LAND USE ZONING ORDINANCE
OF THE
TOWN OF MOUNT DESERT
ENACTED MARCH 6, 1978

AMENDED JUNE 21, 1978
AMENDED AUGUST 4, 1980
AMENDED MARCH 2, 1981
AMENDED MARCH 7, 1983
AMENDED MARCH 5, 1984
AMENDED MARCH 4, 1985
AMENDED MARCH 3, 1986
AMENDED MARCH 2, 1987
AMENDED OCTOBER 24, 1988
AMENDED MARCH 6, 1989
AMENDED MARCH 5, 1990
AMENDED MARCH 4, 1991
AMENDED MAY 20, 1991
AMENDED OCTOBER 7, 1991
AMENED MARCH 2, 1992
AMENDED MARCH 2, 1993
AMENDED MARCH 8, 1994
AMENDED MARCH 7, 1995
AMENDED JUNE 6, 1995
AMENDED MARCH 6, 1996
AMENDED MARCH 4, 1997
AMENDED MARCH 3, 1998
AMENDED MARCH 8, 2000
AMENDED MARCH 7, 2001
AMENDED MARCH 5, 2002
AMENDED MARCH 4, 2003
AMEDNED MARCH 2, 2004
AMENDED MARCH 8, 2005
AMENDED MARCH 7, 2006
AMENDED MARCH 6, 2007
AMENDED MAY 6, 2008
AMENDED MAY 5, 2009
AMENDED NOVEMBER 16, 2009
AMENDED MAY 4, 2010
AMENDED MAY 3, 2011
AMENDED May 8, 2012
AMENDED July 25, 2013
AMENDED February 24, 2014
AMENDED May 6, 2014
AMENDED May 5 & June 9, 2015
AMENDED May 3, 2016
AMENDED May 2, 2017
AMENDED May 8, 2018
AMENDED May 7, 2019
AMENDED AUGUST 11, 2020
AMENDED MARCH 8, 2022
AMENDED MAY 2, 2023
AMENDED MAY 6, 2025
AMENDED May 4, 2021
AMENDED May 3, 2022
AMENDED May 7, 2024
AMENDED May 5, 2026

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TOWN OF MOUNT DESERT
LAND USE ZONING ORDINANCE

SECTION 1. PREAMBLE

1.1 Title. This ordinance and accompanying Land Use Zoning Map shall be known as the "Land Use Zoning Ordinance of the Town of Mount Desert."

1.2 Premises. The Town of Mount Desert has a unique natural setting and has few rivals which can equal the combination or extent of its tidal and fresh water bodies, more than 50 miles of shoreland, mountains, and woodland. These natural assets form the basis of an environment of unusual beauty and recreational possibilities. Long-standing appreciation of these features has fostered traditions of resource conservation as well as diversified community development - there being a dozen different villages and residential localities or neighborhoods in the Town, each with its individual character which the vast majority of the resident's desires to maintain.

1.3 Assumptions. The future of the Town will depend largely on the balance achieved between conservation and development. On the one hand, every effort should be made to conserve the best of the natural as well as man-made aspects of the environment. On the other hand, there must be adequate opportunities for the development of additional residential, commercial, and recreational facilities within the Town. Growth must be controlled in accordance with the standards set forth in the Comprehensive Plan so that the essential character of each neighborhood is maintained.

1.4 Purpose. The purpose of this Ordinance is to carry out the intent of the Comprehensive Plan of the Town; to safeguard the comfort, convenience, safety, health, and welfare of the people; to preserve the Town's cultural and aesthetic resources; to protect the environment; and to promote the development of an economically sound and stable community.

1.5 Intent. To achieve its purpose this Ordinance is intended to carry out the Town's policy that use and development of land and water within the Town be guided in accord with the expressed desires of the residents of the Town. Accordingly, this Ordinance prescribes standards and limitations for the implementation of this policy. Responsibility for the maintenance and enforcement of this Ordinance is entrusted to the Planning Board, Code Enforcement Officer, Board of Appeals, and Selectmen. It is the intent of this Ordinance to regulate the use of all lands and waters, population, density and distribution, and the size and location of all structures so as to: (1) permit an increase in the number of residences, recreational facilities, and commercial enterprises in ways which avoid public disadvantage; (2) lessen congestion on and promote the safety and efficiency of roads and highways; (3) protect and enhance existing public and private property and the value inherent therein; and (4) insure the appropriate use of land, water, and air, and the conservation of natural resources.

1.6 Authority. This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-448 and Title 30-A Section 3001 of the Maine Revised Statutes Annotated.

