar-11]

2.1. CONTRACT ZONING AUTHORIZED

Contract zoning is hereby authorized. The purpose of such rezoning is to provide a mechanism whereby specific conditions may be added to the approval of a zoning district change so as to provide a benefit to the Town not otherwise obtainable, and/or to mitigate potential adverse effects upon adjacent properties and the community; it is also a method for permitting an otherwise prohibited or non-conforming use by contractual agreement upon conditions between the Town and the applicant, provided the result is deemed beneficial to the Town as well as to the applicant. The burden shall be upon the applicant in every case arising under this Article to demonstrate the benefit accruing to the Town from the proposed contract zoning. A change in zoning under this Section shall not exempt the use or development of the property from any standards or requirements otherwise imposed by this Ordinance. Contract zoning is not available to rezone any portion of the Town to Telecommunications Tower Overlay District.

2.2. APPLICATION, PUBLIC HEARING, REVIEW, AND APPROVAL PROCEDURES

A. Application for contract zoning shall be on a Site Plan Review Application form together with a letter to the CEO requesting a contract zoning change for a specific property, accompanied by all fees required by Article 11.

B. The Planning Board shall give notice of and conduct a public hearing as required by Article 9.

C. The Planning Board shall review the application using the Site Plan Review standards set forth in Article 9 and Title 30-A, M.R.S.A., § 4352(8).

D. No later than fourteen (14) days following the public hearing, the Planning Board shall decide by majority vote of its members whether to approve or disapprove the proposed contract zoning.

E. The Planning Board shall submit a written report on the proposed contract zoning to a meeting of the Selectboard no later than thirty (30) days following the vote of the Planning Board noted above. This report shall state whether the Planning Board voted to approve or disapprove the contract

zoning, and shall include the Findings of Fact and list the conditions and restrictions which the Planning Board recommends be set out in the Warrant Article and applied to the property if the zoning change is enacted at Town Meeting. This report shall also constitute the Planning Board's report to the Town Meeting on the proposed contract zoning.

2.3. TOWN MEETING ACTION

A. If the Planning Board approves the proposed contract zoning, it shall be placed on the warrant for the next regular Town Meeting. If the Planning Board disapproves the proposed contract zoning, it shall not be placed upon a Town Meeting Warrant unless a majority of the Selectboard, at their discretion, vote to do so.

B. Notice of the Town Meeting required to amend a zoning ordinance or map shall be given as required by State law. The Warrant Article shall set out all conditions upon which the property is proposed to be rezoned, and shall identify the property by reference to book and page of the current deed or deeds to the property and by map and lot as shown on the Town Tax Maps.

C. If the proposed contract zoning has the approval of the Planning Board and includes the conditions and restrictions recommended by the Planning Board shall require a simple majority of the voters voting at the Town Meeting to enact the amendment.

D. If the proposed contract zoning does not have the approval of the Planning Board, or if one or more of the conditions or restrictions recommended by the Planning Board has been deleted or amended, the rezoning shall require a two-thirds ($^2/_3$) majority of the voters voting at the Town Meeting to pass.

E. Upon enactment the Town Clerk shall certify a copy of the contract zoning Warrant Article for recording at the Hancock County Registry of Deeds at the expense of the applicant. The zoning change shall not become effective until the certified copy of the rezoning Warrant Article has been duly recorded by the Register of Deeds. The rezoned property shall thereafter be shown on the Official Zoning Map.

F. Upon adopting any conditional zoning affecting shoreland areas, as described in Title 38 M.R.S.A., § 435, the Town Clerk shall notify the

Commissioner of the Department of Environmental Protection (DEP) of the amendment, as required by Title 38 M.R.S.A., § 438-A(3). In the event the DEP fails to act on the amendment within forty-five (45) days of submission to the DEP, the amendment shall be deemed to be approved by the DEP.

2.4. FEES

The applicant shall submit Application Fees and Technical Review Fees as required by Article 11. The rezoning shall not be placed before Town Meeting until the fees are paid in full.

2.5. EXPIRATION OF REZONING

Where the purpose of the rezoning is in part to permit construction, contract zoning changes approved by the Town shall expire, and the property revert to its prior zoning district status, unless work on the project is substantially commenced within thirteen (13) months of the date of enactment and is substantially completed within twenty-five (25) months of that date. These deadlines may be extended by a vote of the Town meeting.

2.6. NO RIGHTS CREATED BEFORE FINAL TOWN MEETING VOTE

The submission of a request for contract zoning under this Article, the payment of application fees or the expenditure of funds by the applicant in presenting such a request shall not create any vested rights in the application. The conduct of meetings and hearings, the review of the application, comments by Town officials or staff, and any preliminary vote, findings or determinations shall not be construed as creating any entitlement to approval of a request for contract zoning. The decision whether or not to rezone remains committed to the voters of the Town of Castine exercising their sole and exclusive judgment as the legislative body of the Town and will not be made until the Town Meeting votes on the request.

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ARTICLE 3: NON-CONFORMITY

[Am1. 26-Mar-01; Am2. 25-Mar-02; Am7. 04-Apr-09; Am8. 27-Mar-10; Am10. 26-Mar-11]

3.1. NON-CONFORMITY DEFINED

A lot, structure, sign, or use that lawfully existed immediately prior to the enactment of the Ordinance, or any subsequent amendment hereto, and which, as a result of the enactment or subsequent amendment, fails to comply with any of the requirements of this Ordinance is a lawful non-conformity. Such requirements shall include, but are not limited to, the use restrictions and lot standards for the zoning district in which it is located, or any land use standards set forth in this Ordinance. An unlawful non-conformity is any other lot, structure, sign, or use that fails to comply with any of the requirements of this Ordinance or its amendments.

A. Non-conforming lot

A non-conforming lot is a single lot which fails to meet any of the area or dimensional requirements of this Ordinance.

B. Non-conforming use

A non-conforming use is a use which is not a permitted use in the zoning district in which it is located.

C. Non-conforming structure

A non-conforming structure is a structure that does not meet the minimum setback, maximum height, maximum lot coverage or similar requirements for the zoning district in which it is located.

D. Non-conforming sign

A non-conforming sign is a sign that does not meet the standards for signs found at Article 6 of this Ordinance.

3.2. GENERAL PROVISIONS

The following provisions apply to all non-conformities generally: [Am.8]

A. Normal repair, upkeep and maintenance

The normal upkeep and maintenance of lawful non-conforming structures and structures housing lawful non-conforming uses, including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a lawful non-conforming use or structure as Federal, State, or local building and safety codes may require, are permitted.

B. Transfer of ownership

Any lawful non-conformity may be transferred and the new owner may, subject strictly to the requirements of this Article, continue such non-conformity, provided, that nothing contained herein shall be construed to permit any person or entity to occupy or use any lot or structure or to continue any use in violation of any other Federal, State, or municipal statute, ordinance, or regulation.

C. Unlawful non-conformity may not continue

Any unlawful non-conformity shall cease or be corrected immediately. Any continuation of an unlawful non-conformity is a separate violation of this Ordinance for each day it continues.

D. Burden of proof to establish lawful non-conformity

The burden of establishing that any non-conformity is a lawful non-conformity shall, in all cases, be upon the owner of such non-conformity and not upon the Town of Castine. That burden of proof is proof by clear and convincing evidence.

E. Conformity encouraged

All non-conformities shall be encouraged to convert to conformity whenever possible and, when required by this Ordinance, shall convert to conformity. Once converted to conformity, no lot, structure, sign, or use shall revert to non-conformity.

3.3. NON-CONFORMING USES

The following additional provisions shall apply to lawful non-conforming uses.

A. Expansion

Subject to Planning Board approval, a non-conforming use within existing structures or approved expansions of those structures, or an outdoor non-conforming use of land, may be expanded in area, function or hours or seasons of use provided such expansion of the non-conforming use will cause no substantial increase in its adverse impact. The burden of demonstrating no substantial increase in adverse impact shall be upon the applicant. In considering such application the Planning Board shall apply each relevant Site Plan Review criterion set forth in Section 9.14.

B. Discontinuance

A non-conforming use which ceases for any reason for a period of twenty-four (24) months, regardless of the intent of the owner or operator, shall not be resumed, and any subsequent use of the property shall thereafter conform to the regulations specified by this Ordinance for the district in which the property is located.

C. Change to another non-conforming use

A non-conforming use may be changed to another non-conforming use so long as the new use has no greater adverse impact upon the neighborhood and the community than the original use, and subject to Site Plan approval by the Planning Board. The burden of demonstrating no greater adverse impact shall be upon the applicant.

3.4. NON-CONFORMING STRUCTURES

The following provisions shall apply to lawful non-conforming structures, including, without limitation, signs. [Am.8]

Zoning Ordinance – Adopted: 28-Mar-2000
Amended: 26-Mar-01
Amended: 25-Mar-02
Amended: 07-May-02
Amended: 04-Apr-05
Amended: 26-Mar-07
Amended: 24-Mar-08
Amended: 04-Apr-09
Amended: 27-Mar-10
Amended: 02-Nov-10
Amended: 26-Mar-11
Amended: 01-Jun-13
Amended: 23-Sept-13
Amended: 11-May-19
Amended: 11-Jul-20
Amended: 11-May-24
Last Amended: 07-Jun-25

A. Changes to non-conforming structures [Am.7]

A non-conforming structure may be relocated, reconstructed, replaced, added to or expanded after obtaining a permit from the same permitting authority identified in Article 5, as that for a new structure, if such construction or expansion does not increase the non-conformity of the structure. Such construction or expansion is further limited as follows:

1. Expansion

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 3.4.A.1.a. and 3.4.A.1.b. below.

a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, or is located in a Resource Protection Overlay District, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 3.4.A.3 and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date. [Am.7]

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 3.4.A.2 Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 3.4.A.1.a above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of

the first floor sill), it shall not be considered to be an expansion of the structure.

2. Relocation

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, 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 Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows: [Am.1] [Am.2]

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.

b. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where

vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

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

3. Reconstruction or Replacement

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board 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 3.4.A.1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 3.4.A.2 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 shall consider, in addition to the criteria in Section 3.4.A.2 above, the physical condition and type of foundation present, if any.

3.5. NON-CONFORMING MOBILE HOMES

Any mobile home lawfully used as a single-family dwelling may be improved by the addition of a foundation or by other new construction, alteration, or repair, subject to the requirements of any applicable building code or other law, and subject to the other provisions of this Ordinance. Notwithstanding any other provision of this Ordinance, the lawful use of a mobile home as a single-family dwelling, in any zoning district, which use lawfully existed on the date of the enactment of this Ordinance may be continued, except that the mobile home shall not be:

A. Rebuilt, altered, or repaired after being damaged in excess of fifty percent (50%) of its replacement cost at the time of destruction as determined by the CEO; or

B. Replaced with a different mobile home, unless the new mobile home is certified, pursuant to 42 U.S.C. Subsection 5415, as amended, as conforming to all applicable Federal manufactured home construction and safety standards, or is excluded from the coverage of 42 U.S.C. Subsection 5401 *et seq.*

3.6. NON-CONFORMING LOTS

A. Construction on lawful non-conforming lots

A single, lawfully existing, vacant parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Hancock County Registry of Deeds at the effective date of this Ordinance or

any amendment, and which, as a result of the enactment or respective amendment of this Ordinance, does not meet the lot area or dimensional requirements of the zoning district in which it is located, and which does not adjoin another parcel in common ownership, may be built upon, without the need for a variance, subject to the following:

1. Such building or construction shall, in all other respects, comply with the provisions of this Ordinance.

2. Construction of single-family dwellings and accessory structures shall be permitted after obtaining a permit from the same permitting authority identified in Article 5, as that for a single-family dwelling on a conforming lot in that zoning district.

B. 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 and Subsurface Wastewater Disposal Rules are complied with.

C. Multiple Uses or Structures on a Single Lot

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 meet the setback requirements of this Ordinance.

D. Contiguous lots, vacant or partially vacant

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.

3.7 Repealed [Am.8]

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ARTICLE 4: ZONING DISTRICTS

[Am1. 26-Mar-01; Am2. 25-Mar-02; Am3. 07-May-02; Am6. 24-Mar-08; Am10. 26-Mar-11]]

4.1. ZONING DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Castine is divided into the following Zoning Districts:

- Rural District
- Village District I
- Village District II
- Village District III
- Commercial District
- Education District
- Source Water Protection Overlay District [Am.6]
- Maritime Activity Overlay District [Am.2]
- Resource Protection Overlay Districts [Am.1]
- Shoreland Overlay District
- Telecommunications Tower Overlay District

4.2. STANDARDS ESTABLISHING DISTRICTS

A. Resource Protection Overlay Districts

The purpose of Resource Protection Overlay Districts is to achieve the most appropriate uses of areas comprising significant natural, recreational, economic, historical, archaeological or visual resources of the Town; to restrict the use of environmentally sensitive areas which are severely limited for development by lack of public roads, inadequate water supply or deficiencies in other resources and public services and facilities; to protect 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.
And to protect significant marshland, wetlands, streams and shoreland areas by extending application of the standards of the Mandatory Shoreland Zoning Act (Title 38 M.R.S.A., § 435 *et seq.*) to the entire area within any Resource Protection Overlay District adjoining or enclosing such marshland, wetlands or shoreland. [Am.1]

B. Shoreland Overlay District

The purpose of the Shoreland Overlay District is to protect the shoreland resources of the Town; to further the maintenance of safe and healthful conditions and the general welfare; to prevent and control erosion and water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; to control building sites, placement and structures and land uses; to conserve shore cover, to conserve and enhance visual as well as actual points of access to inland and coastal waters and natural beauty; to encourage open space uses and to implement the State of Maine's mandatory shoreland zoning requirements.

C. Rural District

The purpose of the Rural District is to preserve the rural character of the District, to provide for the public health and safety, environmental quality, and economic well-being of the community; to retain certain areas for non-intensive uses; to retain and enhance open space areas; and to promote agriculture and forestry.

D. Village Districts I, II and III

The purpose of the Village Districts is to provide for the public health and safety, environmental quality, and economic well-being of the community; to protect the visual, historic and architectural integrity of existing village development and to ensure that future development is compatible both in character and use; to provide areas for residential development in locations compatible with existing development and in a manner appropriate to the economical provision of community service and utilities. Village District I has the additional purpose of enabling the use of existing properties in patterns consistent with those already in use.

E. Commercial District

The purpose of the Commercial District is to provide for the public health and safety, environmental quality and economic well-being of the community; to encourage the location of commercial uses in those locations within the community which are best suited for such development; to provide controls on those uses which by virtue of their size or external effect, including but not limited to waste discharge, noise, glare, fumes, smoke, dust, odors, heat, and traffic, could otherwise create nuisances or unsafe or unhealthy conditions; to avoid the blight, congestion, and inconvenience caused by inappropriate and poorly located development of commercial facilities; to insure the most economical means of providing municipal services to commercial and industrial uses; to assure continued availability of waterfront property for purposes consistent with historic and appropriate marine-related uses.

F. Education District

The purpose of the Education District is to create a defined area for the local college's main campus, allowing it to fulfill its post secondary educational mission while providing for the environmental quality and economic well-being of the community and preserving the unique architectural and scenic characteristics of the Town.

G. Source Water Protection Overlay District

The purpose of the Source Water Protection Overlay District is to ensure the present and future availability of a potable water supply of adequate quantity and quality; and to control the various land use activities within the recharge area of the groundwater aquifer and the watershed area of public water supply ponds, which may jeopardize the quantity and/or quality of drinking water. [Am.6]

H. Maritime Activity Overlay District

The purpose of the Maritime Activity Overlay District is to ensure the present and future availability of land to support water dependent uses and

to prevent the conversion or displacement of traditional maritime activities within the Town. [Am.2]

I. Telecommunications Tower Overlay District

The purpose of the Telecommunications Tower Overlay is to comply with the requirements of the Federal Telecommunications Act of 1996 by providing a functional location for telecommunications towers or antennas while preserving the scenic beauty of the Town. [Am.6]

4.3. Official Zoning Map

Zoning districts established by this Ordinance are defined in the following section and bounded as shown on the official "Zoning Map of Castine, Maine" which, together with its notations and amendments, from time to time, is hereby made a part of this Ordinance. The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chair of the Planning Board and attested by the Town Clerk and on file in the office of the Town Clerk. In the event of a conflict between the map and the zoning district boundary descriptions in Section 4.4, the Section 4.4 description shall control.

4.4. Zoning District Boundary Descriptions

A. Resource Protection Overlay District #1

Beginning 250 feet from the upland edge of the wetland on the eastern boundary of Lot 29, Map 17; thence running parallel to the shore south westerly to the eastern lot line of Lot 33. Map 17; thence northerly on said lot line to the northeastern corner of said lot; thence southwesterly to a point 250 feet from the upland edge of the wetland; thence running parallel to the shore in a northerly direction around Blockhouse Point, and northeasterly to the intersection with the southern lot line of Lot 10, Map 23; thence easterly on said lot line; thence northerly on the eastern lot line of said lot to a point 300 feet south of the British Canal; thence easterly running parallel to and 300 feet from the British Canal to a point 25 feet westward of the centerline of Castine Road; thence running northerly 25 feet from and parallel to the centerline of Castine Road to a point 25 feet south of the intersection of the centerlines of Castine Road and Wadsworth Cove Road; thence running westerly parallel to and 25 feet southerly from the

centerline of Wadsworth Cove Road a distance of 551 feet; thence turning 90 degrees to the left and running 125 feet southerly; thence turning 90 degrees and running westerly 250 feet; thence southwesterly to the northeast corner of Lot 10, Map 23; thence along the northern lot line of said lot to a point 25 feet eastward of the centerline of Wadsworth Cove Road; thence running northerly parallel to and 25 feet easterly from the centerline of Wadsworth Cove Road to the northern lot line of Lot 5A, Map 23; thence westerly to the upland edge of the wetland; thence running along the shore back to the southeasterly lot line of Lot 29, Map 17; thence northerly along eastern boundary of said lot a distance of 250 feet to the beginning. Reserving and exempting from Resource Protection District #1 a 50-foot-wide area enclosing Wadsworth Cove Road, measured to a distance of 25 feet on either side of its centerline, wherever the Road intrudes upon the District.

B. Resource Protection Overlay District #2

Includes all land area shown as Lot 63, on Tax Map 18 of the Town of Castine, known as the site of Fort Madison.

C. Resource Protection Overlay District #3

Includes all land area shown as Lot 11, on Tax Map 20 of the Town of Castine, known as the site of Fort George.

D. Resource Protection Overlay District #4

Includes all land area shown as Lot 7, on Tax Map 22 of the Town of Castine, known as the site of Fort Griffith.

E. Resource Protection Overlay District #5

Includes all land area shown as Lot 51, on Tax Map 18 of the Town of Castine, known as the site of Fort Pentagöet.

F. Resource Protection Overlay District #6

Includes all land area on Lot 15, Tax Map 20 of the Town of Castine located within 250 feet of the concrete marker signifying the site of Fort Gosselin.

G. Resource Protection Overlay District #7

That part of Lots 20 and 20A, on Tax Map 23 of the Town of Castine, which encompasses the site of Fort Sherbrooke, defined as 168 yards North of Fort George, a semi-circular battery, 150 feet in extent enclosing a redoubt about 150 feet inside, which measures 46 feet; and all land area encompassing the ledge containing carvings and initials adjacent to the Fort Sherbrooke site.

H. Resource Protection Overlay District #8

Beginning at the upland edge of the wetland at the northernmost point of Mayo Point on Lot 2, Tax Map 27 of the Town of Castine; thence westward and southerly a distance of one hundred (100) feet thence running parallel to the shore a distance of one hundred (100) feet from the high water line southwesterly around Hatch Cove; thence northeasterly one hundred (100) feet inland from and parallel to the northern shore of Hatch Cove to where it intersects with the easterly lot line of Lot 23, Tax Map 2; thence southerly one hundred (100) feet to the upland edge of the wetland following the eastern boundary of said lot; thence following the upland edge of the wetland around Hatch Cove to the beginning.

I. Resource Protection Overlay District #9

Includes all land areas within one hundred (100) feet of the high-water line of Bog Brook beginning at its mouth on Wadsworth Cove and extending into the Square along the entire length of the watercourse and all land areas within two hundred and fifty (250) feet of the upland edge of the freshwater wetland at the source of Bog Brook. (Am.6)

J. Resource Protection Overlay District #10

Includes all land areas within one hundred (100) feet of the high-water line of the Ice Pond.

K. Resource Protection Overlay District #11

Includes all land areas within one hundred (100) feet of the high-water line of Morse Cove Stream beginning at its mouth on Morse Cove and extending into The Square along the entire length of the watercourse.

L. Resource Protection Overlay District #12

Includes all land areas within two hundred and fifty (250) feet of the upland edge of the freshwater wetland known as Dunc's Meadow that is delineated as the low area on the USGS topographic map and within one hundred (100) feet of the high-water line of Meadow Brook. [Am.6]

M. Shoreland Overlay District

Those lands 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. [Am.6]

N. Rural District

A dividing line is hereby established beginning at the intersection of the centerline of Wadsworth Cove Road and the Castine Road and extending easterly to the high-water line on the shore of Hatch Cove and westerly along the centerline of Wadsworth Cove Road. At that point where the Wadsworth Cove Road curves to the southwest, the dividing line continues westerly to the high-water line on the shore of Wadsworth Cove. The Rural District includes all land and water areas within the boundaries of the Town to the north of the dividing line and all offshore islands wherever located within the boundaries of the Town. [Am.3]

O. Village District I

Beginning at the southeastern corner of Lot 51, Tax Map 18 of the Town of Castine, and following said lot line northwesterly to the centerline of Perkins Street; thence northeasterly along the centerline of Perkins Street to the

intersection of the centerlines of Perkins Street and Tarratine Street; thence northwesterly along the centerline of Tarratine Street to the intersection of the centerlines of Tarratine Street and Battle Avenue; thence northeasterly along the centerline of Battle Avenue to a point on the centerline of Battle Avenue 150 feet beyond the centerline of Main Street; thence southeasterly running parallel to and 150 feet from the centerline of Main Street to a point 250 feet from the centerline of Court Street; thence northeasterly to the intersection with the boundary of the Aquifer Protection Overlay District; thence following the boundary of said Aquifer Protection Overlay District in a generally southeasterly direction to the centerline of Court Street; thence southwesterly along the centerline of Court Street to the intersection with the centerline of Dyer Lane; thence southeasterly to the intersection with the centerline of Water Street; thence northeasterly to the northeast corner boundary of Lot 15, Tax Map 25, thence following the said northeast lot line to the shore of the Bagaduce River; thence following the shore to the point of beginning. This District shall not include the Institutional District, or the Commercial District located within its boundaries.