SECTION 2 GENERAL PROVISIONS

Similar uses. Unspecified Uses which are substantially the same as, or having effects the same as, the uses listed in Section 3.4 shall be treated the same as those listed uses. Similarity shall be determined by the Planning Board in strict compliance with the standards set forth in Section 6 and with other pertinent provisions of this Ordinance.

Any use or activity not listed in Section 3.4 shall be excluded unless the Planning Board, in accordance with Section 3.4, determines that it is similar to a specified use.

2.1 Continuation of Lawful Use. Any structure or property in the Town devoted to a lawful use at the time of adoption of this Ordinance may continue in such use until abandoned.

2.2 Conformity with Ordinance. No building, structure or land shall hereafter be used or occupied, and no part thereof shall be constructed, moved, or structurally altered except in conformity with the regulations herein specified for the district in which it is located. Each undeveloped newly created lot shall meet the dimensional requirements of the district in which it is located unless a variance is granted.

2.3 Subdivision Requirements. Each subdivision requires approval by the Planning Board in accordance with provisions of this Ordinance, the Subdivision Ordinance and the Comprehensive Plan. Functional land divisions of lots are allowed provided the lots are as conforming as possible, reviewed, and approved by the Planning Board in accordance with Section 4.6.

2.4 Conditional Uses. Conditional uses may be permitted only after review and approval by the Planning Board - except where the Code Enforcement Officer is authorized under the Standards of Section 5.6 to authorize minor changes in the placement and size of improvements for an approved conditional use permit - and only if specific provisions for such conditional uses are made in this Ordinance. The Standards of Section 6A and the applicable standards of Section 6B and 6C of this Ordinance shall apply at all times.

2.5 Change of Ownership. When an owner and a prospective owner have signed a purchase-and-sale agreement, which may be conditional upon favorable action by the Planning Board, the prospective owner may apply for a Conditional Use Approval, and the Planning Board shall act upon the application.

2.6 Land Transfers from Acadia or Maine. Land transferred from Acadia National Park or the State of Maine to the Town of Mount Desert shall be placed in the Resource Protection district. Land transferred from Acadia National Park or the State of Maine to private ownership shall be placed in the Conservation district. This property shall subsequently be rezoned upon recommendation of the Planning Board and the Board of Selectmen and vote of Town Meeting.

2.7 Amendments. Amendments to the provisions of this Ordinance may be made only by a majority vote of the eligible voters present at any regular or special Town meeting. Any amendment dealing with the shoreland zone shall be effective only upon approval of the Commissioner of the Department of Environmental Protection.

Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment if such amendment is approved by the Commissioner.

1. **Public hearing.** The Planning Board shall have held a public hearing on the proposed change after a notice has been posted in the municipal office at least fourteen (14) days before the public hearing and the notice has been published at least two (2) times in a newspaper with local circulation. The date of the first publication must be at least fourteen (14) days before the public hearing and the date of the second publication must be at least seven (7) days before the public hearing. For any zoning change that has the effect of either prohibiting all industrial, commercial, or retail uses where any of these uses were permitted or permitting any industrial, commercial, or retail uses where any of these uses were prohibited, such notice must be given to the owner of each parcel within the Town located within the geographic area affected by the amendment, and to the owner of each parcel of land abutting the portion of the Town affected by the proposed amendment. Notice must be mailed at least fourteen (14) days before the public hearing. The Town shall maintain a certified list of the mailing. Notice of the public hearing shall in all respects be given in accordance with state law. Notice is not required under this paragraph for any type of zoning ordinance adopted under the laws governing growth management contained in chapter 187, subchapter II or the laws governing shoreland zoning.

2. **Proposed amendments.** Proposed amendments may be submitted by the Planning Board or by a petition to the Board of Selectmen with the same number of signatures as required for submission to referendum, said signatures to be of legal residents or of property owners of the Town.

3. **Report to Selectmen.** The Planning Board shall have reported in writing to the Selectmen its opinion on the desirability of the proposed change, which opinion shall represent the vote of not less than three (3) members of the Planning Board. If the Planning Board has not submitted its report within thirty (30) days following the public hearing, its concurrence with the proposed change shall be assumed.

4. **Amendment requirements in addition to state law.** The foregoing is in addition to other methods of amendment provided in state law.

2.8 Validity and Separability. The legal invalidity of any section or provision of this Ordinance shall not affect the validity of this Ordinance as a whole or any part thereof.

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

2.10 Effective Date of Ordinance and Ordinance amendments. This Ordinance and amendments shall take effect upon its adoption by a majority of the eligible voters present at a regular or special Town meeting and, if applicable pursuant to Section 2.7, when approved by the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance amendment, it shall be automatically approved.