P. Village District II

Includes all shore lots northeast of the northeasterly lot line of Lot 15, Tax Map 25 of the Town of Castine, and all land and water areas to the south of Battle Avenue as well as to the east of State Street and Dyer Lane not included in the Educational District, Commercial District or Village District I. [Am.3]

Q. Village District III

Includes all land and water areas to the south of the dividing line as described in the description of the Rural District, north of the centerline of Battle Avenue from the centerline of State Street to the front lot line of Lot 33, Tax Map 17 of the Town of Castine and north of the north, side lot line of Lot 33, Tax Map 17. [Am.3]

R. Commercial District

Beginning at the southeastern corner of Lot 110, Tax Map 21 of the Town of Castine, and following said lot line northwesterly; thence northeasterly along the northwestern lot line of said lot to the centerline of Water Street; thence

northeasterly along the centerline of Water Street to the intersection of the centerlines of Water Street and Pleasant Street; thence northeasterly along the centerline of Pleasant Street a distance of 100 feet; thence northeasterly running parallel to and 100 feet from the centerline of Water Street to a point 150 feet southwesterly of the centerline of Main Street; thence northwesterly running parallel to and 150 feet southwesterly from the centerline of Main Street to Court Street; thence northeasterly along Court Street to the northeastern corner of Lot 75, Tax Map 21; thence southeasterly along said lot line and extending in a line parallel to the centerline of Green Street until it intersects with the western lot line of Lot 67, Tax Map 21; thence following said lot line to the centerline of Green Street; thence southeasterly along the centerline of Green Street to the intersection of the centerlines of Green Street and Water Street; thence northeasterly along the centerline of Water Street to the northwestern corner of Lot 56, Tax Map 21; thence southeasterly along the northern line of said lot to the high water line on the shore; thence following the shore southwesterly to the point of the beginning.

S. Education District

Includes all land area shown as Lot 23 and Lot 30, on Tax Map 20 of the Town of Castine, known as the Maine Maritime Academy main campus.

T. Source Water Protection Overlay District

Beginning on the north line of Battle Avenue at the southwest corner of Lot 2, Tax Map 19 of the Town of Castine; thence along the lot line northwesterly 558 feet to a corner of Lot 2, Tax Map 19; thence continuing along the same course to a point 2,100 feet north of Battle Avenue; thence northeasterly to the southwest corner of Lot 16, Tax Map 23; thence northeasterly to the northwest corner of Lot 17, Tax Map 23; thence northerly to the southwest corner of Lot 20, Tax Map 2; thence northeasterly to the northeast corner of Lot 20, Tax Map 2; thence northerly to the southwest corner of Lot 21, Tax Map 2; thence northeasterly to the northeast corner of Lot 21A, Tax Map 2; thence southerly along the west line of Castine Road to a point 300 feet north of Battle Avenue; thence easterly across Castine Road and along the north line of Windmill Hill Drive to the northwest corner of Lot 26, Tax Map 26; thence along the lot lines to the southeast corner of Lot 26, Tax Map 26; thence easterly to the northwest corner of Lot 5, Tax Map 26; thence along the west lot lines of Lots 5, 4, 3, 2

and 1, Tax Map 26 to Court Street; thence southerly across Court Street and along the west line of Spring Street to a point 450 feet south of Court Street; thence southwesterly to the southwest corner of Lot 5, Tax Map 25; thence westerly to the southwest corner of Lot 26A, Tax Map 24; thence westerly to a point on the north line of Battle Avenue 900 feet from Castine Road; thence along the north line of battle Avenue to the point of beginning. [Am.6]

U. Telecommunications Tower Overlay District

Includes all land area shown as Lot 3, on Tax Map 8 of the Town of Castine.

V. Maritime Activity Overlay District

Includes all lots within the Commercial District abutting the Bagaduce River, specifically the lots shown as Lots 56, 57A, 57B, 60, 63, 105 and 110 on Tax Map 21 of the Town of Castine. [Am.2]

4.5. Uncertainty of District Boundary Locations

Where uncertainty exists with respect to the boundaries of any of the various Districts shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways, rights of way or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following established lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.

D. Boundaries indicated as approximately following shorelines shall be construed as following the shoreline. In the event of an alteration in the location of the shoreline, the boundary shall be deemed to change with the alteration.

E. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

F. Boundaries indicated as approximately being extensions of or parallel to any property line, centerlines or feature noted above shall be so construed.

G. Where dimensions are unclear, and the rules of resolving uncertainty listed above do not resolve the uncertainty, the dimensions as shown on the most current Tax Map shall control.

H. When physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances where there is uncertainty with respect to the location of a district boundary, the Zoning Board of Appeals shall interpret that district boundary.

4.6. Division of Lots by District Boundaries

Where a district boundary, other than an overlay district boundary, divides a lot or parcel of land in the same ownership of record at the time the district boundary is established, the less restrictive district may be extended into the more restricted portion by no more than fifty (50) feet.

4.7. District Overlay Requirements

A. Shoreland Overlay District

The Shoreland Overlay District applies an overlay zone to the land within the boundaries of the District. In addition to the restrictions of the underlying district there are specific additional performance standards found in Article 7 and additional regulations applicable to non-conformities found in Article 3.

B. Maritime Activity Overlay District

The Maritime Activities Overlay District applies an overlay zone to the land within the boundaries of the District. In addition to the restrictions of the underlying district, only specific uses identified in the Land Use Table, Section 5.4., are permitted. [Am.6]

C. Resource Protection Overlay District

The Resource Protection Overlay District applies an overlay zone to the land within the boundaries of the District. In addition to the restrictions of the underlying district there are specific additional performance standards found in Article 7. [Am.6]

D. Source Water Protection Overlay District [Am.6]

The Source Water Protection Overlay District applies overlay requirements to the land within the boundaries of the District. In addition to uses prohibited in the underlying districts, certain additional uses are prohibited. There are also additional requirements for other uses requiring Site Plan Approval.

1. Delineation of Zones within the Source Water Protection Overlay District

There shall be two zones within the District:

- Zone 1 shall consist of all land lying within a circle of 300-foot radius around each water supply well.
- Zone 2 shall consist of all remaining land lying within the boundaries of the District.

2. Permitted Uses within Source Water Protection Zone 1

The following are permitted uses in Zone 1:

- Uses directly related to the operations of the Castine Water Department or approved by it.
- Any other uses in existence on March 24, 2008.

3. Prohibited Uses within Source Water Protection Zone 1

Any use not set forth in Section 4.7.D.2. above is prohibited.

4. Permitted Uses within Source Water Protection Zone 2

The following are permitted uses not requiring Site Plan Approval:

- Subsurface sewage disposal system, the design and maintenance schedule of which is reviewed and approved by the Local Plumbing Inspector (LPI).
- Gardening,
- Residential composting,
- Residential pesticide or fertilizer application in compliance with label restrictions,
- Non-commercial animal husbandry,
- Forest management activities, and forest product harvesting, so long as harvest removes less than 40% of the canopy from any lot within a ten (10) year period,
- Recreational uses,
- Municipal uses such as road and facility maintenance,
- Creating impervious surfaces totaling not more than twenty percent (20%) of any lot,
- Storage of not more than ten (10) gallons in the aggregate of petroleum products in portable containers with secondary containment,
- Storage of greater than ten (10) gallons of petroleum products in fixed containers subject to Section 4.7.4.10 below,
- Maintenance of any existing structure.

5. Prohibited uses within Source Water Protection Zone 2

In addition to those uses prohibited in the underlying districts, the following uses are prohibited in Zone 2:

- Automobile graveyards or the outdoor storage of more than three motor vehicles not in regular use.
- New underground storage tanks or containers for petroleum products or chemicals after March 24, 2008.
- Creating impervious surfaces totaling more than twenty percent (20%) of any lot.
- Commercial activities involving the disposal of liquid or leachable waste, except as are routinely permitted for disposal into the Town sewage system.
- Commercial waste impoundment or disposal.
- Uncovered waste storage.

- Commercial waste storage for a period exceeding 30 days.
- Commercial manure or sludge storage or spreading.
- Uncovered sand and salt piles.

6. Status of Castine Water Department

For any application for Site Plan Approval in the Source Water Protection Overlay District, the Castine Water Department shall have the status of an abutter.

7. Permitted Use Standards

All permitted uses within Zone 1 and Zone 2 shall be constructed, operated and maintained in a manner that will not cause a material increased risk of contamination or decreased quantity of recharge to the aquifer and the public water supply ponds as determined by the Planning Board in its sole discretion. The Planning Board may be guided in making its determination by advice from consultants chosen by it and by the advice contained in the manual of the Maine Department of Health and Human Services Drinking Water Program entitled *Best Management Practices for Groundwater Protection – A Guide for Local Officials and Public Water Suppliers.* (This publication is available at the Town Office and on the Town web site www.castine.me.us).

8. Sanitary wastewater disposal

No use, including home occupations, shall dispose of other than normal domestic wastewater on-site. No more than 900 gallons per day of sanitary waste shall be discharged to any one subsurface sewage disposal system. Septic tanks shall be pumped every three (3) years for routine maintenance. Pumping shall be observed by the LPI. Disposal of wastewater shall be in compliance with the *Maine Subsurface Waste Water Disposal Rules* (CMR 10-144, Chapter 241, as amended).

9. Petroleum product storage, above ground

- For inside above ground storage of petroleum for commercial or private use, tanks (including replacement tanks) installed after

March 24, 2008 in a fixed location must be designed to contain leaks, with either double-walled primary containers, or with a single walled tank set in a secure secondary container having a capacity of at least 110% of the capacity of the primary tank. There shall be no floor drains into which leaking oil could drain in a building storing petroleum products for commercial use.

- For outside above ground storage of petroleum in fixed tanks (including replacement tanks) installed after March 24, 2008, tanks shall be enclosed to prevent accidental toppling and shall have a cover or roof to prevent filling of the secondary containment with rainwater.
- Tanks (including replacement tanks) installed after March 24, 2008 must be installed in accordance with Maine Oil and Solid Fuel Board *Installation of Oil Burning Equipment* (CMR 02-381, Chapter 9, as amended).

10. Petroleum product storage, underground

For underground storage of petroleum in existence on March 24, 2008 for commercial or private use, the standards of Maine DEP *Rules for Underground Oil Storage Facilities* (CMR 06-096, Chapter 691, as amended) shall apply. Specifically, regarding design and operation, all tanks and piping shall be double walled for containment of petroleum product, and volumes and interstitial spaces shall be continuously electronically monitored. If portions of the system are to be replaced, then the design of such replacement shall be in accordance with the Chapter 691 regulations requiring the maximum security against spills and leaks of petroleum product.

11. Excavation or mining, fill, sand, gravel and other minerals.

The water table shall not be artificially lowered by ditches, trenches, pumping or other methods. Excavation shall not be allowed below five feet above the average seasonal high water without Site Plan Approval from the Planning Board following receipt of a variance from the Maine DEP for mining below the water table pursuant to Maine DEP *Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products* (CMR 06-096, Chapter 378, as amended).

E. Telecommunications Tower Overlay District

The Telecommunications Tower Overlay District is the only district in which telecommunications towers or antennas are permitted. By limiting towers to this District, the Ordinance seeks to comply with the requirements of the Federal Telecommunications Act of 1996 by providing a functional location for telecommunications towers or antennas. In order to preserve the scenic beauty of the Town, certain landscaping, buffering, fencing and aesthetic requirements apply as additional requirements for Site Plan Approval of telecommunications towers or antennas. [Am. 2]

1. Additional requirements

The following requirements apply to Site Plan Approval of telecommunications towers, in addition to the requirements and performance standards of Article 6:

a. Towers shall be galvanized steel finish or be painted a neutral color so as to minimize their visual presence.

b. All telecommunications towers, and any accessory structures, shall maintain the required setbacks as undisturbed vegetative buffers, except for the access road. The Planning Board may require additional plantings in the buffer area to maximize the effectiveness of the buffer area. The size, spacing and type of plantings shall be subject to Planning Board approval.

c. All structures at the tower site shall use materials, colors, textures, screenings and landscaping that will cause the tower and all related structures to blend into the natural environment to the maximum possible extent.

d. Towers shall not be lighted unless required by State or Federal law. If lighting is required the Planning Board may select the lighting scheme it deems most appropriate from the alternatives acceptable under law.

e. Road access to the tower site shall be of minimum width necessary to allow safe and reasonable access to the site.

f. A security fence of not less than eight (8) feet in height above finish grade shall surround the tower. Access to the tower shall be through a locked gate.

g. A telecommunications tower shall not exceed 199 feet in height, unless the Planning Board determines that a taller tower is necessary in order to avoid the effect of preventing all personal wireless services within the Town of Castine and that no alternative sites, towers or structures are available to provide such services. See Article 15 for the definition of "personal wireless services." [Am.2]

ARTICLE 5: LAND USE TABLE AND DIMENSIONAL REQUIREMENTS

[Am1. 26-Mar-01; Am2. 25-Mar-02; Am3. 07-May-02; Am5. 26-Mar-07; Am6. 24-Mar-08; Am7. 04-Apr-09; Am8. 27-Mar-10; Am10. 26-Mar-11; Am.12 23-Sept-13; Am.13 11-May-19; Am.15 11-May-24; Am.16 07-Jun-25]

5.1. SYMBOLS USED IN LAND USE TABLE

The following symbols contained in the Land Use Table have the following meanings:

A. District symbols

R ..... Rural District.
V-I ..... Village District I.
V-II ..... Village District II.
V-III ..... Village District III.
C. ..... Commercial District.
E ..... Educational District. [Am.1]
MA..... Maritime Activity Overlay District. [Am.2]
RP..... Resource Protection Overlay District.
SL..... Shoreland Overlay District

B. Permit symbols

Y..... No permit required.
CEO..... Requires permit from the CEO.
PB ..... Requires Site Plan Approval from the Planning Board.
NO ..... Use prohibited within the district.
N/A ..... Not applicable. [Am.1]

5.2. USES SUBSTANTIALLY SIMILAR TO LISTED USES

A. Similar to uses allowed without a permit

Uses substantially similar to those listed as not requiring a permit, but which are not listed in the Land Use Table, may be permitted by a ruling, in writing, of the CEO.

B. Similar to uses allowed with CEO permit

Uses substantially similar to those listed as requiring a CEO permit, but which are not listed in the Land Use Table, may be permitted by CEO permit.

C. Similar to uses allowed with Site Plan Approval

Uses substantially similar to those listed as requiring Site Plan Approval, but which are not listed in the Land Use Table, may be permitted by (1) a ruling of the CEO, in writing, that the use is substantially similar to uses requiring Approval by the Planning Board, and (2) Site Plan Approval from the Planning Board.

D. Similar to prohibited uses

Uses substantially similar to uses listed as prohibited in the Land Use Table shall be prohibited upon a ruling of the CEO, in writing, that the use is substantially similar to such prohibited uses.

E. Written records

The CEO shall maintain copies of all such written rulings.

5.3. COMPLIANCE WITH LAND USE STANDARDS

All uses must occur and be maintained in compliance with the applicable requirements of this Ordinance.

5.4. LAND USE TABLE [Am.1] [Am.2] [Am.3] [Am.5] [Am.6] [Am.7] [Am.15]

The granting of permits or approvals does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38 M.R.S.A., Maine Department of Environmental Protection and United States Army Corps of Engineers' approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like.

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II[2] V-III[2]	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
1.	Agriculture and animal husbandry.	Y	NO	NO	NO	NO	NO	Y[12]	PB[1]
2.	Aquaculture	N/A	N/A	N/A	N/A	N/A	PB	PB	PB
3.	Auto service stations and repair garages, with or without fuel dispensing.	NO	NO	NO	PB	NO	NO	PB[11]	NO
4.	Bed & breakfasts.	NO [Am 1]	NO	NO	PB	NO	NO	PB[11]	NO
5.	Boatyards, marinas, public launch facility or commercial marine railways.	PB	NO	NO	PB	PB	PB	PB[11]	NO
6.	Campgrounds and mobile home parks.	PB	NO	NO	NO	NO	NO	PB[11]	NO
7.	Cemeteries.	PB	NO	PB	NO	NO	NO	PB[11]	NO
8.	Clearing or removal of vegetation for activities other than timber harvesting.	Y	Y	Y	Y	Y	CEO	CEO	PB
9.	Cluster developments.	PB	NO	NO	NO	NO	NO	PB[11]	NO
10.	Commercial structures or uses not otherwise listed.	NO	NO	NO	PB	PB	PB[10]	PB[11]	NO
11.	Commercial vessel or commercial marine equipment storage facility.	NO	NO	NO	PB	PB	PB	PB[11]	NO

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II[2] V-III[2]	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
12.	Construction or expansion of any structure which is located on a non-conforming lot or any expansion of any non-conforming structure.	PB	PB	PB	PB	PB	PB	PB[11]	PB
13.	Construction or expansion of structures and changes of use in the Source Water Protection Overlay District.	N/A	N/A	PB	N/A	N/A	N/A	PB[11]	N/A
14.	Demolition of any structure.	CEO	CEO	CEO[2]	CEO	CEO	CEO	CEO	CEO
15.	Dredging or filling operations.	PB	PB	PB	PB	PB	PB	PB[11]	PB
16.	Dwellings/structures, one -family.	CEO	CEO	CEO	PB	PB	NO	CEO	NO
17.	Dwellings/structures, two -family.	CEO	CEO	CEO	PB	PB	NO	CEO	NO
18.	Dwellings/structures, multi –family.	PB	NO[14]	NO[14]	PB	PB	NO	PB[11]	NO
19.	Dwellings, mobile homes.	CEO	NO	NO	NO	NO	NO	PB[11]	NO
20.	Earthmoving of 60 cubic yards or less.[5]	Y	Y	Y[2]	Y	Y	Y	CEO	PB
21.	Earthmoving of more than 60 cubic yards, but less than 120 cubic yards.[5, 9]	CEO	CEO	CEO[2]	CEO	CEO	CEO	CEO	PB
22.	Earthmoving of 120 cubic yards or more.[5, 9]	PB	PB	PB	PB	PB	PB	PB[11]	PB
23.	Essential Services	Y	Y	Y	Y	Y	CEO	CEO	PB

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II[2] V-III[2]	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
24.	Expansion or change of a non-conforming use.	PB	PB	PB	PB	PB	PB	PB[11]	PB
25.	Expansion or change to a non-conforming lot.	PB	PB	PB	PB	PB	PB	PB[11]	PB
26.	Farmers' market	NO	CEO	NO	NO	NO	NO	NO	NO
27.	Fences exceeding six (6) feet in height.	PB	NO	NO	NO	NO	NO	NO	NO
28.	Fences which do not exceed six (6) feet in height and deer fences.	Y	Y	Y	PB	Y	PB	Y[12]	Y
29.	Home occupations.	PB	PB	PB	PB	PB	PB	PB[11]	NO
30.	Hospitals, nursing homes and assisted living facilities.	PB	PB	PB	PB	PB	NO	PB[11]	NO
31.	Individual, private campsites.	Y	Y	Y	Y	Y	NO	CEO	PB
32.	Industrial structures or uses not otherwise listed.	NO	NO	NO	NO	NO	PB[10]	PB[11]	NO
33.	Inns and hotels.	NO	NO	NO	PB	NO	NO	PB[11]	NO
34.	Junkyards, automobile graveyards and automobile salvage yards.	PB	NO	NO	NO	NO	NO	NO	NO
35.	Libraries and museums.	PB	PB	PB	PB	PB	NO	PB[11]	NO
36.	Markets and retail sales.	NO	NO	NO	PB	PB	PB[10]	PB[11]	NO
37.	Mineral exploration and extraction including sand and gravel extraction	PB	NO	NO	NO	NO	NO	PB[11]	NO

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II[2] V-III[2]	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
38.	Mixed residential and commercial.	NO	NO	NO	PB	NO	PB[10]	PB[11]	NO
39.	Mobile Vending Units [Am.15]	Y[15]	Y[15]	Y[15]	Y[15]	Y[15]	Y[15]	Y[15]	Y[15]
40.	Normal maintenance and repair of a structure.	Y	Y	Y	Y	Y	Y	Y	Y
41.	Parking areas or driveways.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
42.	Piers or docks.	PB	PB	PB	PB	PB	PB	PB[11]	PB
43.	Ponds	Y[5]	PB	PB	PB	PB	NO	PB[11]	PB
44.	Post-secondary schools.	PB	NO	NO	PB	PB	PB[10]	PB[11]	NO
45.	Pre-elementary, nursery, day care, elementary and secondary schools.	PB	PB	PB	PB	PB	NO	PB[11]	NO
46.	Private recreational facilities.	CEO	CEO	CEO	PB	NO	PB[10]	PB[11]	PB
47.	Private, noncommercial clubs and gathering/ meeting places of social, fraternal, civic and charitable organizations.	PB	PB	PB	PB	PB	PB[10]	PB[11]	NO
48.	Public recreational facilities.	PB	PB	PB	PB	PB	PB[10]	PB[11]	PB
49.	Public utilities and sewage treatment facilities.[3, 7]	PB	PB	PB	PB	PB	PB	PB[11]	PB
50.	Religious structures such as churches, synagogues, chapels, parish houses or rectories.	PB	PB	PB	PB	PB	NO	PB[11]	NO

LAND USE ↓ ZONING DISTRICT →		R	V-I	V-II[2] V-III[2]	C	E	MA OVERLAY	SL OVERLAY	RP OVERLAY
51.	Non-Mobile Vending Units, Restaurants and take-away prepared food.[4]	NO	NO	NO	PB	PB	PB[10]	PB[11]	NO
52.	Sale of produce raised on premises, which may include seasonal sale of produce raised off premises.	Y	Y	Y	Y	Y	Y	Y	Y
53.	Shoreline access.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
54.	Shoreline stabilization.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
55.	Signs.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	PB
56.	Solid waste processing or disposal.	PB	NO	NO	NO	NO	NO	NO	NO
57.	Telecommunications towers or antennas subject to the performance standards of Section 4.7.E.	PB[6]	NO	NO	NO	NO	NO	NO	NO
58.	Town government facilities. [7]	PB	PB	PB	PB	PB	PB	PB[11]	PB

FOOTNOTES	
1.	Agriculture and animal husbandry are allowed in a Resource Protection Overlay District by Site Plan Approval where the underlying district is the Rural District.
2.	Site Plan Approval is required for certain activities in the Source Water Protection Overlay District.
3.	These include overboard discharge units lawfully in existence at the time of the enactment of this ordinance.
4.	Does not include food preparation for off-premises retail sale or catering.

FOOTNOTES	
5.	Parking areas, road and driveway construction, mineral exploration disturbing more than one hundred (100) square feet of soil, mineral extraction, and earthmoving in any amount in the Shoreland Overlay District requires a permit from the appropriate permitting authority as set forth in Article 7 of this Ordinance.
6.	Telecommunications towers are permitted in the Telecommunications Tower Overlay District, only.
7.	Does not include streetlights, poles, cables, pipes, wires, traffic signs and similar items placed or erected in the public way, for which no permit is required under this Ordinance
8.	Only for the purpose of mitigating fire hazards and other danger to public safety or the environment and conditioned upon submission of a plan for that stated purpose, including access roads if needed, prepared by a State of Maine Licensed Forester.
9.	Earthmoving that is incidental to the construction of any structure or other activity that has been issued a permit from the appropriate permitting authority does not require Site Plan Approval or a separate permit unless such earth moving alters the surface or subsurface drainage patterns of the property or causes the grade of the land to change by more than one-half ($^1/_2$) foot.
10.	Uses that are not reliant upon water frontage or servicing marine related needs are not permitted.
11.	If the use is permitted in an underlying district, Site Plan Approval is required in the Shoreland Overlay District.
12.	If the use is permitted in an underlying district, it is also permitted in the Shoreland Overlay District.
13.	The term "structure" means either a "principal structure" or "accessory structure" as defined in Article 15.
14.	Up to four dwelling units may be permitted, in accordance with Section 6.19
15.	Authorized after receiving a Mobile Vending Unit Permit in accordance with Castine Mobile Vending Unit Ordinance. [Am.15]

5.5. DIMENSIONAL REQUIREMENTS [Am.16]

A. Lot Dimension Table [Am.1] [Am.2] [Am.3] [Am.5] [Am.8]

Lots and structures shall meet or exceed the following dimensional requirements:

DIMENSION ↓ ZONING DISTRICT →	R	V-I	V-II	V-III	MA & C	E
Minimum lot area (sq. ft.) [12]	85,000	8,250	20,000[9]	85,000 [Am 1]	7,500	N/A
Minimum lot width (ft.) [10, 12]	200[1]	90	100	200[1]	85	N/A
Setbacks (ft.) [12]						
Front yard	30[4]	10	15	20	10[2]	15[3]
Rear yard	30[4]	10	15	20	10[2]	15[3]
Side yard	30[4]	10	15	20	10[2]	15[3]
Minimum shore frontage (ft.) [10]	200	100	150	200	100	N/A
Maximum percent lot coverage (%) [12]	20	50	30	20	65	60
Structure height (ft.)[8]	35[5, 6]	35[7]	35[7]	35[7]	35[7]	50[7]

Footnotes	
1.	A single backlot for development with a single-family dwelling may be created with its frontage along a fifty (50) foot wide right-of-way. That right-of-way will not be deducted from the lot width or lot area of the front lot.
2.	Ten (10) feet or no less than the abutting property with the least setback. This setback reduction only applies to the side of the lot with the abutter encroachment. [Am.16]
3.	For lots that abut a lot located in another district, the setback shall be the greater of fifteen (15) feet or the abutting setback.
4.	The front yard setback for telecommunications towers located in the Telecommunication Tower Overlay District shall be one thousand (1,000) feet and the rear yard and side yard setbacks for telecommunications towers located in the Telecommunication Tower Overlay District shall be thirty (30) feet plus the height of the tower.

Zoning Ordinance – Adopted: 28-Mar-2000
Amended: 26-Mar-01
Amended: 25-Mar-02
Amended: 07-May-02
Amended: 04-Apr-05
Amended: 26-Mar-07
Amended: 24-Mar-08
Amended: 04-Apr-09
Amended: 27-Mar-10
Amended: 02-Nov-10
Amended: 26-Mar-11
Amended: 01-Jun-13
Amended: 23-Sept-13
Amended: 11-May-19
Amended: 11-Jul-20
Amended: 11-May-24
Last Amended: 07-Jun-25

Footnotes	
5.	Telecommunications towers located in the Telecommunication Tower Overlay District are not subject to the structure height limitation of this section, but are governed by Section 4.7.E.1.g.
6.	The Permitting Authority may increase the maximum height by up to ten (10) feet above the roof for cupolas, chimneys and appurtenances without floor area where the extension will not cause a hazard, and the feature does not occupy more than ten percent (10%) of the roof area. Religious structures may have features such as steeples which exceed ten (10) feet above the roof.
7.	The Permitting Authority may increase the maximum height by up to ten (10) feet above the roof for cupolas, chimneys and appurtenances without floor area where the extension will not cause a hazard, and each element does not occupy more than two and one-half percent (2 ½ %) of the roof area and all elements do not occupy more than ten percent (10%) of the roof area. Religious structures may have features such as steeples which exceed ten (10) feet above the roof.
8.	For buildings in the Shoreland Overlay District, the vertical distance between the mean elevation of the original grade at the downhill side of the building and the highest point of the roof.
9.	Lots in Village District II located within the Shoreland Overlay District require a minimum lot size of 30,000 square feet.
10.	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.
11.	The term "structure" means either a "principal structure" or "accessory structure" as defined in Article 15.

Footnotes	
12.	Pursuant to Title 30-A M.R.S.A., § 4353 (4-C), the Planning Board, in reviewing a cluster subdivision under the applicable provisions of the Castine Subdivision Ordinance, is allowed to approve development proposals that do not meet the dimensional standards otherwise required by this Ordinance, and such approval is not considered the granting of a variance. This authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws. This authority does not authorize the reduction of any dimensional standard in the Commercial District. In the Rural, Village I, Village II and Village III Districts, this authority does not authorize the reduction of any dimensional standard to less than the following: 1) minimum lot area – 50% of required area; 2) minimum lot width – 75% of required width; 3) maximum percent lot coverage – 50% of approved lot area; and 4) front, rear or side setback – 10 feet. [Am 1]

B. Lots partially within a Resource Protection District

No portion of any lot created after August 24, 1981 and lying within a Resource Protection District may be used to meet the dimensional requirements of any other district in which the remainder of the lot is situated.

C. Within the Shoreland Overlay District, 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.

ARTICLE 6: PERFORMANCE STANDARDS

[Am1. 26-Mar-01; Am2. 25-Mar-02; Am3. 07-May-02; Am5. 26-Mar-07; Am6. 24-Mar-08; Am7. 04-Apr-09; Am9. 02-Nov-10; Am10. 26-Mar-11; Am.13 11-May-19; Am.14 11-Jul-20; Am.16 07-Jun-25]

6.1. GENERAL

A. Purpose

The purpose of the regulations contained in this Article is to allow maximum utilization of land while assuring against adverse impacts on the environment and/or neighboring properties, adherence to the current Castine Comprehensive Plan, and upholding of the public interest. This assurance is provided by separating the area of the Town of Castine into zoning districts and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Ordinance.

B. Standards apply to all permits and approvals

The following Land Use Standards shall govern all permits and approvals issued by the CEO and the Planning Board. Shoreland Standards are included in Article 7. These standards apply to land uses and activities within the Shoreland Overlay District. The Shoreland Standards are those mandated by the State of Maine as part of the Mandatory Shoreland Zoning Act (Title 38, M.R.S.A., §§ 435-449, as amended). In reviewing applications submitted pursuant to this Ordinance, the CEO or the Planning Board shall consider the following performance standards prior to issuing final approval. In all instances, the burden of proof of compliance shall be upon the applicant. [Am.2]

6.2. ARCHAEOLOGICAL OR HISTORIC SITES

Any proposed land use activity that may disturb an archaeological or historic site as defined in the Castine Historic Preservation Ordinance, or which is listed or which has been nominated for listing on the National Register of Historic Places in accordance with the procedures established by Federal Law shall require Site Plan approval. In such case the application for Site Plan approval shall attach comments in writing from the Maine Historic Preservation Commission concerning the proposed activity, and the Planning Board shall hold a Public Hearing prior to taking any action with respect to the application. The

recommendations of the Maine Historic Preservation Commission shall be considered by the Planning Board in granting any approvals. The applicant shall be responsible for obtaining the written comments of the Maine Historic Preservation Commission. If the site is located within a designated district under the Castine Historic Preservation Ordinance and the application is approved by the Planning Board, a condition of such approval shall be that the applicant must obtain a Certificate of Appropriateness from the Castine Historic Preservation Commission before any permit is issued. [Am.1] [Am.2]

6.3. CAMPGROUNDS

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

A. Each recreational vehicle, tent, or shelter site shall contain a minimum of five thousand (5,000) square feet, not including roads and driveways.

B. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.

C. Recreational areas without water-carried sewage facilities shall provide portable toilets and a service capability for such toilets approved by the Town's Local Plumbing Inspector (LPI). [Am.1]

D. The area intended for placement of the recreational vehicle, tent or shelter and utility and service buildings, shall be set back a minimum of one-hundred (100) feet from the exterior lot lines of the camping area, one-hundred (100) feet from the normal high-water line of any great pond and seventy five (75) feet from the normal high-water line of all other water bodies, tributary streams or upland edge of a wetland. [Am.7]

E. All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than twenty-five (25) feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

6.4. CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan shall indicate that all structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one (1) foot above the one hundred (100) year flood elevation, and meet all other requirements of the Floodplain Management Ordinance for the Town of Castine, Maine. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area. [Am.1]

6.5. DRIVEWAYS AND WALKWAYS

Driveways and walkways constructed at existing ground level are exempt from the minimum setback requirements of the Lot Dimension Table, Section 5.5.A. No driveway or walkway may encroach upon any adjoining lot in the absence of a deeded and recorded right-of-way. [Am.1]

6.6. DUST, FUMES, VAPORS, GASES, ODORS, AND EXPLOSIVE MATERIALS

A. Emissions of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited.

B. No land use or establishment shall be permitted to produce unreasonable, offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevations.

C. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the rules and regulations adopted by the State of Maine.

6.7. EROSION AND SEDIMENTATION CONTROL

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance:

A. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and cleanup stages.

B. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:

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

2. Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.

3. The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site.

4. Whenever feasible, natural vegetation shall be retained, protected and supplemented.

5. The disturbed area and the duration of exposure shall be kept to a practical minimum.

6. Disturbed soils shall be stabilized as quickly as practicable.

7. Temporary vegetation or mulching shall be used to protect disturbed areas during development.

8. Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the Hancock County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.

9. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.

10. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless specifically permitted by the permitting authority. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any property line in absence of the prior written agreement of the owner of such adjoining property.

11. During grading operations, methods of dust control shall be employed wherever practicable.

12. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.

13. Any activity on a stream, watercourse or swale or upon floodway or right-of-way shall comply with the Natural Resource Protection Act, Title 38 M.R.S.A., §§ 480-A and 480-S, as amended. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present State of the stream, watercourse, swale, floodway, or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.

14. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

6.8. FENCES

A. Except as provided in Section 6.8.C. below, no fence or boundary wall shall exceed six (6) feet in height above the average level of the ground on which it stands. [Am. 1]

B. Screening for licensed junkyards, automobile recycling businesses or automobile graveyards shall be at least six (6) feet in height but shall not exceed eight (8) feet in height except to accomplish the required complete

screening from ordinary view; deer fences erected to protect gardens or orchards may exceed six (6) feet in height but shall not exceed ten (10) feet in height; a decorative arbor at a pedestrian gate may exceed six (6) feet in height but shall not exceed eight (8) feet in height; security fencing for telecommunications towers shall be at least eight (8) feet in height but shall not exceed ten (10) feet in height. [Am.1] [Am.7]

C. Fences and boundary walls are exempt from the minimum setback requirements of the Lot Dimension Table, Section 5.5.A, but a fence shall not be located where it will obstruct the line of sight at a public street intersection. [Am.1] [Am.2]

6.9. FIRE HAZARD MITIGATION IN THE COMMERCIAL DISTRICT

Special requirements shall be observed within the Commercial District in order to lessen potential fire hazards. A fee payable to the Town shall be assessed to the individual seeking written approval by the Fire Chief. The amount of the fee shall be set by the Board of Selectmen and adjusted periodically after a Public Meeting held to present the facts relevant to such setting or adjustment. There shall be no change of use of a structure and no structure shall be built, moved, replaced, altered or enlarged without consultation with and approval in writing by the Fire Chief or designated representative, and subsequent approval by the respective permitting authority subject to the additional conditions listed below: [Am.5]

A. Fire trucks and ambulances shall have unobstructed access to the structure.

B. Access to the structure shall not be used for parking or storage so as to hinder passage of emergency vehicles.

C. Adequate water supply for fire suppression is or will be available prior to granting a certificate of occupancy.

D. Roofs or roof overhangs shall not intrude upon neighboring properties and roof eaves shall not exceed thirty (30) feet in height from servicing accesses.

E. Such other safety measures, including but not limited to sprinkler systems, rated partitions, fire extinguishers or the posting of signs as needed for specific hazards, as may be required. [Am.5]

6.10. GROUNDWATER PROTECTION

A proposed site development and/or use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater have demonstrated that the groundwater at the property line shall comply, following development, with the standards for safe drinking water as established by the State of Maine.

6.11. HOME OCCUPATIONS

The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the districts in which they are allowed. Home occupations are limited to those uses which may be conducted within a residential dwelling or accessory structure without substantially changing the appearance or condition of the property as a residence or of accessory structures;

A. Home occupations shall be carried out wholly within a dwelling unit or accessory structure to a dwelling unit.

B. No more than three (3) persons who are not family members residing in the dwelling unit may be employees of a home occupation.

C. Home occupations shall be clearly incidental and subordinate to the use of a dwelling unit for residential purposes.

D. In connection with a home occupation there shall be no exterior signs other than permitted by the requirements of Section 6.28, no exterior storage of materials, and no other exterior indication of the home occupation or variance from the residential character of the premises. [Am.7]

E. A home occupation shall not create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater degree or more frequent extent than that normally experienced in an average residential building in the district in which it is located.

F. Home occupations providing (for a fee) professional, educational and/or personal services to groups of persons on the premises shall be limited to serving no more than eight (8) persons at any one time, and to the generation of no more than two (2) additional non-family vehicles on-site at any one time.

G. Home occupations are subject to the Off-Street Parking requirements of Section 6.22. [Am.7]

H. Use permits for home occupations are non-transferable except to members of the same family who continue to reside in the dwelling.

I. Yard sales, garage sales and other intermittent sales activities shall not be deemed a home occupation unless the activity continues for more than two consecutive weekends or one week, or for more than four weekends per year.

J. Use of a dwelling or accessory structure to receive requests for information relating to services rendered off-premises, or the storage of materials or equipment and used to provide services or products off-premises by a member of the residing family shall not be deemed to be a home occupation.

K. Sale of agricultural or garden produce grown on site conducted from tables or temporary structures shall not be deemed to be a home occupation.

6.12. JUNKYARDS

No person or landowner shall allow any junkyard to be established, operated, maintained or suffered to exist in violation of Title 30-A M.R.S.A., Chapter 183, Subchapter 1, as amended and without first obtaining site plan approval by the Planning Board, a nontransferable land use permit issued by the Selectboard in accordance with State licensing and local requirements, and complying with the following provisions: [Am.5]

A. Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right of way; and shall be set back one hundred (100) feet from all side and rear lot lines.

B. Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility, or grounds.

C. Junkyards shall be entirely screened from view by earth berms, plantings or fences which shall be well constructed and properly maintained at a minimum height of six (6) feet and be sufficient to accomplish the complete screening from ordinary view. Screening shall meet the requirements for materials and appearance set by the Maine Department of Transportation for junkyards. [Am.5]

D. In addition, the following provisions apply to all junkyards in the Town of Castine:

1. Upon arrival at the junkyard, all fuel, engine oil, radiator, battery, transmission, fluids, etc., shall be drained from all vehicles, and appropriate safety precautions, such as the removal of all door and trunk locks, shall be taken to avoid injury and accidents.

2. No vehicles may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles into salvage materials shall be accomplished within four (4) months.

3. All junk and salvage materials shall be stored within the screened/ fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area.

4. No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner. A concrete pad or other impervious surface shall be provided for draining such fluids.

6.13. LAND NOT SUITABLE FOR DEVELOPMENT

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Ordinance:

A. 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;

B. Land which is located within the one hundred (100) year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the developer shows proof through the submission of materials prepared by a Registered Land Surveyor which shows that the property in question lies at least one (1) foot above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered;

C. Land which is part of a right of way or easement, including utility easements. This subsection does not apply to a right-of-way or utility easement for access to a single backlot for development with a single-family dwelling; [Am.2]

D. Land that has to be created by filling or draining a pond or wetland; and

E. Land that has been determined to be a freshwater wetland, as defined in Title 38 M.R.S.A., § 480-B, as amended.

F. This Section does not apply to an existing lot of record proposed to be used for a single-family residence.

6.14. LIGHTING

No land use or establishment shall be permitted to produce unreasonable glare or brightness (0.3 foot-candles) beyond its lot lines. Where practicable, lighting shall be directed downward and the light source shall be shielded. All exterior lighting shall be designed to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hours of use, hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Non-residential lighting that is either installed or replaced after March 24, 2008 shall comply with the standards of Title 5 M.R.S.A., § 1769, as amended. [Am.6]

6.15. MINERAL EXPLORATION

The following requirements for mineral exploration activities shall apply in all districts; additional requirements for the Shoreland Overlay District are contained in Section 7.6 below.

A. All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.

B. Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by Resource Protection Districts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with this Ordinance, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surfaces which would not be eroded or otherwise damaged.

C. Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.

D. In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.

6.16. MINERAL EXTRACTION

The following requirements shall apply to mineral extraction activities in all districts; additional requirements for the Shoreland Overlay District are contained in Section 7.6 below.

A. No portion of any ground area disturbed by the extraction activity shall be closer than fifty (50) feet from any public roadway or one hundred (100) feet from any property line in the absence of the prior written agreement of the owner of such adjoining property.

B. A natural vegetative screen of not less than fifty (50) feet in width shall be retained between any facility intended primarily for public use, excluding privately owned roads, and the mineral exploration or extraction activity.

C. Within twelve (12) months following the completion of extraction operations at any extraction site, or 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:

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

2. The final graded slope shall be two to one (2:1) slope or flatter.

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

4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary, including any reasonable form of performance guarantee such as a performance bond, to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources, including but not limited to wildlife habitat, fisheries, unusual natural areas, archaeological resources and historic sites.

D. The following requirements shall apply to topsoil, sand and gravel extraction in all districts:

1. Topsoil shall be considered part of all developments, except mineral extraction, and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

2. Extraction shall not be allowed below three (3) feet above the average seasonal high water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions.

3. Access roads into and around the pit shall not be oiled, salted, or paved.

4. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure.

5. Storage of hazardous materials and petroleum products in the pit is prohibited.

6. Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided.

6.17. MANUFACTURED HOUSING

A. Mobile homes sited outside of mobile home parks, shall also meet the following requirements:

1. Lot-size dimensions for single-family dwellings apply to lots for mobile homes.

2. All ordinances, permit requirements, regulations and statutes applicable to single-family dwellings apply to mobile homes.

3. Each mobile home shall have a pitched shingle or metal roof. [Am. 5]

4. Each mobile home shall have siding that is residential in appearance such as is common to on-site built houses.

5. Each mobile home shall have a permanent foundation.

6. Any fuel or heating oil tank shall comply with State standards.

B. Nothing in Section 6.17.A shall prevent the relocation of any mobile home that was lawfully sited within the Town of Castine as of August 24, 1981.

C. Modular homes meeting the construction standards for State-certified manufactured homes are allowed in all districts where other single-family homes are allowed.

D. Notwithstanding any other provision of this Ordinance, a mobile home or construction trailer may be permitted on the site of a construction project

for not more than two (2) consecutive six (6) month periods provided that a special permit is issued by the CEO for each six (6) month period. Such permit may only be issued if the CEO is satisfied that:

1. The mobile home or construction trailer is a necessary convenience for the construction project and is clearly subordinate to such project.