2.11 Repeal of Prior Ordinances. All zoning ordinances heretofore enacted by the Town are hereby repealed. Uses permitted by such prior zoning ordinances but not permitted by this Ordinance shall be considered as non-conforming uses subject to the provisions of Section 4. Uses in violation of prior zoning ordinances, which also constitute violations of this Ordinance shall not be construed as non-conforming uses.

2.12 Applicability

The provisions of this Ordinance shall apply to all areas of the Town of Mt. Desert including all land areas within 250 feet, horizontal distance of the

- normal high-water line of any great pond,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,

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

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

2.13 Availability

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

SECTION 3 LAND USE DISTRICTS

3.1 Districts. The sixteen Land Use Districts into which the Town is divided are generally defined below. It is important to note that exact dimensional and use designations for each such district as set forth in Sections 3.4 and 3.5 shall be controlling and shall constitute the exact definition of each such Land Use District.

VILLAGE COMMERCIAL (VC): village areas, accessible to public sewer, deemed appropriate for commercial development.

SHORELAND COMMERCIAL (SC): areas allocated to marine activities which are dependent upon shore access.

VILLAGE RESIDENTIAL ONE (VRI): village areas, with public sewer, deemed appropriate for intensive residential development.

VILLAGE RESIDENTIAL TWO (VRII): village areas on public sewer deemed suitable for development on lots not less than 20,000 square feet.

VILLAGE RESIDENTIAL THREE (VR3): village areas on public sewer, deemed desirable for lodging and activities accessory to these uses such as employee housing, restaurants, and services 1: personal.

RESIDENTIAL ONE (R1): areas where, because of the existing character of the neighborhood, lots of one acre are deemed appropriate.

RESIDENTIAL TWO (R2): areas where residential development, because of the existing character of the neighborhood or the characteristics of the land, shall be on lots of two acres or larger.

SHORELAND RESIDENTIAL ONE, TWO, THREE, FIVE (SR1, SR2, SR3, SR5): areas with uses similar to other residential districts, but which are located, in part or in whole, within the shoreland zone.

RURAL OR WOODLAND TWO, THREE (RW2, RW3): areas where retaining the rural or wooded character of the district is desired, and to allow uses consistent with this character. Minimum lot sizes shall be two or three acres as deemed appropriate.

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

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds, as defined in Section 8, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the

Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department. Coastal wetlands are rated as of January 1, 1973, and freshwater wetlands are rated as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond and have a surface elevation at or below the water level of the great pond during the period of normal high water. "Wetlands associated with great ponds" are considered to be part of that great pond.

2. The 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

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

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

5. Land adjacent to coastal wetlands which are subject to severe erosion or mass movement, such as steep coastal bluffs.

CONSERVATION (C): areas of natural character where limited use of low intensity may be permitted by the Planning Board on a case-by-case basis with the issuance of Conditional Use Approval. Structures may be permitted.

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

3.2 Land Use Map

1. **The districts** are shown on a map entitled "Town of Mount Desert, Maine, Land Use District Map", dated May 3, 2011, which is hereby made part of this Ordinance, together with changes and a copy of which shall remain on file in the Town Office available for public inspection during normal working hours.

2. Interpretation of District Boundaries. Unless otherwise set forth on the Official Land Use Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland zone as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final

authority as to location.

3. **Amendments**. Changes in district boundaries, made in accordance with Section 2.7, shall be depicted on the Official Land Use Map within thirty (30) days of the effective date of the ordinance.

4. **Certification of Land Use Map.** The Official Land Use Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

3.3 Map Changes: Amended at:

Town Meeting March 2, 1992, change Map 29 Lot 2-3 to Shoreland Commercial.

Town Meeting March 2, 1993, change Map 10 Lots 156 and 157 from Shoreland Residential Two to Residential Two.

Town Meeting March 6-7, 1995, change Map 10 Lot 48, known as Ripples Pond Tract, from Resource Protection District to Residential One District.

Town Meeting March 4, 1997, change Tax Map 009 Lots 011, 012, 017 001, 017 002, 019, 019 001, 020, 036, 037, 038, 039, 040 001, 068, 069, 070, 071, 072, 073, 074, 075, 076, 077, 078, 079, 080, 081, 082, 083, 084, 085, 086, 087, 088, 089, 090, 091, 092, 093, and Tax Map 010 Lots 010, 012, 013, 014, 015, 016, 017, 018, 018 001, 020, 021, 022, 023, 024, 024 001 from Residential Two to Residential One.

Town Meeting March 4, 1997, change Tax Map 011 Lot 029-002 (Bartlett's Landing) from Resource Protection to Shoreland Commercial.

Town Meeting March 2, 2004, change Tax Map 9 Lot 8-2, Tax Map 17 Lots 22-3, 22-2, 22-1 from Shoreland Residential Five to Residential Two.