2. No health hazards or problems of sanitation will be caused by improper disposal of sewage from the mobile home or construction trailer.

3. The CEO may issue a special permit for use of a mobile home or construction trailer for a temporary construction office for up to six (6) months in districts where offices are permitted or on construction sites anywhere in the Town of Castine.

E. Except as specifically permitted by this section, no mobile home shall be used for any purpose, nor placed on any lot, except in the Rural District or in an authorized mobile home park.

F. Notwithstanding the other provisions of this Section, unoccupied mobile homes may be placed on a lot for sale by a dealer where permitted by this Ordinance.

G. No mobile home may be located within the Town of Castine unless it meets the design standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 *et seq.*) for mobile homes manufactured after June 14, 1976. [Am. 1] [Am. 2]

H. Pursuant to Title 30-A M.R.S.A. § 4358(4), no new manufactured housing may be located or constructed within the Town of Castine unless the owner presents evidence that either the Maine sales tax has been paid on the manufactured housing or the manufactured housing is being installed or constructed by a licensed dealer registered to collect Maine sales tax. [Am. 1] [Am. 2]

6.18. MOBILE HOME PARKS/MANUFACTURED HOUSING COMMUNITIES

Mobile home parks shall meet the following requirements in addition to any imposed by State law:

A. The park shall be landscaped by shrubs and trees so as to be screened by a fifty (50) foot buffer strip from direct view from the nearest public road.

B. Each mobile home lot, service structure (such as laundry facilities, park office, etc.) shall meet the off-street parking requirements of this Ordinance.

C. Each mobile home lot served by a central on-site subsurface waste disposal system approved by the Maine Department of Human Services shall be at least twelve thousand (12,000) square feet in area.

D. Each mobile home lot served by an individual approved on-site subsurface waste disposal system shall be at least twenty thousand (20,000) square feet in area.

E. The overall area of the park shall be at least the area of each mobile home lot as determined above plus areas required for road rights-of-way; buffer strips; and all setbacks.

F. All roads in the park shall conform to State standards for mobile home parks.

G. Mobile homes located in mobile home parks are not required to have permanent foundations.

H. No mobile home may be located in any mobile home park unless it meets the design standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 *et seq.*) for mobile homes manufactured after June 14, 1976. [Am.1] [Am.2]

6.19. TWO-FAMILY AND MULTI-FAMILY DWELLINGS

A. New construction of a two-family dwelling or conversion of an existing single family dwelling to a two-family dwelling requires a minimum lot size of one hundred and fifty percent (150%) of the minimum lot size for a single-family dwelling in the district in which it is built. All other lot dimensional requirements of this Ordinance must be met. [Am.1] [Am.7]

B. New construction of or conversion to a multi-family dwelling not in the Shoreland Overlay District requires the minimum lot size for a single-family

dwelling for each dwelling unit on the parcel. All other lot dimensional requirements of this Ordinance must be met. [Am.7]

C. New construction of or conversion to a two-family dwelling or a multi-family dwelling in the Shoreland Overlay District requires: 1) the minimum shore frontage required for a single-family dwelling for each dwelling unit on the parcel and 2) a minimum lot size required for a single-family dwelling for each dwelling unit on the parcel.

D. A new multi-family dwelling unit and a lot with more than one secondary structure containing dwelling units, are subject to the provisions of the Castine Subdivision Ordinance.

E. In all Districts in which residential uses are allowed, the following additional dwelling units shall be permitted, provided all applicable dimensional standards are met: [Am.15]

1. If a lot does not contain an existing dwelling unit and the lot is not located in a Designated Growth Area, up to two dwelling units per lot are permitted. The dwelling units may be within one structure or multiple structures. [Am.15]

2. If a lot does not contain an existing dwelling unit and the lot is located in a Designated Growth Area, up to four dwelling units per lot are permitted. The dwelling units may be within one structure or multiple structures. [Am.15]

3. If a lot contains one existing dwelling unit, the addition of up to two dwelling units is permitted. The additional units may consist of one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each. The addition of up to two dwelling units under this section shall be subject to review by the Code Enforcement Officer and shall not require site plan review. [Am.15]

6.20. MULTIPLE STRUCTURES AND USES ON A SINGLE LOT

A. If more than one principal structure is constructed on a single parcel of land, all dimensional requirements shall be met for each structure.

C. Within the Shoreland Overlay District, 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.

6.21. NOISE

No land use or establishment shall be permitted to produce unreasonable noise perceptible beyond their lot lines, subject to the exceptions herein. Unreasonable noise shall be noise exceeding the following levels measured on an ANSI Type I or II meter using the A-weighted network. 7:00 a.m. to 10:00 p.m. – 60 dBA; 10:00 p.m. to 7:00 a.m. – 50 dBA.

A. Exceptions

1. Maximum sound levels may be exceeded by 10 dBA for a single period, no longer than 15 minutes, each day.

2. Natural phenomena.

3. Any bell or chime from any clock, school or church.

4. Any siren, bell, horn or whistle lawfully used by an emergency vehicle, or any other emergency alarm used in an emergency situation or test, including the 12:00 Noon test of the firehouse siren.

5. Warning devices required by OSHA, USCG, or any other State or Federal regulatory agency.

6. Aircraft operations which are subject to FAA regulation.

7. Sporting, cultural, religious or public events permitted by the Board of Selectmen.

8. Noise generated by any construction or demolition equipment operated from 7:00 a.m. to 7:00 p.m.

9. Emergency repair work on public utilities.

10. Timber harvesting from 7:00 a.m. to sunset.

11. Noise created by lawful blasting from 7:00 a.m. to 7:00 p.m.

12. Noise created by refuse and solid waste collection from 6:00 a.m. to 7:00 p.m.

13. Noise generated by any stand-by electric generator operated during a power outage or during an exercise period not exceeding thirty (30) minutes once a week. [Am.5]

B. Limitation of exceptions

The exceptions 6.21.A.5, 6, 7, and 12, above shall not apply in determining the effect on neighboring properties for any use being considered for Site Plan Approval. The Planning Board may consider any noise related to these exceptions in determining whether a given use will have an unreasonable adverse effect upon a neighboring use or upon the neighborhood.

6.22. OFF-STREET PARKING

Traffic safety and the need for emergency vehicle access, especially in the congested "on-neck" streets, requires establishment of minimum standards for the provision of parking spaces for businesses, homes and institutions within the Town. All uses and structures shall have adequate off-street parking to accommodate all anticipated needs. To accomplish this purpose, all of the anticipated off-street vehicular parking needs for a proposed use or structure shall be considered before granting any approvals. Property located in the Commercial District and the Witherle Memorial Library are exempt from the following standards unless specifically included. [Am.5] [Am.9]

A. Off-street parking standards

1. A parking space provided to meet the minimum requirements of Section 6.22.B must be at least 180 square feet in area and must be dimensioned and configured so that a vehicle can enter and exit the

parking space safely and conveniently and drivers and passengers can enter and exit the parked vehicle safely and conveniently.

2. No parking space shall be considered to serve more than one structure except as provided in Section 6.22.D below. [Am. 2]

3. Driveways or accesses to parking spaces shall be constructed so as to minimize potential safety hazards and to provide openings at exits to public streets that will maximize driver vision.

4. Parking areas for more than four (4) vehicles or boats shall be landscaped so as to be screened from direct view from the nearest public street in order to minimize any adverse effect upon historical assets of the Town or the value of neighboring properties, to the extent that such landscaping shall not impair driver vision.

B. Minimum requirements

1. Auto Service Stations and Repair Garages: one (1) space for each regular employee, plus one (1) space for each fifty (50) square feet of floor area used for service work.

2. Residential: Two (2) parking spaces for each private residential dwelling unit and one (1) parking space for each private residential dwelling unit, created after March 31, 2007, in the Commercial District. For Affordable Housing Developments, no more than two (2) parking spaces for every three dwelling units shall be required. [Am.5] [Am.15]

3. Business and commercial establishments not otherwise listed, libraries, museums, offices or professional buildings: one (1) space for each two-hundred (200) square feet of the floor area plus one (1) space for each two (2) employees.

4. Bed and breakfasts, hotels and inns: One (1) space for each guest suite or sleeping room and one (1) space for each two (2) employees.

5. Campgrounds: one (1) space for each recreational vehicle, tent or shelter space.

6. Drive-in restaurants and food stands: ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations.

7. Funeral parlors: twenty (20) spaces.

8. Fraternal organization and club structures: one (1) space for each five (5) members.

9. Home occupations shall have sufficient spaces to accommodate the estimated off-street parking needs of customers as determined by the Planning Board based upon the anticipated volume of traffic at the site.

10. Hospitals and nursing homes shall have one (1) space for each two (2) beds and one (1) space for each two (2) employees.

11. Places of amusement or public assembly: one (1) space for each fifty (50) square feet of floor area devoted to patron use.

12. Restaurants and cocktail lounges: one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees.

13. Schools shall have one (1) space for each two (2) employees and additional spaces for students as follows:

    a. Elementary, pre-elementary and daycare/nursery schools: one (1) space for each ten (10) students.
    b. Secondary: one (1) space for each five (5) students.
    c. Post secondary: two (2) spaces for each three (3) enrolled students. [Am.5]

14. Wholesale businesses: one (1) space for each three hundred (300) square feet of floor area.

15. For uses not listed in this section, the permitting authority shall prescribe the number which, in no case, shall be less than the adequate number to provide for employees, customers and visitors to the site.

C. New structures or expansions

Any new structure or proposed expansion of an existing structure not possessing the minimum required parking spaces may be approved by the permitting authority only if all other provisions of this Ordinance are met, the Fire Chief has been consulted and has approved the new structure or proposed expansion in writing, no loss of existing off-street parking spaces will result, and the new structure or proposed expansion is designed so as to maximize the potential for off-street parking. [Am. 5]

D. Location on other property

If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the permitting authority can permit that such spaces may be provided on other off-street property provided that such property lies within four hundred (400) feet of the main entrance to such principal use and is in the same zone. Such an automobile parking space shall be associated with the principal use by deed, easement or lease, and shall not thereafter be reduced or encroached upon in any manner, provided however, that it may serve different principal uses at different times of day. Any off-site parking area located more than four hundred (400) feet from the main entrance of the principal use is permitted, provided there is adequate bus transportation from the parking area to and from the principal use.

6.23. Oil and Chemical Storage

A. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38 M.R.S.A., § 541 *et seq.*, as amended, which, among other things, establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities.

B. Oil and chemical storage shall be in conformance with rules and regulations adopted by the State of Maine applicable to the stored substance.

C. The applicant shall have the burden of proof that all provisions of the above laws, rules and regulations have been met before the issuance of any permits may take place.

6.24. ON-SITE CIRCULATION

A. Vehicular circulation

The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles through the site.

1. Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for all vehicles, including tractor-trailers.

2. Except for uses in the Commercial District which meet the Fire Hazard Mitigation standards of this Article 6, clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.

3. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles and prevent their backing out onto a street.

4. All streets and access ways shall be designed to harmonize with the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

B. Pedestrian circulation

The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located within the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, and existing sidewalks in the neighborhood.

6.25. POLLUTION LEVELS

Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination. The land owner, contractor, occupant, or any other person with authority over the land, structure, or activity responsible for the contamination, shall be jointly responsible for the cost of all remedial actions and damages resulting therefrom.

6.26. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal and disturbance of soil, and by retaining existing vegetation during construction. After construction is completed, landscaping shall be completed that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right of way and abutting properties in order to minimize the encroachment of the proposed uses on neighboring land uses. Environmentally sensitive areas such as wetlands, steep slopes, flood plains, and unique natural features shall be maintained and preserved to the maximum extent possible. Natural drainage areas shall be preserved to the maximum extent possible.

6.27. RECREATIONAL VEHICLES

Recreational vehicles shall not be used as a permanent dwelling. Any recreational vehicle used as a temporary dwelling must be stationed only in an authorized campground, mobile home park or trailer park or as an accessory use on the premises of a consenting private property owner for use only by members of the property owner's family or social guests. In order to be considered as a vehicle and not as a structure, the unit must be registered for operation on the roads.

6.28. SIGNS

A. General

It is the intent and purpose of this section to preserve the beauty of the Town and the safety and well-being of its inhabitants while at the same time allowing reasonable advertising and informational signs by regulating the type, number, location and size of such signs.

B. Exempted signs

The following signs are exempt from the provisions of this Ordinance:

1. Customary holiday decorations.

2. Non-commercial signs not exceeding two (2) square feet in area (*e.g.* name signs, no trespassing signs, etc.).

3. Signs erected and maintained for public safety or welfare, or pursuant to and in discharge of any educational or other governmental function or required by law, ordinance or government regulation. [Am. 1]

4. Historical information signs approved by the Selectboard.

5. Real estate signs, provided such sign shall not exceed five (5) square feet in area and shall be removed within one (1) week after the sale closing or rental.

6. Signs and banners announcing a specific event, such as a yard sale, public event or charitable activity may be erected not more than a week prior to the event and must be removed within forty-eight (48) hours of the conclusion of the event, except as the Selectboard may extend the announcement period on a case-by-case basis.

7. Temporary political or opinion signs shall be no more than five (5) square feet in area and shall be removed within five (5) days after the referendum, election or meeting.

8. Open/closed signs and signs announcing seasonal sales of produce, which shall be no more than five (5) square feet in area.

9. Signs identifying contractor(s) on a construction or landscaping site, provided such sign(s) shall not exceed five (5) square feet in area and shall be removed when the construction is complete. [Am.16]

C. Two-sided signs

Each side of a two-sided sign may be as large as permitted for a one-sided sign for the activity.

D. Off-premise signs

Off-premise signs are allowed only as permitted by State law.

E. On-premise signs

1. No sign or notice board shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision and where by reason of its position, shape, color, illumination or wording the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic. [Am.11]

2. Flashing, moving or animated signs are prohibited.

3. No freestanding sign shall be displayed at a height greater than six (6) feet from the ground level. No sign attached to a building shall be displayed on or above the roof eaves of the building.

4. Subject to Section 6.28.C above, no sign shall exceed the following display surface area:

   a. **Home occupation (Residential):** One (1) sign of no more than six (6) square feet.
   b. **Commercial District:** Eighteen (18) square feet.
   c. **Commercial buildings in any other district:** The maximum display area of any sign shall not exceed eighteen (18) square feet.

The maximum total display area of all signs, including attached and detached, on each commercial building (including principal structures in lawful non-conforming commercial use) shall not exceed twenty-seven (27) square feet for each business. Each business shall display no more than two (2) signs on or adjacent to each building. [Am.2]

d. Community, municipal and quasi-municipal facilities: No more than two (2) identification signs shall be allowed, not to exceed a total of twelve (12) square feet in area, for each building devoted to any of the following uses: church, academic building, academic campus, health care facility, library, public recreation area or other permitted community, municipal or quasi-municipal use. Such signs shall be solely for the purpose of identifying the institution, its services, and activities.

e. All other uses in all other districts: Ten (10) square feet.

5. Illuminated signs shall comply with the following restrictions:

a. Illuminated signs shall use indirect lighting not to exceed 10,000 lumens.

b. Signs with internal illumination are prohibited.

c. Any illuminated sign located within a structure outside of the Commercial District or above the ground floor in the Commercial District shall not be visible outside of the structure.

6. Notice boards may be approved by the permitting authority if the notice board does not create a potential traffic or other safety hazard.

6.29. SITE CONDITIONS

A. During construction, the site shall be maintained and left each day in a safe and sanitary manner and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon an order by the CEO or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity; and

B. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris. Excess or scrap building materials

shall be removed or destroyed immediately upon the request of and to the satisfaction of the CEO prior to issuing a Certificate of Occupancy.

6.30. Swimming Pools and Spas

A. Outdoor pools shall be enclosed by a barrier wall at least forty-eight (48) inches in height. The barrier wall may be a stand- alone wall or fence or may be in combination with a structural pool, spa or hot tub wall or a wall of an adjacent building to form the barrier around the pool, spa or hot tub. [Am. 1]

B. Pool effluent, containing chemicals not found in or exceeding the level found in the Town potable water, shall be discharged into the Town sanitary sewer system or other approved disposal system. [Am. 1]

C. Public pools and spas shall comply with the Maine Department of Health and Human Services *Rules Relating to Public Swimming Pools and Spas* (CMR 10-144, Chapter 202, as amended.) [Am. 1]

6.31. Timber Harvesting

REPEALED – The Bureau of Forestry (Maine Forest Service) will administer the regulation of all forestry activities within the municipality.

6.32. Utilities / Sewage Disposal / Waste Disposal / Water Supply

A. Utilities

1. Any above-ground utility installation shall be located so as to have a harmonious relation to neighboring properties and the site.

2. Underground utilities shall be installed prior to the installation of the final gravel base of the road.

4. The size, type, and location of streetlights and utilities shall be shown on the plan and approved by the Planning Board.

D. Sewage disposal

No permit shall be issued for a project with subsurface sewage disposal unless:

1. There is an area of sufficient size of suitable soils, under the Maine State Plumbing Code, to accommodate the proposed system.

2. An acceptable plan to construct the absorption area is prepared in accordance with the Maine State Plumbing Code.

3. A Subsurface Wastewater Disposal System Permit has been issued by the Local Plumbing Inspector (LPI). [Am. 2]

C. Waste disposal

The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.

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

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

D. Water supply

1. The project shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine.

2. For general projects as defined in Article 9, the applicant may be required to construct ponds and dry hydrants to provide for adequate water storage for firefighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Planning Board may waive the requirement for fire ponds only upon the submission of evidence that the soil types in the development will not permit their construction, or that a nearby water supply is accepted by

the Fire Department as available and adequate for firefighting purposes.

6.33. ACCESSORY DWELLING UNITS [Am.15] [Am.16]

A. Square Footage / Utilities / Parking / Lot Size Requirements

1. An accessory dwelling unit shall have no less than one hundred and ninety (190) gross square feet (GSF) of floor area and no more than: one thousand (1,000) gross square feet of floor area in the Village One (1) and Village Two (2) Districts; eleven hundred (1100) GSF in the Village Three (3) District and twelve hundred (1200) GSF in the Rural District. No ADU shall consist of more than two (2) sleeping rooms, one (1) full bathroom, one (1) half bathroom, one (1) kitchen/eating area and one (1) living/sitting room. [Am.15] [Am.16]

2. The accessory dwelling unit and primary residential structure will be served by separate utility services. [Am.15]

3. No additional off-street parking space is required for an accessory dwelling unit. The Town of Castine Traffic Ordinance will govern on street parking. [Am.15] [Am.16]

5. New construction of single-family dwelling with an accessory dwelling unit or construction of an accessory dwelling unit at an existing single-family dwelling requires a minimum lot size for a single-family dwelling in the district in which it is built and shall meet all required setbacks and other applicable dimensional requirements. [Am.15]

6. New construction of an accessory dwelling unit(s) in the Castine Village I, II, and III overlays (on-neck) require Utility Board technical review to ensure Castine's sewer and water systems are adequate to meet the increased sewer and water demand. [Am.16]

6.34 AFFORDABLE HOUSING DEVELOPMENTS [Am 15]

A. Standards

1. In all Districts where multifamily housing is allowed, an affordable housing development shall be permitted to have a dwelling unit density of at least 2-1/2 times the base density that is otherwise allowed in that location, provided one of the following requirements are met: (1) the proposed development is located in a Designated Growth Area; or (2) the proposed development is being served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system. [Am 15]

2. Before granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, the Town shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction: [Am.15]

   A. For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and [Am.15]

   B. For owned housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy. [Am 15]

3. The owner of an affordable housing development shall provide written verification to the Town that each unit of the housing development is connected to adequate water and wastewater services before the Town may certify the development for occupancy. Written verification under this subsection must include: [Am.15]

   A. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any

additional flow created by the unit and proof of payment for the connection to the sewer system; [Am.15]

B. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules; [Am.15]

C. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and [Am.15]

D. If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use. [Am.15]

ARTICLE 7: SHORELAND STANDARDS [Am7. 04-Apr-09; Am10. 26-Mar-11; Am.13 11-May-19]

7.1. AGRICULTURE

A. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (Title 7 M.R.S.A., § 4201-4209, as amended). [Am. 6]

B. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance of water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this Ordinance 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. [Am. 6]

C. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance. [Am. 6]

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

E. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a conservation plan.

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

A. Within the Shoreland Overlay District zoned as a Resource Protection Overlay District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except for the removal of safety hazards and with a permit from the Code Enforcement Officer. Elsewhere, in any Resource Protection Overlay District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that District.

B. Except in areas as described in Section 7.2.A above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water

line of a great pond classified GPA or a river flowing to a great pond classified GPA and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

1. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy or other woody vegetation as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is permitted provided that a cleared line of sight to the water through the buffer strip is not created. [Am. 6]

2. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of twelve (12) or more in any twenty-five (25) foot by twenty-five (25) foot square (625 square feet) area as determined by the following rating system based upon tree diameter at four and one half (4 ½) feet above ground level. Adjacent to other water bodies, tributary streams, and wetlands, "well-distributed stand of trees" shall be defined as maintaining a rating score of eight (8) or more in any twenty-five (25) foot by twenty-five (25) foot square (625 square feet).

For the purposes of this Section "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each twenty-five (25) foot by twenty-five (25) foot rectangle area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until three (3) saplings have been recruited into the plot. [Am. 6] [Am. 7]

a. Two (2) to four (4) inches = one (1) point.
b. Greater than four (4) inches to twelve (12) inches = two (2) points.
c. Greater than twelve (12) inches = four (4) points.
d. Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in

diameter, measured at four and one-half (4 ½) feet above ground level, may be removed in any ten (10) year period.

e. Pruning of tree branches is permitted on the bottom one-third ($^1/_3$) of the tree.