Town Meeting March 2, 2004, change Tax Map 10 Lot 67 from Shoreland Residential Five to Rural Woodlands Three, except for the area 250 feet from the shore which will become Shoreland Residential Two.

Town Meeting March 8, 2005, change Tax Map 5 Lot 13-1 from Shoreland Residential 2 to Residential 1.

Town Meeting March 8, 2005, change Tax Map 7 Lot 65 from Rural Woodlands Three to Residential 2, except for the area 250 feet from the shore which will become Shoreland Residential Two.

Special Town Meeting November 16, 2009, & Town Meeting May 4, 2010, changed a portion of lots within 250' of the two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond; 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. from Shoreland Residential 2, 3 & 5, Conservation, Rural or Woodland 3 & Residential 2 to Resource Protection – Tax Map 2 Lots 28, 28-

2, 28-3, 31-5, 31-6, Tax Map 3 Lots 3-2, 18-1, 18-5, 19, 19-1, 20, 21, 30, 48, 49, 51, 53, 54, Tax Map 5 Lots 20, 59-2, 59-3, Tax Map 7 Lots 89, 92, 94, Tax Map 9 Lots 10-6, 52-1, 52-2, 53, 59, Tax Map 10 Lots 49, 50, 52, 53, 54, 54-1, 55, 59, 60, 61, 82, 85, 184, Tax Map 11 Lot 7, Tax Map 12 Lot 6, Tax Map 13, Lot 2, Tax Map 29 Lots 1-1, 2-1,

Special Town Meeting November 16, 2009, & Town Meeting May 4, 2010, added Stream Protection District.

Town Meeting May 3, 2011, change Tax Map 3 Lots 4-1, 4-2, 4-9, 6-1, 57, Tax Map 5 Lots 19, 59-3 Tax Map 7 Lots 48-2, 7-50, 7-104, Tax Map 9 Lots 97, 98, 99, 100, 101, 102, 103, 104, 105,106,107,107-3,108, 109, 110, 111, 113, 114, 120, 120-9, 120-10, 120-10-1,120-11, Tax Map 8 Lots 5, 5-1,Tax Map 10 Lots 1, 2, 3, 4, 4-1, 5, 67, 67-2, 69, 69-1, 70, 112-4, 112-6, 113, 114, 118, 119, 120, 121,122, 122-2, 122-4, 123, 123-3, 123-4, 123-8, 123-11, 123-12, 123-13, 123-14, 131, 132, 135-1, 135-2, 139, 145, 146, 147, 152, 155, 156, 157, 158, 159, 161, 162, 163, 192-13, 193-1, 193-2, 193-3, 193-5, 193-7, 193-8, 193-9, 193-10, 193-15, 194, Tax Map 11 Lots 95-3, 96, 97, 98, 105, 107, 109, 125, 128, Tax Map 12 Lots 13-3, 13-6, 13-9, 13-12, 13-13-1, 12-14, 15-1, 15-2, 15-3, 15-4, 16, 17, 18, 19, 19-1, 19-2, 19-3, 20, 23-3, 31-4, Tax Map 13 Lot 2, Tax Map 15 Lots 18, 18-1, Tax Map 18 Lots 2-2, 2-3, Tax Map 20 Lot 1, 2-1, 2-2, Tax Map 21 Lots 7, 10-1, 10-2, 11, 12, 13-1, 14, Tax Map 23 Lots 23, 28-1, 28-2, 29-1, 31, 43, 44, Tax Map 25 Lots 24-1, 25, 28-2, 29-1, 29-4, 30-1, 31, Tax Map 27 Lots 12, 13-1, 14-1, 18, Tax Map 29 Lots 9, 10-1, 10-2, 11, Tax Map 30 Lots 42, 43, 44, 45. (see zoning map for zoning district changes)

Town Meeting May 6, 2014, to change Tax Map 023 Lot 022-003 from Shoreland Residential One (SR1) to Village Residential One (VR1)

Town Meeting May 3, 2016, change Map 10, Lot 149 from Village Residential 1 to Village Commercial and portion of Map 10, Lot 147 previously designated as Village Residential 1 to Village Commercial.

Town Meeting May 2, 2017, changed Tax Map 22, Lots 20, 19, 14, 13, 11, 10 and 9 from Shoreland Residential 2 to Village Residential 2.

Town Meeting May 2, 2017, changes a portion of Tax Map 12, Lot 6 from Shoreland Zone Overlay and Resource Protection to Shoreland Residential 3 and Stream Protection.

Town Meeting May 7, 2019, change Tax Map 020, Lot 020 from Shoreland Residential 2 to Village Residential 2.