3. 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.

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

5. The provisions of Section 7.2.B shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

C. 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 shall not apply to the Commercial and Maritime Activity Overlay Districts.

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

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

7.3. Erosion and Sedimentation Control

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

1. Mulching and revegetation of disturbed soil.

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

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

B. 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.

C. 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.

D. 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:

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

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

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

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

7.4. ESSENTIAL SERVICES

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

B. 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.

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

7.5. INDIVIDUAL, PRIVATE CAMPSITES

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

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

B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of any great pond classified GPA, and seventy-five (75) feet from the normal high-water line of all other water bodies, tributary streams and wetlands. [Am. 7]

C. 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 a recreational vehicle.

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

E. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the LPI prior to issuance of a permit under this Ordinance. Where disposal is off-site, a written authorization from the receiving facility or land owner is required as part of the application.

F. 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 all State regulations, unless the site is served by a public sewer. Subsurface systems are permitted only in districts where a residential structure would be permitted.

7.6. 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, so as to restore disturbed areas and to protect the public health and safety. Mineral extraction may be permitted under the following conditions:

A. 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 7.6.C below.

B. Unless authorized pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. § 480-C, as amended, no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

C. 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:

1. 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.

2. The final graded slope shall be two to one (2:1) slope or flatter.

3. 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.

4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operation on surrounding

uses and resources, including but not limited to any reasonable form of performance guarantee such as a performance bond.

7.7. PARKING AREAS

A. Parking areas shall meet the shoreline and tributary stream setback requirements for structures in the district in which such areas are located, except that in the Commercial and Maritime Activity Overlay Districts the parking setback shall be at least twenty-five (25) feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities, in districts other than the Commercial and Maritime Activity Overlay Districts may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no reasonable alternative exists.

B. 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.

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

1. A typical space shall be ten (10) feet wide by eighteen (18) feet long, except that parking spaces for a vehicle and trailer shall be forty (40) feet long.

2. Internal travel aisles shall be approximately twenty (20) feet wide.

7.8. 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

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

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

C. The facility shall be located so as to minimize adverse effects on fisheries and navigation.

D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, uses and the character of the area. Except in the Commercial and Maritime Activity Overlay Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed forty (40) square feet in floor area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.

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

F. No existing structure built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwellings in any district.

G. Structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall be subject to Site Plan Review. 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. [Am. 6]

H. Except in the Commercial and Maritime Activity Overlay Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed eight (8) feet in height above the pier, wharf, dock or other structure.

I. If the project requires any State or Federal approval, that approval must be obtained prior to applying to the Town for a permit and included as part of the application package.

7.9. PRINCIPAL AND ACCESSORY STRUCTURES

A. All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any great pond, and seventy-five (75) feet from the normal high-water line of any other water body, tributary stream or the upland edge of any wetland. The water body or wetland setback provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, or to other functionally water-dependent uses.

For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting authority are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Zoning Board of Appeals. [Am. 6] [Am. 7]

B. 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 Section.

C. The total area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed twenty percent (20%) of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed except in the Commercial and Maritime Activity Overlay Districts, where lot coverage shall not exceed sixty-five (65%) percent.

D. 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 Board of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., § 480-C, as amended); and that the applicant demonstrates that no reasonable access alternative exists on the property.

E. 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.

7.10. Roads and Driveways

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

A. 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.

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

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

C. New roads and driveways are prohibited in a Resource Protection District (RP) 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 Resource Protection District, the road 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.

D. 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 Article 6 of this Ordinance.

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

F. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveway shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of

a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

G. 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:

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

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

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

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

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

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

7.11. Septic Waste Disposal

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.

7.12. 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, 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.

7.13. Storm Water Runoff

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

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

7.14. TIMBER HARVESTING

REPEALED – The Bureau of Forestry (Maine Forest Service) will administer the regulation of all forestry activities within the municipality.

7.15. 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.

ARTICLE 8: CODE ENFORCEMENT OFFICER PERMITS

[Am1. 26-Mar-01; Am2. 25-Mar-02; Am3. 07-May-02; Am5. 26-Mar-07; Am6. 24-Mar-08; Am10. 26-Mar-11; Am.16 07-Jun-25]

8.1. CODE ENFORCEMENT OFFICER PERMIT REQUIRED

A permit from the Code Enforcement Officer (CEO) shall be required before beginning or undertaking any of the following activities:

A. Building permit

1. New construction of buildings and structures unless the construction is designated in the Land Use Table as not requiring a permit. [Am. 5]

2. Alteration of existing buildings, structures, or land, or parts thereof, including but not limited to: [Am.16]

   a. Interior renovations for change in use.
   b. Interior renovations which change the structure design. [Am.5] [Am.16]
   c. Interior renovations exceeding 150 square feet in area or ten thousand dollars ($10,000) in total project cost. [Am.16]
   d. Finishing an unfinished room or space. [Am. 3]
   e. Enclosing of open frame porches and decks.
   f. Construction of porches and decks.
   g. Ground or roof mounted installations of solar power array. [Am.16]
   h. Any activity, not otherwise requiring Site Plan Review by this Ordinance, requiring a permit under the Natural Resources Protection Act (NRPA), Title 38 M.R.S.A., § 480-A *et seq.*, including all Permit by Rule (PBR) activities described in CMR 06-096, Chapter 305, as amended. [Am.1]

3. Creation or expansion of roads, driveways or walkways, parking areas, retaining walls and patios. [Am.1] [Am.16]

4. The replacement of existing road culverts in the Shoreland Overlay District, unless the replacement culvert is: [Am.1]

a. Not more than twenty-five percent (25%) longer than the culvert being replaced.

b. Not longer than seventy-five (75) feet; provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

5. The erection, hanging, placement or alteration of a sign or sign structure.

6. Stairways or similar structures to provide shoreline access in areas of steep slopes or unstable soils, in compliance with Section 7.8.D., above. [Am.5]

B. Moving or demolition permit

Relocation of any structure onto or about a lot, or the demolition of any structure. If the relocation or demolition is designated in the Land Use Table as requiring Site Plan Approval from the Planning Board this approval must be granted before the Code Enforcement Officer can issue a permit. [Am.5]

C. Change of use permit

The change in the use of the premises from one land use activity to another, or the creation of an additional use on the premises, unless the new use is designated in the Land Use Table as requiring Site Plan Approval from the Planning Board or as not requiring a permit. If the new use is designated in the land use table as requiring Site Plan Approval from the Planning Board, this approval must be granted before the Code Enforcement Officer can issue a permit.

D. Activities listed in the Land Use Table

Any activity listed in Article 5 of this Ordinance as requiring a permit from the CEO. No permit may be issued under this section for an activity which is part of a site or project that requires Site Plan Approval from the Planning Board, except as provided in Section 8.1.E, below. [Am.1] [Am.5]

E. Approved Site Plan activities

Any activity approved by the Planning Board under the Site Plan Review provisions of Article 9 of this Ordinance.

F. Emergency Permit

Nothing in this Ordinance shall prevent the strengthening or restoration to safe condition of any part of any building or structure declared to be unsafe by the CEO. The CEO may issue an emergency permit to mitigate or correct the unsafe condition, which shall thereafter be attached to any necessary application to the Planning Board.

G. Referral to Planning Board

The Code Enforcement Officer (CEO) may refer any application for an activity, normally requiring only a permit from the CEO under Section 8.1 above, to the Planning Board for Site Plan Approval under Article 9 of this Ordinance. Any application so referred shall be classified as a Miscellaneous Project under Section 9.4. [Am.5]

8.2. PROCEDURE

A. Application

All applications for a CEO permit shall be submitted in writing to the CEO on forms provided for the purpose, together with such fees as required in Article 11 of this Ordinance.

B. True and Correct Information

All information contained in and attached to a permit application shall be true and correct. Any false information will invalidate a permit and stop all work or use authorized by the permit. [Am.1]

C. Application Requirements

All applications for a CEO permit shall be accompanied by a plan, accurately drawn to scale or showing actual dimensions or distances, and showing:

1. The actual shape and dimensions of the lot for which a permit is sought.

2. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies, tributary streams and wetlands within two hundred fifty (250) feet of the property boundaries.

3. The location of new buildings, structures or portions thereof to be constructed.

4. The existing and intended use of each building or structure.

5. Where applicable, the location of soils test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffer strips and private wells.

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

7. Such other information as may be reasonably required by the CEO to provide for the administration and enforcement of this Ordinance.

D. To whom issued

No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

E. Compliance with Land Use Standards

All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Articles 6 and 7 of this Ordinance.

1. 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 Overlay District 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 Code Enforcement Officer.

F. Notification of Abutters

Within three (3) business days of receiving an application, the CEO shall notify abutting property owners by first class mail, of all permit applications for activities and uses not requiring Site Plan Review by the Planning Board except interior remodeling. This notice shall describe the proposed activity and its location, by street address and tax map and lot number. Notice is to be sent to the person to whom property tax bills are sent at the address shown on the Town's tax card for the property.

G. Deadline for decision

The CEO may, within 10 days of receiving an application, and shall, within thirty (30) days of receipt of an application:

- Issue the permit with such terms and conditions as the CEO considers advisable to ensure that the proposed construction and uses meet the provisions of the Ordinance.
- Refer the applicant to the Planning Board for Site Plan Review.
- Deny the application.

All decisions of the CEO shall be in writing. Failure of the CEO to act within thirty (30) days shall not constitute approval of the application. [Am.2]

H. Copies

One (1) copy of the application, with the permit or other written decision of the CEO, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision, shall be retained by the CEO as a permanent public record.

I. Posting

1. The CEO shall post each week a list of all building permits issued within thirty (30) days of the posting. Such list shall include the permit

number, date of issue, name of the property owner of record, and location of the project. The list shall be posted in a conspicuous place in Emerson Hall. [Am.1]

2. A copy of the building permit shall be posted by the property owner or his representative in a conspicuous place at the project site prior to the commencement of construction. The posted copy shall be protected from weather damage and shall remain on display for the duration of all approved construction activity.

J. Commencement and completion of work

1. Construction and alteration activities on projects for which a permit has been granted under this Section shall substantially commence within twelve (12) months from the date of issuance of the permit and shall be substantially completed within twenty-four (24) months from the date of issuance of the permit. [Am.5]

2. Activities may be extended for up to twelve (12) months by the CEO, for good cause, if an application for an extension is submitted in writing to the CEO on forms provided for the purpose, together with such fees as required in Article 11 of this Ordinance prior to expiration of the permit. [Am.2]

3. Activities which are not substantially commenced or substantially completed within the time limits provided above, or any extension thereto, shall be subject to new application and the permit issued under this Section shall be considered void.

K. Appeals

Appeals from decisions of the CEO may be taken to the Zoning Board of Appeals pursuant to Article 14 of this Ordinance. [Am.1]

8.3. Access to Site and Records

The CEO shall have reasonable access to the site at all times while processing the permit application and for the duration of the project to review the progress of the work and shall have the authority to take photographs on site and to review all

records and documents related to the project. By making application for a Building Permit, the applicant and all property owners grant to the CEO permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times, to review the proposed project prior to issuing a permit. By accepting a Building Permit, the applicant and all property owners grant to the CEO permission to review all records and documents related to the project and permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times to review the progress of the work and to inspect the completed project, to ensure compliance with the permit and applicable laws. [Am.1] [Am.2]

ARTICLE 9: SITE PLAN REVIEW BY PLANNING BOARD

[Am 1, 26-Mar-01; Am2, 25-Mar-02; Am5, 26-Mar-07; Am6, 24-Mar-08; Am7, 04-Apr-09; Am8, 27-Mar-10; Am10, 26-Mar-11]

9.1. PURPOSE

The purpose of Site Plan Review is to promote the public health, safety, and general welfare by requiring Planning Board review of plans for certain uses or structures which could have a significant impact on the neighborhood or the environment but which, when properly designed with respect to their surroundings, can become uses or structures that are compatible with the neighborhood and environment.

9.2. ACTIVITIES REQUIRING SITE PLAN REVIEW

Except as provided in Section 9.3, below, Site Plan Review and Approval by the Planning Board shall be required for:

A. Any proposed use, construction, development or activity designated in Article 5 (Land Use Table) as requiring Site Plan Approval from the Planning Board.

B. The expansion of any existing building or structure devoted to a use requiring Site Plan Approval from the Planning Board.

C. The expansion of the parking, loading, outdoor display or storage area of any commercial, industrial or institutional use requiring Site Plan Approval from the Planning Board.

D. Hazardous activities involving the consumption, generation, or handling of:

1. Hazardous wastes as defined in Title 38 M.R.S.A., § 1303.
2. Hazardous materials as defined in Title 38 M.R.S.A., § 1317.
3. Oil, as defined in Title 38 M.R.S.A., § 542.
4. Low-level radioactive wastes, as defined in Title 38 M.R.S.A., § 1451.

E. Any other use, construction, development or activity for which this Ordinance requires review and approval by the Planning Board.

9.3. ACTIVITIES NOT REQUIRING SITE PLAN REVIEW

Unless specifically required by Article 5 or by some other provision of this Ordinance, Site Plan Review shall not be required for any proposed use, construction, development or activity designated in Article 5 (Land Use Table) as requiring only a permit from the CEO or as requiring no permit at all. [Am. 5]

A. Any hazardous activity identified by the Maine Department of Environmental Protection, as exempt from the definition of hazardous activity in Title 38 M.R.S.A., § 482, Subsection 2-C, including domestic and other uses of substances in quantities too small to present a significant risk of ground water contamination.

9.4. CLASSIFICATION

Any proposed use, construction, development or activity subject to Site Plan Review shall be classified by the CEO into one of the following classes:

A. General Project

Any proposed use, construction, development or activity not classified by the CEO as a Miscellaneous Project under Section 9.4.B shall be considered a General Project under this Section.

B. Miscellaneous Projects [Am.1]

A project that involves any of the following:

1. Any project where Site Plan Review is made necessary solely because the project is located in a Resource Protection Overlay District.
2. Any project where Site Plan Review is made necessary solely because the project is located in the Source Water Protection Overlay District. [Am.6]
3. Home occupations.

4. Any application referred by the CEO under Section 8.1 above. [Am.5]

9.5. PROHIBITION

No activity or use described in Section 9.2 shall commence until the property owner has received Site Plan Approval from the Planning Board and has received any necessary permits from the CEO under Article 8.

9.6. SITE PLAN REVIEW APPLICATION

Applications for Site Plan Review shall be submitted on application forms provided by the Town. The executed application form, required fees, and required plans and related information shall be submitted to the CEO who shall forward it to the Planning Board if in his opinion the application is complete. The submission shall contain at least the following exhibits and information:

A. Application form

A fully executed and signed copy of the application form.

B. Fees

Site Plan Review Fees in the amounts specified in Article 11.

C. Original drawing

One (1) original of all maps and drawings on durable, permanent material. The Planning Board may require Mylar media where it deems it necessary.

D. Copies

Eight (8) copies of written materials plus eight (8) sets of maps or drawings containing the information listed below. The written materials shall be contained in a bound report or a three-ring notebook. The maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval.

E. General information

The following general information is required:

1. Name of owner of record and address.

2. Applicant's name and address if different.

3. The name of the proposed project.

4. Names and addresses of all abutting property owners and the names and addresses of all owners of other property whose closest boundary line is within one hundred fifty (150) feet of a boundary line of the project lot(s) which is the subject of the application. [Am. 6]

5. Sketch map showing general location of the site within the Town.

6. Location map showing the boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.

7. The tax map and lot numbers of the parcel or parcels.

8. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title, or interest in the property on the part of the applicant.

9. The name, registration number, and seal of each land surveyor, architect, engineer, and/or similar professional assisting in the preparation of the plan.

F. Information regarding existing conditions

The following information regarding existing conditions is required:

1. Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in more than one (1) zoning district or abuts a different district.

2. The bearings and distances of all property lines of the property to be developed and the source of this information, prepared by a State of Maine Registered Land Surveyor as a Standard Boundary Survey. A Standard Boundary Survey is not required for a Miscellaneous Project.

3. Location and size of any existing sewer and water mains, culverts, and drains on the property to be developed and of any that will serve the development from abutting streets or land.

4. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.

5. The location, dimensions and ground floor elevations of all existing buildings on the site.

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

7. Location of intersecting roads or driveways within two hundred (200) feet of the site.

8. Topography of the project site at an appropriate contour interval (*e.g.* 1, 2, or 5 feet) depending on the nature of the use and character of the site. Site topography information is not required for a Miscellaneous Project.

9. Major natural features on the site and including within two hundred fifty (250) feet of the boundaries of the site, wetlands, streams, great ponds, floodplains, tributary streams, groundwater aquifers, significant wildlife habitats including deer wintering areas identified in the current Castine Comprehensive Plan, scenic areas identified in the current Castine Comprehensive Plan, archaeological resources or other

important natural features. Major natural features information is not required for a Miscellaneous Project.

10. Soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified.

11. The location of open drainage courses, wetlands, significant stands of trees, and other important natural features, with a description of such features to be retained.

12. The direction of existing surface water drainage flow across the site.

13. The location and dimensions of existing signs.

14. The location and type of all existing exterior lighting;

15. For projects located within the Source Water Protection Overlay District, any information required by Section 4.7.D. [Am.6] [Am.7]

16. For lawful non-conforming structures subject to Section 3.4.A.1, the floor area and enclosed volume of the original structure, the amount of any previous expansions of the floor area and enclosed volume of the original structure and the amount of any expansions of the floor area and enclosed volume of the original structure being currently requested. [Am.7]

G. Information regarding the proposed project

The following information regarding the proposed project is required:

1. The location of all building setbacks, yards, and buffers required by this Ordinance.

2. The location, dimensions, including heights, and ground floor elevations of all proposed buildings on the site.

3. The location and dimensions of proposed driveways, parking and loading areas, and walkways.

4. The location, capacity and dimensions of all proposed water supply and wastewater disposal systems.

5. The direction of proposed surface water drainage flow across the site and the location and size of all proposed catch basins, drainage ditches, and storm sewers.

6. Location, front view, and dimensions of proposed signs.

7. Location and type of proposed exterior lighting.

8. Proposed landscaping and buffering for non-residential projects. [Am.6]

9. If the project includes new construction or any soil disturbance, an erosion control plan showing methods of controlling erosion and sedimentation during and after construction.

10. If the project is a cluster development or is owned in condominium, evidence that all requirements relative to establishment of a homeowners' association or condominium agreement have been met. If the project is a cluster development, evidence shall be presented that all other requirements of the Castine Subdivision Ordinance pertaining to cluster development have been met. The submission shall include copies of the by-laws or regulations of any homeowners' association or condominium charged with maintaining common spaces and lands. Such homeowners' association or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the Town may accept them as public ways.

11. If a public water supply is to be utilized for a fire sprinkler system or private fire hydrant, a written statement from a professional engineer

as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows.

12. If the project includes a new sewage disposal facility with a capacity of two thousand (2,000) gallons or more per day, or a new on-site public water supply system, a groundwater impact analysis prepared by a groundwater hydrologist.

13. If the project includes a multi-unit housing development providing ten (10) or more housing units located on a single parcel of land or a non-residential building or buildings on a single parcel of land which occupies a ground area in excess of twenty-five thousand (25,000) square feet, a traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.

14. If applicable, written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public ownership or use.

15. Design and construction drawings prepared by a State of Maine Registered Professional Engineer for any street or appurtenance, sanitary sewer system, water system or storm drainage system the applicant proposes to construct for public ownership and a signed statement that the applicant will maintain such facilities until such time as they may be accepted by the Town.

16. A schedule of construction, including anticipated beginning and completion dates.

17. A list of the submission and review criteria for which the applicant seeks a waiver pursuant to Sections 9.15 or 9.16, and a written explanation of the reasons for seeking the waiver.

9.7. REVIEW PROCEDURES

The procedures for Site Plan Review are as follows:

A. Step 1: Submission of completed application to the CEO
The applicant shall submit the requisite number of copies of the application and supporting information required by Section 9.6.

B. Step 2: CEO classification and review

1. Dated receipt

The CEO shall date-stamp the application. [Am.7]

2. Classification

The CEO shall review the application and classify it pursuant to Section 9.4. [Am.7]

3. Fees submitted

After classification, the applicant shall provide the CEO with the applicable fees established in Article 11.

4. Review for completeness

The CEO shall initially review the application and determine whether or not it is complete.

5. Notice of incomplete application.

If the application is found to be incomplete, the CEO shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, Steps 1 and 2 shall be repeated. [Am.1]

6. Application forwarded

If the application is found to be complete, the CEO shall forward copies of a complete application and supporting documents to the members of the Planning Board and place the project on the agenda of the next regular Planning Board meeting occurring not less than fourteen (14) days after the CEO determines the application is complete.