Town Meeting May 7, 2019, change Tax Map 026, Lot 064 from Village Residential 1 to Village Commercial.

Town Meeting May 7, 2019, change portions of Tax Map 029, Lot 002-001 from Resource Protection to Shoreland Residential 2.

Town Meeting May 7, 2019, change Map 007: Lots 001-001, 001-001-001, 001-001-002, 001-001-003, 001-001-004, 001-001-005, 001-002, 002, 002-001, 002-002, 003, 006, 008, 009, 010,011, 012, 013, 014, 015, 016, 017, 018, 019, 020,

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Town Meeting August 11, 2020, change Tax Map 5, Lot 14-1 and Tax Map 5, Lot 14-4 from Shoreland Residential 2 to Village Residential 3.

Town Meeting May 3, 2022, change Tax Map 009, Lot 010-006 from Resource Protection and Shoreland Residential 5 to Shoreland Residential 5.

Town Meeting May 2, 2023, change Tax Map 003, Lot 026, and Tax Map 003, Lot 027 from Shoreland Residential 2 to Residential 2.

Town Meeting of May 7, 2024: change Tax Map 010: Lots 048-001 through Lot 019 and a portion of Tax Map 010: Lot 048 from Residential 1 (R1) to Village Residential 2 (VR2).

3.4 Permitted, Conditional, and Excluded Uses by District:

All land use activities, as indicated in the following table, shall conform with all of the applicable land use standards in Sections 6.A., 6.B., and 6.C. The district designation for a particular site shall be determined from the Official Land Use Zoning map.

P Use allowed without a permit (but the use must comply with all applicable land use standards

C Use allowed with conditional use approval from the Planning Board Use allowed with conditional use approval from the Planning Board, except where the code enforcement officer may authorize minor changes in the placement and size of improvements for an approved conditional use permit

X Use is prohibited

CEO Use allowed with a permit from the code enforcement officer.

VR1 VILLAGE RESIDENTIAL ONE
VR2 VILLAGE RESIDENTIAL TWO
VR3 VILLAGE RESIDENTIAL THREE
R1 RESIDENTIAL ONE
R2 RESIDENTIAL TWO
SR1 SHORELAND RESIDENTIAL ONE
SR2 SHORELAND RESIDENTIAL TWO
SR3 SHORELAND RESIDENTIAL THREE
SR5 SHORELAND RESIDENTIAL FIVE
RW2 RURAL OR WOODLAND TWO

RW3 RURAL OR WOODLAND THREE
VC VILLAGE COMMERCIAL
SC SHORELAND COMMERCIAL
RP RESOURCE PROTECTION
C CONSERVATION
SP STREAM PROTECTION

Section 3.4 Permitted, Conditional, and Excluded Uses by District

DISTRICTS: **LAND USE:**	**VR 1** **VR 2**	**R 1** **R 2**	**SR 1** **SR 2** **SR 3** **SR 5**	**RW 2** **RW 3**	**VC**	**SC**	**C**	**RP**	**SP**	**VR3**
RESIDENTIAL										
Residential Dwelling One Family & Residential Dwelling Two Family	CEO	CEO	CEO[(d)]	CEO	CEO	CEO[(d)]	C	C[8]	C[4]	X
Residential Dwelling, Multi-Family	C	C	C	C	C	X	C	X	X	X
Accessory Residential Dwelling Unit	CEO	CEO	CEO	CEO	CEO	C	C	C[8]	C[4]	C[e]
Accessory structures including structural additions and guest houses[(c)]	CEO	CEO	CEO	CEO	CEO	CEO	C	C[8]	C[4]	X
Cluster and Attainable Housing Subdivisions	C	C	X	C	C	X	X	X	X	X
Residential Storage Building/Shed	CEO	CEO	CEO	CEO	CEO	CEO	C	C[8]	C[4]	X
Mobile Home Park	C	X	X	X	X	X	X	X	X	X

(c) A separate garage is an accessory structure. A separate garage with a dwelling unit shall be deemed a dwelling unit.
(d) See Section 6B.11.3 (Lots)
(e) Accessory residential dwellings in the VR3 District must be for staff housing only.