7. Notice to abutters and nearby property owners

Abutting property owners and all owners of other property whose closest boundary line is within one hundred fifty (150) feet of a boundary line of the project lot(s) which is the subject of the application shall be notified by first class mail by the Town, of all pending applications for Site Plan Review. This notice shall indicate the time, date, and place of Planning Board consideration of the application. Notice is to be sent to the person to whom property tax bills are sent at the address shown on the Town's tax card for the property. [Am.1] [Am.6]

C. Step 3: Planning Board review

At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:

1. Determination of completeness

Determine whether or not the application is complete. For applications filed after March 27, 2010, if an abutter notifies the Planning Board at or prior to the first site plan review meeting of the Planning Board to consider the application that there is a boundary line dispute between the abutter and the applicant, which affects the applicant's ability to meet the setback requirements of the Ordinance, the Planning Board shall table the application for a period of one hundred twenty (120) days from the date of the meeting. Upon the expiration of such one hundred twenty (120) day period or such shorter period if the Planning Board has received evidence that the boundary line location has been resolved, at the next regular meeting of the Planning Board: (a) if only the applicant has submitted a Standard Boundary Survey prepared by

a State of Maine Registered Land Surveyor, the Planning Board shall make its findings based upon such Survey; or (b) if both the applicant and the abutter have each submitted a Standard Boundary Survey prepared by a State of Maine Registered Land Surveyor, the Planning Board shall not review the application until the Planning Board has received evidence that the boundary line location has been resolved. [Am.8]

2. Notice of incompleteness

If the application is determined to be incomplete, the Board shall inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, Step 1 shall be repeated. [Am.1] [Am.7]

3. Request for waivers of application requirements

Hear any requests from the applicant for waivers pursuant to Sections 9.15 and 9.16.

4. CEO report

Hear any report of the CEO and if the Town has retained the services of a professional adviser, the report of the adviser regarding the proposed development.

5. Applicant's response

Hear any comments of the applicant regarding the CEO's report and the Town's professional adviser's report, if any.

6. Public hearing determination

If the application is determined to be complete, the Planning Board shall deem the application pending and shall set a public hearing. The Planning Board may set a public hearing on an application on the same day such application is reviewed for completeness, but no later than

forty-five (45) days after the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record at a public meeting. Any public hearing held for the purpose of hearing testimony regarding proposals requiring Site Plan Approval under this Ordinance, and notice thereof, shall be governed by Section 9.8. [Am.7]

D. Step 4: Planning Board deliberation and decision

1. Deliberation

Within thirty-five (35) days after the public hearing on an application, or within thirty-five (35) days of a determination of completeness by the Planning Board if no hearing is held, the Planning Board shall deliberate to determine whether the proposed Site Plan complies with all provisions of this Ordinance and meets the Criteria of Approval set forth in Section 9.14. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record at a public meeting.

2. Decision

If the Planning Board finds that the proposed Site Plan complies with all such standards it shall issue a written decision granting Site Plan Approval; approval shall, however, be subject to such terms and conditions set forth in its decision as the Planning Board considers advisable to ensure conformity with the Site Plan Review Standards and Criteria or any other provisions of this Ordinance. If the Planning Board finds that the proposed Site Plan does not comply with all applicable review standards, it shall issue a decision denying Site Plan Approval. In either case the Planning Board shall issue its written decision, which shall include specific findings of fact supporting its decision, within ten (10) days (exclusive of Saturdays, Sundays and legal holidays) after the completion of its deliberations.

E. Step 5: CEO building permit or use permit

If the Planning Board approves the Site Plan Application, the CEO shall issue a permit upon receipt of a written decision issued pursuant to Section 9.7.D.2, above. [Am.6]

1. For lawful non-conforming structures subject to Section 3.4.A.1, the permit shall indicate the floor area and enclosed volume of the original structure, the amount of any previous expansions of the floor area and enclosed volume of the original structure and the amount of any expansions of the floor area and enclosed volume of the original structure currently granted by the Planning Board. [Am.7]

2. For lawful non-conforming structures subject to Section 3.4.A.1, the permit is not valid until recorded by the Town in the Hancock County Registry of Deeds. The applicant shall pay the Town the recording fee and the Town shall record the permit within thirty (30) days after receipt of the fee. [Am.7]

9.8 Public Hearing Procedures

Site Plan Review public hearings and notice thereof shall comply with the following procedures:

A. Published notice

Notice of any Site Plan Review public hearing shall be published in a newspaper of general circulation in the Town of Castine at least ten (10) days prior to the hearing date.

B. Content of notice

Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the hearing, and explain how the recipient of the notice may attend and present evidence. Forms for this purpose shall be available from the CEO.

C. Rules

Hearings shall be conducted according to rules adopted by the Planning Board.

D. Representation

At any hearing a party may be represented by an agent or attorney provided, however, if any party is not present, any person acting as that party's agent or attorney shall provide evidence of such authority.

E. Continuation

Any hearing may be continued or recessed to another time for good cause, or upon written or recorded agreement of the Planning Board and the applicant.

9.9 Professional Review

A. Additional studies.

The Planning Board may require the applicant to undertake and present such additional studies as it deems reasonable and necessary to ensure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.

B. Independent technical review

The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application and the choice of such professionals shall be at the sole discretion of the Planning Board. The independent consultant(s) shall report to the Planning Board as to the project's compliance or non-compliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include but not be limited to:

An Attorney.

- A Community Planner.
- A Registered Professional Engineer.
- A Registered Architect.
- A Registered Landscape Architect.
- A Registered Geologist.
- A Licensed Soil Scientist.
- A Registered Land Surveyor.
- Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified by the Planning Board.

The cost of such technical review shall be borne by the applicant. The consultant(s) selected shall estimate the cost of such review and the applicant shall pay the Town the full estimated cost in accordance with Section 11.5. [Am.6]

9.10. FAILURE TO ACT

Failure of the Planning Board to act within any of the time requirements set forth herein shall constitute a denial of the application.

9.11. EXPIRATION OF APPROVALS

A. All Site Plan Approvals shall expire unless work on the project is substantially commenced within twelve (12) months from the date of issuance of the Site Plan Approval and substantially completed within twenty-four (24) months from the date of issuance of the Site Plan Approval. [Am. 5]

B. Activities may be extended for up to twelve (12) months by the Planning Board, for good cause, if an application for an extension is submitted in writing to the CEO on forms provided for the purpose, together with such fees as required in Article 11 of this Ordinance prior to expiration of the Site Plan Approval. [Am.5]

C. Activities which are not substantially commenced or substantially completed within the time limits provided above, or any extension thereto, shall be

subject to new application and the Site Plan Approval issued under this Section shall be considered void. [Am.5]

9.12. Other Permits

The granting of Site Plan Approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, Historic Preservation Certificate, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38 M.R.S.A., Maine Department of Environmental Protection and United States Army Corps of Engineers' approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to Site Plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards, but shall not be deemed conclusive evidence as to compliance.

9.13. Access to Site and Records

The Planning Board shall make a site visitation in any case it deems appropriate. The CEO, members of the Planning Board and any consultant to the Planning Board shall have reasonable access to the site at all times while reviewing the permit application and for the duration of the project to review the progress of the work and shall have the authority to take photographs on site and to review all records and documents related to the project. By making application for a Site Plan Review, the applicant and all property owners grant to the CEO, members of the Planning Board and any consultant to the Planning Board permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times, to review the proposed project prior to issuing a permit. By accepting a Building Permit, the applicant and all property owners grant to the CEO, members of the Planning Board and any consultant to the Planning Board permission to review all records and documents related to the project and permission to enter upon the affected property and into any structures involved in the proposed project, at all reasonable times, to review the progress of the work and to inspect the completed project, to ensure compliance with the permit and applicable laws. [Am.1] [Am.2] [Am.5]

9.14. SITE PLAN REVIEW CRITERIA

The Planning Board in reviewing projects requiring Site Plan Approval under this Ordinance shall make positive written findings that the applicant has submitted adequate evidence showing that with respect to the completed project: [Am.6]

A. The proposed project complies with the dimensional requirements of Article 5, Article 6 and Article 7 which include minimum lot area, minimum lot width, minimum shore frontage, front yard setback, side yard setback, rear yard setback, shoreline setback, maximum structure height, maximum percent of lot coverage and maximum cleared opening. [Am.6]

B. The proposed project complies with the district overlay requirements of Section 4.7., if applicable. [Am.6]

C. The proposed project complies with the flood hazard area requirements of Section 6.4., if applicable. [Am.6]

D. Any traffic increase attributable to the proposed project will not result in unreasonable congestion or unsafe conditions in the vicinity of the proposed development and adequate provisions have been made for traffic movement of all types (including pedestrian) into, out of, and within the proposed project and adequate provisions have been made for off street parking and loading. [Am.6]

E. That the proposed project will be built on soil types which are suitable to the nature of the project and that adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, over-burdening of natural or artificial drainage systems, and/or any other adverse effects of inadequate drainage.

F. Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site.

G. Adequate provision has been made to avoid any nuisance to the use of adjoining public or private property. [Am.6]

H. Adequate provision has been made with regard to the preservation of significant natural features and vistas available to the general public as set forth in the current Castine Comprehensive Plan. The Planning Board shall not give consideration to private views in making this determination. [Am.6]

I. Adequate provision has been made to avoid unreasonable adverse effects on the scenic or natural beauty of the area including scenic areas designated in the current Castine Comprehensive Plan, historic sites, archaeological resources, rare and irreplaceable natural areas, wildlife habitats including identified deer wintering areas, existing uses, air quality, water quality, or other natural resources within the town or in neighboring towns.

J. Whenever a project is situated, in whole or in part, within the Shoreland Zone, adequate provision has been made to conserve shoreland vegetation, visual points of access to waters as viewed from public facilities, and actual points of public access to waters. [Am.6]

K. Adequate provision has been made to prevent any unreasonable adverse effect upon adjacent or nearby properties or property values; in making this determination, the Planning Board shall give consideration to conformity of the project with the purposes of this Ordinance as set forth in Section 1.4. [Am.5] [Am.6]

L. Adequate provision has been made to avoid any unreasonable burden on municipal services, including but not limited to water, sewer, fire and police services. [Am.6]

M. Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements.

N. Adequate provision has been made to assure that the proposed development conforms in all respects with the provisions of this Ordinance.

9.15. Waiver of Certain Application Requirements

The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in Section 9.6 provided such waiver will not materially compromise the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. The Planning Board shall make a written record of any waivers granted stating the reasons for granting the waiver. Good cause or grounds to support a waiver may include the Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

9.16. Waiver of Certain Review Criteria

The Planning Board, may upon the written request of an applicant specifically stating the reasons therefor, waive any of the Review Criteria set forth in Section 9.14. when it finds that such a waiver is reasonable and that the public health, safety, or welfare would not be adversely affected by such a waiver. The Planning Board shall make a written record of any waivers granted stating the reasons for granting the waiver. Grounds to support a waiver may include the Board's finding that particular criteria are inapplicable, unnecessary, or inappropriate for a complete review.

9.17. Appeals

An aggrieved party who participated in the Site Plan Review process may appeal the final decision of the Planning Board under Section 9.7.D.2. to the Zoning Board of Appeals. Such appeal must be filed no later than thirty (30) days after the Planning Board issues its written decision under Section 9.7.D.2. Preliminary and procedural determinations made by the Code Enforcement

Officer or the Planning Board during Site Plan Review, including without limitation, classification of projects, determination of completeness and granting or denial of waivers, are not in themselves appealable to the Board of Appeals, but may be reviewed by the Board of Appeals when it considers a timely appeal from the final decision from the Planning Board on the Site Plan Review application.

ARTICLE 10: CERTIFICATE OF COMPLETION, OCCUPANCY OR USE

[Am 1. 26-Mar-01; Am5. 26-Mar-07]

10.1. No Certificate of Completion or Occupancy or Use shall be issued unless the building, structure or use conforms to the provisions of this Ordinance and any Site Plan or conditions of approval. [Am.1]

10.2. A Certificate of Completion issued by the Code Enforcement Officer (CEO) and certifying applicable provisions of this Ordinance have been satisfied may be requested by the applicant after any building, structure, or part thereof has been erected, altered, or moved pursuant to a permit. [Am.1] [Am.5]

10.3. A Certificate of Occupancy and/or Use issued by the CEO and certifying applicable provisions of this Ordinance have been satisfied must be obtained in the following circumstances: [Am.1]

A. After a building has been constructed, expanded or modified for use as an inn, hotel or bed and breakfast, before such construction, enlargement or modification may be used or occupied. [Am.1]

B. After a building has been modified to accommodate additional rental dwelling units, before such units may be rented, used or occupied. [Am.1]

C. After a building has been expanded to accommodate additional commercial, institutional, or industrial uses, before such spaces may be used or occupied. [Am.1]

D. After a building or structure has been modified to accommodate a home occupation, before said home or structure may be used or occupied for a home occupation. [Am.5]

10.4. No Certificate of Occupancy shall be issued until any necessary approvals or certifications from the Local Plumbing Inspector (LPI) are obtained. [Am.5]

10.5. It is the responsibility of the permit applicant to obtain a Certificate of Completion, Occupancy and/or Use. [Am.1]

10.6. A Certificate of Completion, Occupancy and/or Use certifies compliance with the provisions of this Ordinance only and does not certify compliance with any other codes or standards. [Am. 1]

ARTICLE 11: FEES

[Am1. 26-Mar-01; Am2. 25-Mar-02; Am3. 07-May-02; Am4. 04-Apr-05; Am6. 24-Mar-08; Am7. 04-Apr-09]

11.1. GENERAL PROVISIONS [Am.16]

A. Application incomplete until payment of required fees

Applications for any of the permits, approvals, or certificates specified below which are not accompanied by a check in the amount of the required fee shall be considered incomplete and no action will be taken on said application until a check for the required amount has been received by local officials.

B. Check, credit card or cash payment to Town [Am.16]

All fees may be paid in the form of a check/cash/credit or debit card payable to the Town of Castine. The purpose of the fee shall be clearly indicated on the check if the applicant is using that form of payment. Any check returned by a bank for non-payment will immediately void the application and any resultant permit. Castine will accept credit/debit card payments either in person or over the phone. There will be a credit/debit card surcharge increase in the fee to defray the credit/debit card processing cost. [Am.1] [Am.16]

11.2. BUILDING PERMIT FEES [Am.16]

A. Basic fees

1. A non-transferable, non-refundable base fee of fifty dollars ($50) plus a non-transferable, non-refundable additional fee must accompany the building permit application. [Am.2] [Am.16]

2. A non-transferable, non-refundable fee of fifty dollars ($50) must accompany the application for a permit extension pursuant to Section 8.2.J.2. [Am.2] [Am.6] [Am.16]

3. A non-transferable, non-refundable fee of twenty dollars ($20) must accompany the application for written approval by the Fire Chief pursuant to Section 6.9. [Am.2] [Am.6] [Am.16]

B. New building construction additional fee [Am.16]

For new building construction there shall be a non-transferable, non-refundable base fee of fifty dollars ($50) plus an additional non-transferable, non-refundable fee. The additional fee is based upon the greater of: 1) the square footage cost determined by using the New Construction Cost Table (§ 11.2.F. below) or 2) the actual cost. The additional fee for new construction is calculated as follows: [Am.1] [Am.2] [Am.4] [Am.16]

1. Determine the applicable construction type from Column One of the New Construction Cost Table. [Am.1]

2. Determine the Unit Cost for this type construction from Column Two of the New Construction Cost Table. [Am.1]

3. Multiply the Unit Cost by the square footage of the construction to determine the total cost of the project. [Am.1]

4. Determine the greater of the calculated cost or the actual cost and find the corresponding cost range in Column One of the Additional Fee Table (§ 11.2.G. below). [Am.1] [Am.4]

5. Determine the additional fee in Column Two that corresponds to the cost range determined above. [Am.1]

C. New construction additional fee [Am.16]

For new construction other than new building construction, there shall be a non-transferable, non-refundable base fee of fifty dollars ($50) plus an additional non-transferable, non-refundable fee based upon the estimated cost of the project. In the event the actual cost of the project exceeds the estimated cost, the fee corresponding to the actual cost must be paid to the Town. The applicant shall inform the CEO of the actual cost and the CEO shall verify this cost. The additional fee for new construction is calculated as follows: [Am.1] [Am.2] [Am.16]

1. The applicant shall inform the CEO of the estimated cost and state the estimated cost on the application. [Am.1]

2. Find the corresponding cost range in Column One of the Additional Fee Table (§ 11.2.G below). [Am.1]

3. Determine the additional fee in Column Two that corresponds to the cost range determined above. [Am.1]

D. Remodeling fees [Am.16]

For remodeling there shall be a non-transferable, non-refundable base fee of fifty dollars ($50) plus an additional non-transferable, non-refundable fee based upon the estimated cost of the remodeling. In the event the actual cost of the remodeling exceeds the estimated cost, the fee corresponding to the actual cost must be paid to the Town. The applicant shall inform the CEO of the actual cost and the CEO shall verify this cost. The additional fee for remodeling is calculated as follows: [Am.1] [Am.2] [Am.16]

1. The applicant shall inform the CEO of the estimated cost and state the estimated cost on the application. [Am.1]

2. Find the corresponding cost range in Column One of the Additional Fee Table (§ 11.2.G below). [Am.1]

3. Determine the additional fee in Column Two that corresponds to the cost range determined above. [Am.1]

E. Demolition or change of use fees [Am.16]

For demolition or change of use applications, there shall be a non-transferable, non-refundable base fee of fifty dollars ($50). [Am.4] [Am.16]

F. New Building Construction Cost Table [Am.1] [Am.2] [Am.3] [Am.7] [Am.16]

1. Construction Type		2. Unit Cost per Square Foot
Commercial	All Floors, All Spaces	$270.00 / s.f.
Industrial	All Floors, All Spaces	$270.00 / s.f.
Institutional	All Floors, All Spaces	$270.00 / s.f.
Municipal	All Floors, All Spaces	$270.00 / s.f.
Residential	Basement, Unfinished	$37.50 / s.f.
	Basement, Finished	$135.00 / s.f.
	Main Living Floor	$180.00 / s.f.
	Secondary Floor(s)	$150.00 / s.f.
	Walk-Up, Unfinished Attic	$37.50 / s.f.
Garage	Car Area	$45.00 / s.f.
	Unfinished Room	$37.50 / s.f.
	Finished Room	$135.00 / s.f.
Finish an Unfinished Room [Am.16]		$97.50 / s.f.
Deck [Am.16]		$45.00 / s.f.
Covered Porch [Am.16]		$90.00 / s.f.
Prefabricated/factory-built building 200 square feet or smaller, or temporary structure [Am.16]		$12.00 / s.f.

Zoning Ordinance – Adopted: 28-Mar-2000
Amended: 26-Mar-01
Amended: 25-Mar-02
Amended: 07-May-02
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Amended: 26-Mar-11
Amended: 01-Jun-13
Amended: 23-Sept-13
Amended: 11-May-19
Amended: 11-Jul-20
Amended: 11-May-24
Last Amended: 07-Jun-25

G. Additional Fee Table [Am.1] [Am.2] [Am.7] [Am.16]

1. Cost Range of Project			2. Additional Fee
$1	To	$1,500	$25.00
$1,501	To	$5,000	$37.50
$5,001	To	$20,000	$75.00
$20,001	To	$35,000	$87.50
$35,001	To	$50,000	$150.00
$50,001	To	$75,000	$225.00
$75,001	To	$100,000	$300.00
$100,001	To	$1,000,000	$3.00 per $1,000 of Cost
Costs Over $1,000,000			$1.50 per $1,000 of Cost

11.3. SITE PLAN REVIEW FEES [Am.16]

The fees required to cover the administrative costs associated with Site Plan Review under this Ordinance are as follows:

A. The non-transferable, non-refundable fee to accompany an application for a General Project is two hundred dollars ($200). [Am.16]

B. The non-transferable, non-refundable fee to accompany an application for a Miscellaneous Projects is fifty dollars ($50). [Am.16]

C. This Ordinance is available for $20.00 per copy and application forms are available at no cost. [Am. 16]

11.4. AFTER-THE-FACT APPLICATION FEE

Any Site Plan Review Application or Building & Use Application submitted after an activity, project or use has commenced shall be subject to an additional non-transferable, non-refundable fee, in addition to those required by Section 11.2 and Section 11.3 above, equal to twice the fee required by Section 11.2 and Section 11.3. This fee shall be paid prior to the review of any after-the-fact application by the Permitting Authority. [Am. 6]

11.5. TECHNICAL REVIEW FEE

In addition to the fees required by Section 11.2, Section 11.3 and Section 11.4 above, the applicant shall pay a separate fee of five hundred dollars ($500) to be used to reimburse the time and expenses incurred by the Town's Planning Consultant, if the Town has retained the services of such a Consultant, and/or such other independent consultant(s) the Board may deem necessary to assist it with its review of the application. Such other consultants shall be fully qualified to provide the required assistance, and may include but are not limited to: [Am. 1]

- An Attorney.
- A Registered Professional Engineer.
- A Registered Architect.
- A Registered Landscape Architect.
- A Registered Geologist.
- A Licensed Soil Scientist.
- A Registered Land Surveyor.
- Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified by the Planning Board.

This Technical Review Fee shall be paid prior to the start of the Planning Board's review of any application for Site Plan Review deemed by the Planning Board to require review by a consultant. This fee shall be paid in the form of a check made payable to the Town of Castine and the purpose of the fee shall be clearly indicated on the check. [Am. 1]

If the balance of the unexpended funds is drawn down by fifty percent (50%) or more, the applicant shall be notified and required to pay an additional two hundred fifty dollars ($250). The applicant shall continue to be notified and required to pay the appropriate additional amounts as necessary whenever the balance of the funds is drawn down by fifty percent (50%) of the original amount. Failure to pay the required amount within thirty (30) days shall also be a violation of this Ordinance and be cause to stop the review process. Any balance remaining, after the completion and inspection of required improvements, shall be returned to the applicant.