RECREATIONAL (NON-COMMERCIAL)										
Animal Husbandry	C	C	C	CEO	X	X	C	X	X	X
Animal Husbandry 2	C	C	C	P	C	C	C	X	X	X
Individual Private Campsites	P	P	CEO	P	CEO	CEO	X	X	X	X
Indoor Recreational facilities	C	C	C	C	C	X	C	X	X	X

DISTRICTS: **LAND USE:**	**VR 1** **VR 2**	**R 1** **R 2**	**SR 1** **SR 2** **SR 3** **SR 5**	**RW 2** **RW 3**	**VC**	**SC**	**C**	**RP**	**SP**	**VR3**
Livestock (hoofed)	C	C	C	CEO	X	X	C	X	X	X
Motorized Vehicular traffic on existing roads and trails	P	P	P	P	P	P	P	P	X	X
Outdoor, non-intensive recreation, not requiring structures, such as: hiking, skiing	P	P	P	P	P	P	P	P	P	X
Outdoor recreation facilities, such as for tennis, golf, boating, swimming	C	C	C	C	C	C	C	X	X	X
Yard & Garage Sales 3 days or less per year	P	P	P	P	P	P	P	X	X	X
PUBLIC										
Church, school, library, museum, community building	C	C	X	C	C	X	X	X	X	X
Independent School	C	C	C	C	C	X	X	X	X	X
State. Federal & Municipal Buildings	C	C	X	C	C	C	X	X	X	X
Park, playground, recreation structures	C	C	X	C	C	X	X	X	X	X
Municipal activities	C	C	C	C	C	C	C	X	X	X
Cemeteries	X	X	X	C	X	X	X	X	X	X
COMMERCIAL										
Accessory structures	CEO	CEO	CEO	CEO	CEO	CEO	CEO	X	X	C
Agriculture	X	X	X	CEO	X	X	X	X	X	X
Animal Husbandry	X	X	X	CEO	X	X	X	X	X	X
Aquaculture	X	X	X	C	X	C	X	X	X	X

DISTRICTS: **LAND USE:**	**VR 1** **VR 2**	**R 1** **R 2**	**SR 1** **SR 2** **SR 3** **SR 5**	**RW 2** **RW 3**	**VC**	**SC**	**C**	**RP**	**SP**	**VR3**
Auto repair, sales	X	X	X	C	C	X	X	X	X	X
Auto service, filling	X	X	X	X	C	X	X	X	X	X
Boat Construction	C	C	X	C	C	C	X	X	X	X
Boat storage, repair, service	X	X	X	C	C	C	X	X	X	X
Campground	X	X	X	X	X	X	X	X	X	X
Commercial fishing	C	C	X	C	X	C	X	X	X	X
Commercial Materials: Bulk storage Retail Sales Wholesale sales	 X X X	 X X X	 X X X	 C C C	 X C X	 X C X	 X X X	 X X X	 X X X	 X X X
Fish processing	X	X	X	X	X	C	X	X	X	X
Gravel Pits	X	X	X	X	X	X	X	X	X	X
Home occupation	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	X	X
Horticulture: nurseries, greenhouses/sale of products	C	C	X	C	CEO	X	X	X	X	X
Hotel/Motel	X	X	X	X	C	X	X	X	X	C
Marina	X	X	X	X	X	C	X	X	X	X
Mineral Exploration	X	X	X	X	X	X	X	X	X	X
Mineral Extraction	X	X	X	X	X	X	X	X	X	X
Mobile Food Vendors[11]	X	X	X	C	X	CEO	X	X	X	X
Office Building	C	C	X	C	CEO	X	X	X	X	X
Office Building: bank	X	X	X	X	CEO	X	X	X	X	X

DISTRICTS: **LAND USE:**	**VR 1** **VR 2**	**R 1** **R 2**	**SR 1** **SR 2** **SR 3** **SR 5**	**RW 2** **RW 3**	**VC**	**SC**	**C**	**RP**	**SP**	**VR3**
Public utilities	C	C	C	C	C	C	C	X	X	C
Recreational: indoor recreational facilities	X	X	X	C	C	X	X	X	X	C[12]
Recreational: outdoor recreation facilities, such as tennis, golf, boating, swimming	C	C	C	C	C	C	C	X	X	C[12]
Restaurant	X	X	X	C	C	X	X	X	X	C[12]
Retail Stores: clothing, hardware, paints, grocery, books, art, gifts, antiques, etc.	X	X	X	C	CEO	X	X	X	X	X
Rooming House	X	X	X	X	C	X	X	X	X	X
Services 1: personal (wholly enclosed), hairdressing, barber, tailor, dressmaker, sewing, tanning parlor, etc.	C	C	C	C	CEO	X	C	X	X	C[12]
Services 2: (wholly enclosed) electrician, carpentry, interior decoration, upholstery, etc.	C	C	X	C	CEO	X	X	X	X	X
Services 3: (not wholly enclosed) construction, masonry, plumbing, painting, carpentry	C	C	X	C	C	X	X	X	X	X
Seasonal produce sales (Including firewood)	CEO	CEO	CEO	CEO	CEO	CEO	CEO	X	X	X
Storage of construction equipment & heavy vehicles	X	X	X	C	X	X	X	X	X	X
Timber harvesting[10]	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