11.6. Zoning Board of Appeals Administration Fees [Am.16]

All applications for administrative appeals and variances to the Zoning Board of Appeals under this Ordinance shall be accompanied by a non-transferable, non-refundable fee of two hundred dollars ($200). [Am.1] [Am.6] [Am.16]

11.7. Contract Zoning Application Fees [Am.16]

All applications to the Planning Board for contract zoning under this Ordinance shall be accompanied by non-transferable, non-refundable fee of two hundred dollars ($200). [Am.2] [Am.6] [Am.16]

11.8. Adjustment of Fees by Selectboard

Any or all of the foregoing cost schedules or fees may be adjusted from time to time as circumstances require by vote of the Selectboard, after notice and hearing. Fees shall at all times not exceed the reasonable cost of processing, review, regulation and supervision of the application by the Town and its consultants and the administration of any requirement for a Certificate of Compliance with any permit conditions. Fee adjustments shall take effect immediately upon approval and shall be inserted into this Ordinance and incorporated herein as though originally enacted as part hereof. Fee adjustments by the Selectboard shall be identified as such and include the date of adjustment. [Am.2]

ARTICLE 12: ENFORCEMENT [Am1. 26-Mar-01; Am3. 07-May-02; Am4. 04-Apr-05]

12.1. CODE ENFORCEMENT OFFICER

A. The Code Enforcement Officer (CEO) shall be appointed pursuant to Title 30-A M.R.S.A., § 2601-A, as amended. [Am.1] [Am.3] [Am.4]

B. The CEO shall be certified by the Executive Department, State Planning Office pursuant to Title 30-A M.R.S.A., § 4451, as amended. [Am.1]

C. It shall be the duty of the CEO to enforce the provisions of this Ordinance and other Town Ordinances as required therein. [Am.1]

D. The CEO shall provide staff support to the Planning Board. [Am.1]

12.2. ENFORCEMENT PROCEDURE

A. If the CEO shall find that any provision of the Ordinance is being violated, the CEO 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 Selectboard and be maintained as a permanent record. Any such notice is not a prerequisite to bringing any legal action noted in Section 12.3 below, and the failure to give notice shall not in any way affect such legal action. However, any such notice constitutes a final determination by the Code Enforcement Officer, which is not merely advisory and which is subject to review by the Board of Appeals in an Administrative Appeal under Section 14.2.A, and which, if not appealed, becomes binding, final administrative action. [Am.1]

B. The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.

C. The CEO shall keep a complete record of all essential transactions of his office, including applications submitted, permits granted or denied, 30-

percent-expansion records, variances granted or denied, revocation actions, violations investigated, violations found, and fees collected.

12.3. Legal Action

The Selectboard, upon notice from the CEO, may institute any and all actions, and proceedings, either legal or equitable, including seeking injunctions against violators and the imposition of fines that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Castine. The Selectboard, or their authorized agent, is hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and assessing fines without Court action. Such agreements should 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 verified erroneous advice given by an authorized Municipal Official and there is no evidence that the owner acted in bad faith.

12.4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be assessed a monetary penalty on a per-day basis in accordance with Title 30-A M.R.S.A. § 4452, as amended. [Am. 1]

ARTICLE 13: PLANNING BOARD [Am 1, 26-Mar-01; Am5, 26-Mar-07; Am8, 27-Mar-10]

13.1. AUTHORITY

The Planning Board created by the Town on March 21, 1960 is hereby authorized to exercise all powers delegated to the Planning Board by the provisions of this Ordinance. The Planning Board also continues to have the authority to administer the Town of Castine Subdivision Ordinance, and any other Town Ordinance granting such powers to the Planning Board.

13.2. ESTABLISHMENT AND ORGANIZATION OF PLANNING BOARD

There shall be a Planning Board of five (5) members and two (2) associate members appointed by the Selectboard. Only residents of the Town of Castine are eligible to serve on the Planning Board. Neither a Municipal Officer nor the spouse of a Municipal Officer may be a member or associate member of the Board.

The Planning Board in existence at the time of the enactment of this Ordinance is continued and its members are hereby appointed to serve under this Ordinance in that capacity and for the balance of their previously appointed terms.

Members shall be appointed by the Selectboard with terms of five (5) years. The terms of the members shall be such that the term of at least one (1) member will expire each year. The term of the associate members shall be one (1) year, and they shall be designated first and second associate in the order of their seniority by appointment. The Selectboard may dismiss a member or associate member of the Planning Board for cause, after notice and hearing, before the member's or associate member's term expires. [Am 5]

In the absence or inability of members, the first and/or second associate shall act in the order of their seniority by appointment. The associate members may also act in place of any member who abstains or is unable to vote due to a conflict of interest or any other reason. In the case of resignation or dismissal of a member, and with the approval of the Selectboard, the first associate shall become a regular member for the remainder of the unexpired five (5) year term, the second associate shall become the first associate, and the Selectboard shall appoint a new second Associate for the remainder of the unexpired one (1) year term. [Am 5]

The Planning Board shall keep minutes of its proceedings, recording the vote of each member on all matters coming before the Planning Board. The minutes of the Planning Board and all correspondence shall be a public record. The presence of three (3) voting members of the Planning Board shall constitute a quorum for conducting a meeting and deliberating and voting on a particular matter. A member who abstains or is disqualified or recused from deliberation and voting on a particular matter shall not be counted in determining whether a quorum exists for such matter. The concurring opinion of a majority of the voting members present is necessary to act on any matter. The only action that can be taken in the absence of a quorum is to fix the time to which adjourn, recess or take measures to obtain a quorum. In addition, the Planning Board may adopt any procedural rules not in conflict with State law or this Ordinance, which it deems necessary or proper for the conduct of its business. [Am.8]

The question of whether a member has a conflict of interest sufficient to disqualify the member from participating in the consideration of a particular matter shall be decided by majority vote of the Planning Board, excluding the member being challenged. Any member so disqualified or who has recused himself must abstain entirely from the Planning Board's deliberation and voting on the matter giving rise to his disqualification or recusal. [Am.1]

13.3. POWERS AND DUTIES

A. General

The Planning Board shall hear and decide all applications for Site Plan Review and shall undertake any other activities assigned or allotted to it by the provisions of this Ordinance.

B. Forms and procedures

Except for forms and procedures relating to appeals, the Planning Board shall have authority to adopt and revise forms, charts and other documents for the administration of this Ordinance, and to adopt and revise administrative procedures consistent with the provisions of this Ordinance.

ARTICLE 14: ZONING BOARD OF APPEALS

[Am 1. 26-Mar-01; Am2. 25-Mar-02; Am6. 24-Mar-08]

14.1. ESTABLISHMENT AND ORGANIZATION OF ZONING BOARD OF APPEALS

There shall be a Zoning Board of Appeals, consisting of five (5) regular members and two (2) associate members, appointed by the Selectboard. Only residents of the Town of Castine shall be eligible to serve on the Zoning Board of Appeals. Neither a municipal officer nor the spouse thereof may be eligible for appointment as a regular or associate member of the Zoning Board of Appeals. [Am.1]

A regular member shall be appointed by the Selectboard for a term of five (5) years. An associate member shall be appointed for a term of one (1) year. So far as possible, the terms of regular members shall be arranged so that the term of at least one (1) regular member will expire each year. The Selectboard may dismiss, prior to the expiration of his/her term, a regular or associate member for just cause, after notice and hearing. [Am.1]

In the absence or ineligibility of a regular member an associate may act as a regular member through appointment by the Chair. In the event of the resignation or dismissal by the Selectboard of a regular or associate member, the Selectboard shall fill the vacancy as soon as possible, by appointment. [Am. 1]

The Zoning Board of Appeals in existence at the time of enactment of this Ordinance is continued and its members are hereby appointed to serve under this Ordinance in that capacity and for the balance of their previously appointed terms. [Am.1]

The Zoning Board of Appeals shall keep minutes of its proceedings, recording the vote of each member on all matters decided by it. The minutes of the Zoning Board of Appeals and all correspondence, testimony and documents related to the appeal shall be a public record. Three (3) members of the Zoning Board of Appeals are required for a quorum. A concurring vote of three (3) members shall be required to grant a variance. Any application not receiving three (3) votes in favor of its granting shall be deemed denied. A member who abstains or is ineligible to vote shall not be counted to determine a quorum. The Zoning Board of Appeals shall be governed by the procedures in Title 30-A M.R.S.A., § 2691, and this Ordinance. [Am. 1] [Am.2]

The Zoning Board of Appeals may adopt and/or revise any forms, bylaws, and/or procedural rules not in conflict with applicable law and this Ordinance. The Board shall file originals of all such forms, bylaws, and/or procedural rules with the Town Clerk, who shall make copies of each and every such document to be made available, at the published copying cost, to any person making written request therefore during regular business hours. Such documents may be read in the Town Office by any person during regular business hours upon oral request to the Town Clerk. [Am.1] [Am.2]

A question of whether a member has a conflict of interest or bias deemed to disqualify the member from participating in the Board's consideration of a particular matter shall be decided by the majority vote of the Zoning Board of Appeals, excluding the member challenged. A member who is either disqualified by the vote of the Zoning Board of Appeals or who has recused himself/herself shall abstain entirely from the deliberations of the board and shall not vote on the matter giving rise to his/her disqualification or recusal. [Am.1]

14.2. POWERS AND DUTIES

A. Administrative appeals

To hear and decide appeals alleging error by the CEO and/or Planning Board in any written order, written determination, final written decision including a notice of violation issued by the CEO under Section 12.2.A), or failure to act, where action is required, in the administration of this Ordinance. The Board of Appeals may affirm or reverse the order, determination or decision appealed from or may remand the matter to the CEO or Planning Board, as appropriate, for correction or action in accordance with the order of the Zoning Board of Appeals. A decision of the Zoning Board of Appeals other than a remand to the CEO or Planning Board constitutes final administrative action, subject to appeal to the Superior Court under Section 14.4, and is binding on parties, not advisory. The Board of Appeals does not have authority to review action or inaction of the Selectboard under Section 12.3. [Am.1]

B. Variance appeals

To hear and decide appeals for variances made for (a) reasons of physical disability and (b) relief from dimensional standards of the Ordinance when undue hardship is alleged. [Am. 1]

1. Disability variances

The Zoning Board of Appeals may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling pursuant to Title 30-A M.R.S.A. § 4353(4-A), as amended.

2. Variances of dimensional standards for practical difficulty

The Zoning Board of Appeals may grant a variance from the dimensional standards of this ordinance pursuant to Title 30-A M.R.S.A. § 4353(4-C), as amended when strict application of the ordinance to the applicant and the applicant's property would cause a practical difficulty.

3. Limitations on variances

The Zoning Board of Appeals shall strictly limit the grant of a variance so as to comply with the provisions of this ordinance, and, in so doing, may impose specific conditions. The party to whom a variance is granted shall strictly comply with all conditions. [Am. 1]

4. Variances recorded

When the Zoning Board of Appeals grants a variance under this section, a certificate bearing the name of the current property owner, identifying the property by the reference to the last recorded deed in its chain of title and indicating that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared by the Board of Appeals in recordable form. The certificate must be recorded by the landowner in the Hancock County Registry of Deeds within ninety (90) days of the date the variance is granted, or the variance is void. A variance is neither effective nor valid until duly recorded as provided in this subsection. No permit shall be issued until it is established that the variance has been recorded. A variance, after

being granted and duly recorded as prescribed, shall become void if the permit to which the variance applies either becomes void under the provisions of Section 8.2.J of this Ordinance or expires under the provisions of Section 9.11 of this Ordinance. [Am.1] [Am.2]

5. Shoreland Overlay District - Notice of Variance to DEP

A copy of each variance request, including the application and all supporting information supplied by the applicant, where such variance applies to structures or land within the Shoreland Overlay District, shall be forwarded by the CEO to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals. [Am.6]

A copy of any variance granted by the Zoning Board of Appeals shall be submitted by the CEO to the Department of Environmental Protection within seven (7) days of the board's decision, where such variance applies to structures or land within the Shoreland Overlay District. [Am.6]

14.3. APPEAL PROCEDURE

A. Time limit for appeal

Application for an administrative appeal must be made by an aggrieved person within thirty (30) days of the date of the decision appealed from, and not otherwise. [Am.1]

B. Written notice of appeal

Any appeal shall be made by filing with the Zoning Board of Appeals, on the official form available at the Town Office, a detailed written statement indicating the relief requested and why it is contended it should be granted, with supporting documentation attached. [Am.1]

C. Hearing notices

Notice shall be sent by certified mail/return receipt requested or hand delivered to the appellant (including his/her representative), and the owner(s) of property, if different from the appellant, which is the subject of the appeal, no later than fourteen (14) days prior to the date set for hearing. Notice by first class mail shall also be sent to abutters and any owner of property which has a lot line within 150 feet or less from a lot line of the property which is the subject of the appeal, no later than fourteen (14) days prior to the date set for hearing. Notice shall be sent to the address shown on the Town's tax card for the person named as the property owner. [Am.1] [Am.6]

Notice to Municipal Officers and concerned Town officials shall be given by the posting in the Town Office no later than fourteen (14) days prior to the date set for hearing. [Am.1]

Notice by the Zoning Board of Appeals giving the date, time, place and a brief statement of the purpose of the hearing shall be placed in a newspaper of general circulation in the local area for publication on a date no later than fourteen (14) days prior to the date set for hearing. [Am.1]

D. Record of the case

Upon receipt of notice of an appeal the CEO shall transmit to the Zoning Board of Appeals all papers and information in any form which constitute the complete record of the request, decision, action or failure to act which is said to have given rise to the appeal. [Am.1]

E. Public hearing

A public hearing shall be held by the Zoning Board of Appeals within thirty-five (35) days from the date of receipt of a completed appeal, with payment of the prescribed fee, in the Town Office of Castine, Maine 04421. [Am.1] [Am.6]

F. Hearing by Zoning Board of Appeals

1. The person filing an appeal, who may be represented by an agent or attorney, shall have the burden of proof. The Zoning Board of Appeals shall consider the evidence in the public record and any relevant

evidence offered by a person appearing at and participating in the hearing. An abutter or other person with standing may be made a party to the appeal if he/she or his/her representative appears and participates in the hearing of the appeal. [Am.1]

2. The Board has filed bylaws with the Town Clerk, which shall be available to the public. Said bylaws contain the hearing procedures of the Zoning Board of Appeals. The Board may revise its bylaws from time to time, without the need to amend this Ordinance, and shall any such revised bylaws with the Town Clerk. [Am.1]

3. Following the public hearing of an appeal, the Zoning Board of Appeals may reverse or affirm the findings of the CEO and/or Planning Board. A decision of the CEO or Planning Board may be reversed only upon condition that the decision or failure to act was contrary to the specific provisions of this ordinance. In making its decision the Zoning Board of Appeals may consider evidence *de novo* as well as the record of the case submitted under Section 14.3.4, it being expressly declared in this Ordinance that the Board may what are described as "hybrid proceedings" in the opinion of the Maine Supreme Judicial Court in *Stewart v. Town of Sedgwick*, 200ME 157, 757 A.2d 773, and may interpret the provisions of the ordinance. Such interpretations shall thereafter be binding upon the CEO and planning board. Hearings shall not be continued to other times except for good cause. [Am.1]

4. Within thirty-five (35) days after the close of the hearing the zoning board of appeals shall reach its decision, which shall be issued in writing within seven (7) days thereafter. [Am.1] [Am.6]

A decision by the Zoning Board of Appeals shall only be made in a public hearing or meeting. It shall include a written statement of the board's findings of fact and conclusions of law and the board's order, which shall become a matter of public record. Copies of the written decision shall be mailed by certified mail/ return receipt requested or hand delivered, to the appellant or his/her designated representative, to the owner(s) of property, if different from the appellant, which is the subject of the appeal and to the Department of Environmental Protection, when structures or land within the Shoreland Overlay District is the subject of the appeal, within seven (7) days from the date

on which the board reaches its decision. On the date of mailing to the appellant, the CEO, Planning Board and chair of the Selectboard shall receive copies of the decision by posting them in the Town Office in the mailboxes customarily used for those officers and officials. [Am.1] [Am.6]

Should the decision of the Zoning Board of Appeals so require, the Board's order shall include instructions either to the Planning Board immediately to issue site plan approval to the CEO and/or to the CEO immediately to issue a permit, as applicable. [Am.2]

G. Reconsideration

The Zoning Board of Appeals has the opportunity, but no obligation, to reconsider its decision. The vote of the board to reconsider, which may be upon its own motion or the motion of a party, and any action taken on that reconsideration must occur and be completed within forty-five (45) days of the vote on the original decision. A request for reconsideration must be filed within ten (10) days of the decision to be reconsidered. As provided in Title 30-A M.R.S.A., § 2691, the board may conduct additional hearings and receive additional evidence and testimony. [Am.1] [Am.6]

14.4. Appeal to Superior Court

Appeals of decisions of the Zoning Board of Appeals to the Superior Court are governed by Title 30-A M.R.S.A., § 2691. [Am.1]

ARTICLE 15: DEFINITIONS

[Am 1. 26-Mar-01; Am2. 25-Mar-02; Am3. 07-May-02; Am5. 26-Mar-07; Am6. 24-Mar-08; Am7. 04-Apr-09; Am10. 26-Mar-11; Am.13 11-May-19; Am.15 11-May-24; Am.16 07-Jun-25]

15.1. For the purpose of interpreting the Subdivision Ordinance and Zoning Ordinance, the following terms, phrases and words, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statues, and fourth their common dictionary meaning. [Am.6]

15.2. The present tense when used includes the future; the singular includes the plural; the word " shall " means mandatory; the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed" or "arranged to be used or occupied"; the word "structure" includes the word "building"; and the word "lot" includes the word "plot."

15.3. The word "dwelling unit" as used in this Ordinance is synonymous to the word "lot."

15.4. It is intended that this ordinance not be gender specific. Thus, when nouns or pronouns indicate or imply a male or female, such use shall also mean the other gender.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every 100 years.

ABUTTER / ABUTTING: Having a common boundary with, including lots which meet only at the corners. Streets, alleys or rights of way shall be deemed not to separate lots, and lots which would otherwise abut except for the width of an intervening street shall be deemed to abut.

ACCESS: A means of approach or entry to or exit from property.

ACCESSORY DWELLING UNIT: A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land. [Am.15]

AFFORDABLE HOUSING DEVELOPMENT: [Am 15]

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units that the developer designates as affordable in the development without spending more than 30% of the household's monthly income on housing costs; and [Am 15]

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units that the developer designates as affordable in the development without spending more than 30% of the household's monthly income on housing costs. [Am 15]

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 a permit or variance.

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

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or by the moving from one location or position to another.

ANIMAL HUSBANDRY: The commercial raising of domestic animals or livestock for agricultural purposes. This term does not include the commercial raising or boarding

of domestic animals for domestic purposes such as kennels; these domestic uses shall be deemed home occupations.

APPEAL: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of this Ordinance.

APPLICANT: The person, partnership, trust, fiduciary, business entity, agent of the owner or corporation applying for CEO or Planning Board approval. It may also be a proposed purchaser or an agent of a proposed purchaser whose purchase and sales agreement gives him the right to apply as a condition of sale.

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

ATTIC: That part of a building which is immediately below, and wholly or partly within, the roof framing.

AUTO SERVICE STATION / FILLING STATION: A commercial establishment open to the public, supplying engine fuel at retail, direct to the customer; the sale of lubricants, minor accessories and minor services for automobiles may be included.

AUTO REPAIR GARAGE: A commercial establishment open to the public where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

AUTOMOBILE GRAVEYARD: An "automobile graveyard" as defined in Title 30-A M.R.S.A., § 3752 as amended. [Am.6]

AVERAGE DAILY TRAFFIC (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

BASEMENT: The substructure of a building with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level which may or may not be used for living space. [Am.5]

BED AND BREAKFAST: A facility in which breakfast is the only meal served and in which there are four (4) or fewer rooms, serving eight (8) or fewer people, available for rent.

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. [Am.5]

BUFFER AREA: Units of land, together with a specified type and amount of vegetative planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

BUILDING: Any roofed structure maintained or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. Where independent units with separate entrances are divided by walls, each unit is a building.

BULK STORAGE: The storage of liquids, solids or gases which are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk.

CAMPGROUND: Any land area used to accommodate two (2) or more parties in temporary living quarters including, but not limited to tents, recreational vehicles and/or towed travel trailers. Accessory uses, subject to Site Plan Review, include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

CAMPSITE, INDIVIDUAL PRIVATE: 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, fireplace, or tent platform.

CANOPY: The more or less continuous cover formed by tree crowns in a wooded area. [Am.5]

CERTIFICATE OF COMPLETION: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance, certifying completion of the project for which a permit was obtained. A Certificate of Completion is not otherwise a certificate of fitness, safety or suitability. [Am.1]

CERTIFICATE OF OCCUPANCY: An official document issued by the CEO pursuant to Article 10 of the Zoning Ordinance upon compliance with all necessary provisions of

the Zoning Ordinance, allowing the property owner to occupy the premises. A Certificate of Occupancy is not otherwise a certificate of fitness, safety or suitability. [Am.1]

CHURCH: A building, together with its accessory buildings and uses, where people regularly assemble for religious worship and which buildings, together with its accessory buildings, and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLUSTER HOUSING: A subdivision (neighborhood) in which the required density and open spaces are maintained in combination with a group of residences in close proximity.

CLUSTER SUBDIVISION: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

COASTAL WETLAND: All tidal and sub-tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest annual high tide level as identified in tide tables published by the National Ocean Service. **Note:** All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows. [Am.5] [Am.7]

CODE ENFORCEMENT OFFICER (CEO): A person appointed by the Town Manager and confirmed by the Board of Selectmen to enforce this Ordinance and to assist the Planning Board in its administration. [Am.6]

COMMERCIAL USE: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent or result of which activity is the generation of revenue from the buying and selling of goods and/or services and the use of golf courses and other recreational facilities for which a payment is due from users; does not include rental of residential buildings and/or dwelling units other than boarding houses, bed & breakfasts, inns and hotels. [Am.6]

COMMON OPEN SPACE: Common elements or land within or related to a subdivision, not individually owned, which is designated & intended for the common use or enjoyment of the residents of the development or the general public. It may include

complementary structures and improvements, which are typically used for maintenance and operation of open space or for outdoor recreation.