DISTRICTS: **LAND USE:**	**VR 1** **VR 2**	**R 1** **R 2**	**SR 1** **SR 2** **SR 3** **SR 5**	**RW 2** **RW 3**	**VC**	**SC**	**C**	**RP**	**SP**	**VR3**
Yard & garage sales more than 3 days per year	C	C	C	C	C	C	C	X	X	X
Wind Energy Conservation System	X	X	C	C	X	X	X	X	X	X
MISCELLANEOUS										
Clearing or Removal of Vegetation for activities other than timber harvesting	P	P	CEO	P	P	CEO	P	C[8]	CEO	CEO
Solar Energy Systems, Small Scale Ground Mounted	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	X	X
Solar Energy Systems, Small Scale Roof Mounted	P	P	P	P	P	P	P	P	P[14]	P
Solar Energy Systems, Medium Scale Ground Mounted	X	C	C	C	X	X	X	X	X	X
Solar Energy Systems, Medium Scale Roof Mounted	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO[14]	CEO
Solar Energy Systems, Large Scale	X	X	X	X	X	X	X	X	X	X
ESSENTIAL SERVICES										
A. Roadside distribution lines (34.5kv and lower)	P	P	CEO[9]	P	P	CEO[9]	CEO	C[6]	C	CEO
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	P	P	CEO	P	P	CEO	CEO	C[6]	C[6]	CEO

DISTRICTS: **LAND USE:**	**VR 1** **VR 2**	**R 1** **R 2**	**SR 1** **SR 2** **SR 3** **SR 5**	**RW 2** **RW 3**	**VC**	**SC**	**C**	**RP**	**SP**	**VR3**
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	P	P	C	P	P	C	C	C[6]	C[6]	C
D. Other essential services	P	P	C	P	P	C	C	C[6]	C[6]	CEO
Excavation or Filling < 50 cubic yards	P	P	CEO	P	P	CEO	CEO	C[8]	C	C
Excavation or Filling of >50 to 150 cubic yards	CEO	CEO	CEO	CEO	CEO	CEO	CEO	C[8]	C	CEO
Excavation or Filling of > 150 cubic yards	C	C	C	C	C	C	C	C[8]	C	C
Fire Prevention Activities	P	P	P	P	P	P	P	X	P	P
Parking lot	C	C	X	C	C	C	C	X	X	C
Permanent Piers, Docks, Wharves, Bridges, and other Structures and Uses Extending over or below the Normal High-Water line or within a wetland (refer to Section 6C.7)[13]	X	C	C	C	X	C	C	X	X	C[12]
Road & driveway construction	CEO	CEO	CEO	CEO	CEO	CEO	CEO	C[7, 8]	C[7]	CEO
Service drops, as defined, to allowed uses	P	P	P	P	P	P	P	P	P	P
Soil and Water Conservation Practices	P	P	P	P	P	P	P	P	P	P

DISTRICTS: LAND USE:	VR 1 VR 2	R 1 R 2	SR 1 SR 2 SR 3 SR 5	RW 2 RW 3	VC	SC	C	RP	SP	VR3
Small non-residential facilities or structures for educational, scientific, or nature interpretation purposes	CEO	CEO	CEO	CEO	CEO	CEO	CEO	X	C[4]	X
Structures accessory to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	C[8]	C	C
Wildlife Management Practices	P	P	P	P	P	P	P	P	P	P
Uses similar to permitted uses	P	P	P	P	P	P	P	P	P	P
Uses similar to uses requiring Conditional Use Approval	C	C	C	C	C	C	C	C	C	C
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO

Note: Some footnotes have been deleted. – namely 1,2,3 & 5.

[4] Provided that a variance from the setback requirement is obtained from the Board of Appeals; otherwise, the setback is 75 feet. Any Excavation or Filling must be limited to that necessary for the construction of approved structures.

[6] See further restrictions in Section 6C.5.2

[7] Only as provided in Section 6C.9.3

[8] Single family residential structures may be allowed by special exception only according to the provisions of Section 7.5.3, Special Exceptions. Two-family residential structures are prohibited**.**

[9] Permit not required but must file a written "notice of intent to construct" with CEO.

[10] Timber Harvesting is regulated by the Bureau of Forestry in the Department of Agriculture, Conservation and Forestry.

[11] Mobile Food Vendors are allowed to operate without a permit or license for limited time events (up to three consecutive days and maximum of two events per year on the same property). However, written property owner authorization is required to be posted for any Mobile Food Vendor activity on private property, regardless of whether or not a permit is required.

[12] Uses only allowed if associated with hotel/motel use.