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

COMPLETE SUBSTANTIAL CONSTRUCTION: The construction of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a planned unit development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

COMPREHENSIVE PLAN: A document or interrelated documents containing the elements established under Title 30-A M.R.S.A., § 4326, Sub-Sections 1 - 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under Title 30-A M.R.S.A., Sub-Chapter II.

CURRENT EDITION: THE most recent version of the cited regulation, technical manual or other publication.

DAY CARE FACILITY: As defined in Title 22 M.R.S.A., § 1673, as a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for three (3) or more children under the age of sixteen (16) unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

a. Day Care Center: A Day Care Facility as defined in State statutes for thirteen (13) or more children on a regular basis; and
b. Day Care Home: A Day Care Facility as defined in State statutes for three (3) to twelve (12) children on a regular basis.

DECK: An accessory attachment to a principal structure with no roof or framed or screened walls. It may contain railings with screening and gates to enclose pets or children. [Am.5]

DEDICATION: The transfer of property interests from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee-simple interest, including an easement.

DEER FENCES: FENCES specially constructed to prevent deer from attacking gardens or orchards. Such fences may be constructed of vertical posts of wood, steel or other suitable material and of horizontally strung wire or coarse wire mesh between such posts. No vegetation shall be allowed to grow upon and no other material may be attached to such wire or wire mesh, and no solid material such as wooden planking or woven matting may be fastened to or strung between posts at a height greater than six (6) feet. [Am.1]

DENSITY: The number of dwelling units per acre or square foot of land.

Designated Growth Area: an area that is designated in the Town's Comprehensive Plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent. [Am.15]

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

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. [Am.5]

DRAINAGE: The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation and prevention or alleviation of flooding.

DRIVEWAY: A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling. [Am.5]

DWELLING: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters and containing cooking, sleeping and toilet facilities. The term shall include single-family, two-family and multiple-family dwellings, 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.

- **Dwelling, Single Family:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family at a time.
- **Dwelling, Two-Family:** A detached or semi-detached building used as living quarters by two (2) families living independently of each other.
- **Dwelling, Multi-Family:** A building or portion thereof used as living quarters by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

EARTH MOVING: Any displacement, addition or subtraction of earth (including loam, clay, gravel, stone, etc.) from or to a given location.

EASEMENT: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

EASEMENT, CONSERVATION: An easement for the purpose of including, retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

ENGINEER, PROFESSIONAL: An individual licensed by the State of Maine to engage in the practice of professional engineering pursuant to Title 32 M.R.S.A., Chapter 19, as amended.

ENGINEER, TOWN: Any Maine registered professional engineer employed or retained by the Town either as staff or as a consultant.

ENGINEERED SUBSURFACE WASTEWATER DISPOSAL SYSTEM: A subsurface wastewater disposal system designed, installed, and operated as a single wastewater unit to treat 2,000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater. All such systems shall be reviewed and approved by the Department of Health and Human Services prior to the issuance of a permit by the Local Plumbing Inspector.

ENLARGEMENT: An addition to the height, floor area or the volume of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

ESSENTIAL SERVICES: Gas, electrical or communication facilities; home generators; 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. [Am.5] [Am.16]

EXPANSION OF A STRUCTURE: An increase in the height, floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches, and greenhouses. To be attached the extension must abut a common wall with the original structure.

EXPANSION OF USE: The use of more volume, floor area or ground area devoted to a particular use. In the Shoreland Overlay District, expansion of a use shall include the addition of four (4) or more weeks to the operating season of a use. [Am.5]

FAMILY: Two or more persons occupying a residence, who are related either by marriage, domestic partnership or consanguinity. [Am.5]

FARMERS' MARKET: A site or building used by two or more individual vendors, primarily farmers, for the direct sale to consumers of their products such as nursery products, natural products, fruits, vegetables, eggs, dairy products, meat, poultry, fish, grain, honey, maple products, beverages, prepared foods and crafts.

FENCE: An above-ground structure, including stone or brick walls, constructed for the purpose of dividing, defining or enclosing a lot or portion of a lot.

FLOODPLAIN: Either riverine or inland depression areas. Riverine floodplains are those areas contiguous to a river, stream, or stream bed whose elevation is greater than the normal water pool elevation but equal to or lower than the projected one hundred (100) year flood elevation. Inland depression floodplains, not associated with a stream system, are low points to which surrounding lands drain.

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. [Am.5]

FLOOR AREA: The sum of the horizontal surface areas of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

FLOWING WATER: Surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks.

FORESTED WETLAND: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller. [Am.5]

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including but not limited to basements, slabs, sills, posts, frost walls or other base consisting of concrete, block, brick or similar material. [Am.5]

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

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

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

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

FRONTAGE, SHORE: The horizontal distance, measured in a straight line, between the intersections of the side lot lines of a lot bordering on a water body or wetland with the shoreline. [Am.5]

FUNCTIONALLY WATER-DEPENDENT USE: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boatbuilding facilities, marinas, navigational aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot be reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Does not include private non-commercial boathouses, storage sheds, etc. [Am.1] [Am.5]

GRADE: In relation to buildings, the average of the finished ground level at the center of each wall of a building.

GREAT POND: Any inland body of water which in a natural state has a surface in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres, except where the artificially formed or increased body of water is completely surrounded by land held by a single owner.

GREAT POND CLASSIFIED GPA: Any great pond classified GPA, pursuant to Title 38 M.R.S.A. Article 4-A § 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds. [Am.5]

GROUND COVER: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor. [Am.5]

HEIGHT: The vertical distance between the mean elevation of the original (prior to construction) grade at the building and the highest point of the roof. For buildings in the Shoreland Overlay District, the vertical distance between the mean elevation of the original grade at the downhill side of the building and the highest point of the roof. For those structures without roofs, the highest point of the structure. For buildings with multiple roofs, each roof shall be considered in relation to the original grade upon which that part of the structure rests. [Am.5]

HIGH INTENSITY SOIL SURVEY: A map prepared by a certified Soil Scientist, identifying the soil types down to one-eighth (1/8) acre or less at a scale equivalent to the

subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a seasonal high-water table or bedrock at that point. Single test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity surveys.

HOME OCCUPATION: An occupation or profession which can be conducted within the principal residential dwelling unit or an accessory structure on the premises where the applicant resides and: 1) which is clearly incidental to and compatible with the residential character of the property and neighborhood; 2) which employs no more than three (3) persons other than family members residing in the home; and 3) which meets all the requirements of this Ordinance. [Am.5]

HOSPITAL: An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

HOTEL AND INNS: A facility in which more than four (4) but no more than twenty-four (24) rooms are available for rent. Meals may be served.

IMPERVIOUS SURFACE: Surfaces which do not absorb water, specifically all buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt. In the case of lumber yards, areas of stored lumber constitute impervious surfaces.

INCREASE IN NON-CONFORMITY OF A STRUCTURE: Any change in the structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body or yard setback distances, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard, or which causes no further increase in the linear extent of non-conformity of the existing structure shall not be considered to increase non-conformity. (For example, there is no increase in non-conformity within a setback if an expansion extends no further into the required setback area than does any portion of the existing non-conforming structure.) A structure may expand laterally provided the expansion extends not closer to the point from which the setback is measured. Included in this allowance are expansions which fill in irregularly shaped structures. [Am.5]

INDUSTRIAL: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals. [Am.5]

INSTITUTIONAL: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, municipally owned or operated building, structure or land used for public purposes. [Am.5]

JUNKYARD: As used in this Ordinance the term junkyard means either:

a. An "automobile graveyard" as defined in Title 30-A M.R.S.A., § 3752 as amended; or
b. A "junkyard" as defined in Title 30-A M.R.S.A., § 3752 as amended. [Am.5]

LEVEL OF SERVICE: A qualitative measure that incorporates the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition, as established by the Institute of Transportation Engineer's *Transportation and Traffic Engineering Handbook,* 2nd edition.

LICENSED FORESTER: A forester licensed under Title 32 M.R.S.A. Chapter 76. [Am.5]

LOADING AREA: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOCAL PLUMBING INSPECTOR (LPI): A person appointed by the Selectboard to enforce the Maine Internal Plumbing Rules and the Maine Subsurface Wastewater Disposal Rules. [Am.1]

LOT: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use, or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use, or development.

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land considered not suitable for development under the provisions of this Ordinance

including 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. [Am.5]

LOT COVERAGE: The maximum combined ground floor area of all principal and accessory buildings on a lot, divided by the area of such lot, the result expressed as a percentile. In the Shoreland Overlay District lot coverage also includes all unrevegetated areas. [Am.1]

LOT LINE: A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below:

a. Front Lot Line: That lot line which fronts upon or runs most nearly parallel to the nearest public highway, road or street. [Am.1]
b. Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance
from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.
c. Side Lot Line: Any lot line other than a front or rear lot line.

LOT, NON-CONFORMING: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or dimensional requirements of this Ordinance.

LOT OF RECORD: A lot the dimensions of which are contained in a deed, instrument or plan recorded in the Hancock County Registry of Deeds.

LOT WIDTH: The horizontal distance between the side lot lines as measured at the road frontage or the site of the principal structure, whichever results in the greater width.

LOT WIDTH, MINIMUM: 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.

MANUFACTURED HOUSING OR HOME: A structural unit or units designed to be used as a dwelling and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For

purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

a. **Pre HUD Code Mobile Home:** A structure constructed prior to June 15, 1976, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

c. **HUD Code Mobile Home:** A structure constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development ("HUD") standard, meaning a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401, *et seq.*

d. **State Certified Modular Home**: A structure the manufacturer certifies is constructed in compliance with the State's Manufactured Housing Act and regulations, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating air-conditioning or electrical systems contained therein. Such homes may not be more than one story in height but may have a non-habitable attic space.

MANUFACTURED HOUSING COMMUNITY: A parcel or adjoining parcels of land under single ownership, which has been planned and improved for the placement of three or more manufactured homes as defined above, where no more than 50% of the homes are "State Certified Modular Homes" that are no more than one story in height but

may have a non-habitable attic space and where at least 50% of the homes are "Pre HUD Code Mobile Homes" or "HUD Code Mobile Homes", but shall not include a construction camp or a campground. "Manufactured Housing Community" is synonymous with "Mobile Home Park" as used in this Ordinance.

MARINA: A commercial wharf or other business establishment having frontage on navigable water within the town and providing for hire offshore mooring or docking facilities for boats as its principal use, and which may provide accessory services and facilities such as boat and boat-related sales, boat hauling, repair and construction, engine servicing, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, ice, water, and marine fuel.

MARKET: Premises in which produce, foodstuffs and/or manufactured goods are offered for retail sale to the general public.

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.

MOBILE HOME PARK: See **"MANUFACTURED HOUSING COMMUNITY"** above.

MOTOR VEHICLE: Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any Maine public highway, or which is not being used for the purpose for which it was manufactured.

MULTI-UNIT RESIDENTIAL: A residential structure containing three (3) or more residential dwelling units. [Am.5]

NATIVE: Indigenous to the local forests. [Am.5]

NEIGHBOR / NEIGHBORING: An abutter or a property owner situated within one hundred fifty (150) feet of a lot boundary. [Am.6]

NET RESIDENTIAL AREA: The total area available for the subdivision as shown on the proposed subdivision plan minus the area for streets or access.

NON-CONFORMING LOT: See **"LOT, NON-CONFORMING"** above. [Am.5]

NON-CONFORMING STRUCTURE: See **"STRUCTURE, NON-CONFORMING"** below. [Am.5]

NON-CONFORMING USE: See **"USE, NON-CONFORMING"** below. [Am.5]

NORMAL HIGH-WATER LINE (NON-TIDAL WATERS): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. **Note:** Adjacent to tidal waters, setbacks are measured from the upland edge of the coastal wetland. [Am.5]

NORMAL MAINTENANCE AND REPAIR: Any work necessary to maintain an improvement or structure in its original or previously improved State or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in uses, change in location, change in size or capacity.

NURSING HOME: A facility for the care of the aged or infirm person, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

OPEN SPACE: Undeveloped natural, wooded or unwooded land.

OPEN SPACE USE: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

OWNER: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

PARKING AREA (SHORELAND ZONE): An area for parking motor vehicles excluding the area associated with a driveway used for parking two or fewer vehicles.

PARKING LOT: An open area other than a street used for the parking of more than four (4) motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

PERMITTING AUTHORITY: The person or entity responsible for issuing a particular permit or approval under this Ordinance. The permitting authority will be either the CEO or the Planning Board.

PERSONAL WIRELESS SERVICES: Any communications service which, for a fee to the public or a substantial portion thereof, provides for the transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent or received, and:

a. is comprised of for-profit radio communications between mobile and fixed radio stations, and linked to public switched communications networks (example: commercial ship-to-shore radio facilities);
b. which is transmitted or received by means of devices which do not require individual FCC licenses, but excluding direct-to-home satellite services (example: cellular telephone services); or
c. which offers access to telephone exchange services or facilities for the purpose of origination or termination of telephone toll services by a common carrier of interstate or foreign radio transmissions.

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.

PESTICIDE: ANY substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests, and any substance or mixture of

substances intended for use as a plant regulator, defoliant or desiccant. [Am. 2]

PIERS, DOCKS, WHARVES, BRIDGES, AND OTHER STRUCTURES OR USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND: [Am. 1]

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

PLAN:

a. Sketch Plan: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review by the Board prior to submitting an application for Subdivision approval.
b. Final Plan: The final drawings on which the applicant's plan of Subdivision is presented to the Board for approval.
c. Recording Plan: An original of the paper and mylar versions of the final plan suitable for recording at the Registry of Deeds.

PLANNING BOARD: The Planning Board established by the Town on March 21, 1960.

PORCH: An accessory attachment to a principal structure having a roof, canopy, or awning. It may have framed or screened walls or railings with screening and gates to enclose pets or children. [Am. 5]

PROJECT: Any activity requiring approval by the appropriate Permitting Authority under this Ordinance.

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. [Am. 5]

PUBLIC UTILITY: A firm, person, corporation, municipal department, board or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities, or transportation of water to the public.

RECONSTRUCTION: The restoration, remodeling or rebuilding of a structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

RECREATIONAL FACILITY: A place designed and equipped for the participation in sports, leisure time activities, and other customary and usual recreation activities, including swimming pools, but excluding boat launching facilities.

RECREATIONAL FACILITY, PRIVATE: AN accessory recreational facility located on private residential property for the use of the property owner or guests at no charge, including but not limited to swimming pools and tennis courts.

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.

RESTAURANT: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or more of the following characteristics:

a. Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
b. A cafeteria type operation where food and beverages generally are consumed within the restaurant building; or
c. A carry-out or delivery service, drive-in service, and service or consumption outside a fully enclosed structure, but excluding catering for off-premises consumption.

RETAINING WALL: A vertical or near vertical structure constructed of wood, concrete, masonry or rock design to retain soil upgradient from the base of the wall. [Am.16]

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 flood plain 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. [Am 5]

ROAD OR STREET: A thoroughfare or way 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 driveways as defined above.

a. Private Road or Street: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.
b. Public Road or Street: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.
c. Collectors: These roads handle internal traffic movements within a town or between a group of towns and are designed for moderate speed travel. The only collectors in Castine are State Highways, routes 166, 166A and 199.
d. Local: These are lightly traveled streets whose primary purpose is to serve residential areas. They are designed for slow speed travel and to carry low volumes of traffic for short distances.
e. Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.
f. Industrial or Commercial Street: Streets servicing industrial or commercial uses.
g. Private Right-of-Way: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

ROOM: A walled or partitioned portion of space within a structure or building as defined below: [Am 1]

a. Unfinished Room: A space only enclosed by open stud walls and/or exposed structural members of the building. [Am 1]
b. Finished Room: A space with any higher level of finish than that of an unfinished room. [Am 1]

SALT MARSH: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed. [Am 5]

SALT MEADOW: Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common three-square occurs in fresher areas. [Am.5]

SAND AND SALT PILES: A mixture of salt and sand or salt stored for winter road and yard maintenance. [Am.6]

SETBACK: The nearest horizontal distance from a lot line or from the normal high-water line of a water body or tributary stream or the upland edge of a wetland or from the road right-of-way to the nearest part of a structure, parking space, or other regulated object or area. [Am.5]

a. Setback, Front: The setback between the front lot line and the nearest part of a structure or other regulated object or area.
b. Setback, Rear: The setback between the rear lot line and the nearest part of a structure or other regulated object or area.
c. Setback, Side: The setback between the side lot line and the nearest part of a structure or other regulated object or area.
d. Setback, Shoreline: The nearest horizontal distance from the normal high-water line of a water body or tributary stream or the upland edge of a wetland and the nearest part of a structure or other regulated object or area.

SERVICE DROP: Any utility line extension which does not cross or run beneath any portion of a water body provided that: [Am.5]

a. In the case of electrical service
1. 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
2. the total length of the extension is less than one thousand (1,000) feet.
b. In the case of telephone service
1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
2. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

SHORE FRONTAGE: See FRONTAGE, SHORE

SHORELAND ZONE/SHORELAND OVERLAY DISTRICT: 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. [Am.5]

SHORELINE: The normal high-water line, or upland edge of a freshwater or coastal wetland. [Am.5]

SHORELINE ACCESS: A stairway or similar structure to provide shoreline access in areas of steep slopes or unstable soils and where no reasonable access alternative exists on the property; the structure is limited to a maximum of four (4) feet in width and the structure shall not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Board of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. § 480-C). [Am.5]

SIGNIFICANT RIVER SEGMENTS: See Title 38 M.R.S.A. § 437, as amended. [Am.5]

SIGHT DISTANCE: The length of unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used herein as a reference for unobstructed road visibility.

SIGN: Any structure, display, logo, device or representation which is designed or used to advertise or call attention to anything, person, business, activity or place, and which is visible to the public. A sign does not include any flag, pennant or insignia of a nation, State, town or other political entity. Whenever dimensions of a sign are specified, they shall include frames. Each visible sign face shall constitute a separate sign, except that a sign with two (2) faces shall be considered one (1) sign so long as the distance between the faces does not exceed twelve (12) inches. [Am.2]

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 edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within the Shoreland Area.

STREET: See "**ROAD OR STREET**" above.

STRUCTURE: Anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, tents in place for ten (10) days or less, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes walls in the Shoreland Zone and structures temporarily or permanently located, such as decks, patios, raised walkways and satellite dishes larger than thirty-nine (39) inches in diameter. [Am.1] [Am.2] [Am.5] [Am.7]

STRUCTURE, ACCESSORY: A structure which is incidental and subordinate to the principal structure. 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.

STRUCTURE, NON-CONFORMING: A structure that does not meet the minimum setback, maximum height, maximum lot coverage or similar requirements for the zoning district in which it is located.

STRUCTURE, PRINCIPAL: 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 premises.

SUBDIVISION: The term shall be defined as in Title 30-A MRSA §4401, sub-§4, as amended.

SUBSTANTIAL COMPLETION/SUBSTANTIALLY COMPLETED: Completion of ninety percent (90%) of a permitted structure or use measured as a percentage of estimated total cost.

SUBSTANTIAL COMMENCEMENT: Completion of thirty percent (30%) 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 Title 38 M.R.S.A. § 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system. [Am.5]

SUBSURFACE SEWAGE DISPOSAL 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. [Am.5]

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

TELECOMMUNICATIONS TOWER: Any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access and phone services, and personal communications service (PCS) or pager service, but excluding private ham radio. [Am.2]

TIDAL WATERS: All waters affected by tidal action during the highest annual tide. [Am.5]

TOWN: The Town of Castine, Maine.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership whether or not the tract is separated at any point by an intermittent or non-navigable stream, tidal waters where there exists no flow at low tide, or a private road established by the land owners or the abutting landowners. Lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such a road was established by the owner of land on both sides thereof. Private roads created before September 23, 1971 shall be considered the same as public roads.

TRIBUTARY STREAM: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and 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. This definition does not include rills or gullies forming because of accelerated erosion in disturbed soils where vegetation has been removed by human activity and 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:** Shoreline setback requirements apply to tributary streams within the Shoreland zone. [Am.5]

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. [Am.5]

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

USE, ACCESSORY: A use which is incidental and subordinate to the principal use. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

USE, NON- CONFORMING: A use which is not a permitted use in the zoning district in which it is located. Other than the non-conforming use, all other standards of the Castine Zoning Ordinance shall apply to a lot with a non-conforming use. [Am.16]

USE, PRINCIPAL: A use other than one which is wholly incidental or accessory to another use on the same premises.

VEGETATION: All shrubs and other plants including all live trees of four and one-half (4½) feet or more in height, of whatever diameter.

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. [Am.5]

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof, including roofed and screened porches.

WATER BODY: Any great pond, river or stream. [Am.5]

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. [Am.5]

WALKWAY: A pedestrian access-way six (6) feet or less in width. [Am.1]

a. Private Walkway: A pedestrian access-way designated for private use and maintained by a property owner. [Am.1]
b. Public Walkway: A public thoroughfare, way, or easement permanently established for passage of persons. [Am.1]

WETLAND: A freshwater or coastal wetland. [Am.5]

WOODY VEGETATION: Live trees or woody, non-herbaceous shrubs. [Am.5]

YARD: The area of land on a lot not occupied by buildings.

a. Front Yard: The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot and extending the entire width of the lot.
b. Rear Yard: The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot and extending the entire width of the lot.
c. Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line.

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ZONING MAPS [Am 2. 25-Mar-02; Am10. 26-Mar-11]
Zoning maps follow.