[13] Marine structures that are less than 10 feet in length and which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months only require a permit from the Code Enforcement Officer (state and federal permits may still be needed).

[14.] Provided that the Small Scale and Medium Scale Roof Mounted Solar Energy System are mounted on a structure that is a permitted use within the Stream Protection district.

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

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

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

DISTRICTS	**VR1**	**VR2**	**R1**	**R2**
DIMENSIONS see Notes (b) (h[1])				
MINIMUM LOT AREA: A. with public sewer B. without public sewer. C. Cluster Subdivision w/sewer***** D. Cluster Subdivision w/o sewer***** E. Attainable Housing Subdivision*	 10,000 sq ft 1 acre 5,000 sq ft 20,000 sq ft State Minimum	 20,000 sq ft 1 acre 10,000 sq ft 20,000 sq ft State Minimum	 1 acre 1 acre 20,000 sq ft 20,000 sq ft State Minimum	 2 acres 2 acres 1 acre 1 acre State Minimum
MINIMUM WIDTH OF LOTS: Shore Frontage	N/A	N/A	N/A	N/A
SETBACKS FROM: normal high-water line of a water body (stream), tributary stream or upland edge of a wetland Great Ponds public road* *** see Note (c)** private roads or property lines****** **** see Note (c) and Note (d)**	 75 ft N/A 20 ft 10 ft	 75 ft N/A 30 ft 15 ft	 75 ft N/A 30 ft 15 ft	 75 ft N/A 30 ft 25 ft
MAXIMUM LOT COVERAGE	40%	40%	40%	40%
MINIMUM DISTANCE BETWEEN PRINCIPAL BUILDINGS	20 ft	20 ft	20 ft	20 ft

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

DISTRICTS	**SR1 see Note (f)**	**SR2 see Note (f)**	**SR3 see Note (f)**	**SR5 see Note (f)**	**VR3 see Note (f)**
DIMENSIONS see Notes (b) (h^2)					
MINIMUM LOT AREA: with public sewer	1 acre	2 acres	3 acres	5 acres	5 acres
without public sewer	N/A	2 acres	3 acres	5 acres	5 acres
MINIMUM WIDTH OF LOTS: Shore Frontage	200 ft	200 ft	200 ft	200 ft	200 ft
SETBACKS FROM: normal high-water line of a water body (stream), tributary stream or upland edge of a wetland	75 ft	75 ft	75 ft	75 ft	75 ft
Great Ponds (n)	100 ft (n)	100 ft (n)	100 ft (n)	100 ft (n)	100 ft (n)
public road* *** see Note (c)**	50 ft	50 ft	50 ft	50 ft	50 ft
private roads or property lines** **** see Note (c) and Note (d)**	25 ft	25 ft	25 ft	25 ft	25 ft
MAXIMUM LOT COVERAGE	20%	20%	20%	20%	40%
MINIMUM DISTANCE BETWEEN PRINCIPAL BUILDINGS	30 ft	30 ft	30 ft	30 ft	10 ft

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

DISTRICTS	**RW2**	**RW3**	**VC**	**SC** see Note (e), (f) and (g)	**C** see Note (f) for those properties that are within the shoreland zone
DIMENSIONS (b) (h[1])					
MINIMUM LOT AREA: A. with public sewer B. without public sewer C. Cluster Subdivision w/sewer***** D. Cluster Subdivision w/o sewer***** E. Attainable Housing Subdivision*	 2 acres 2 acres 1 acre 1 acre State Minimum	 3 acres 3 acres 1.5 acres 1.5 acres State Minimum	 5,000 sq. ft.****** 1 acre 5,000 sq. ft. State Minimum 5,000 sq. ft. **** See Note (p)**	 1 acre 1 acre N/A N/A N/A	 3 acres 3 acres N/A N/A N/A
MINIMUM WIDTH OF LOTS: Shore Frontage	NA	NA	N/A	100 ft	250 ft
SETBACKS FROM: normal high-water line of a water body (stream), tributary stream or upland edge of a wetland Great Ponds (n) public road* *** see Note (c)** private roads or property lines****** **** see Note (c) and Note (d)**	 75 ft N/A 60 ft 25 ft	 75 ft N/A 60 ft 25 ft	 75 ft N/A 10 ft or -0- ft from edge of public sidewalk 5 ft**(o)**	 75 ft N/A 25 ft 5 ft	 75 ft 100 ft (n) 50 ft 25 ft
MAXIMUM LOT COVERAGE	15%	15%	75%	70%	15%
MINIMUM DISTANCE BETWEEN PRINCIPAL BUILDINGS	30 ft	30 ft	N/A	10 ft	30 ft

Section 3.5 Dimensional Requirements for Districts: minimum area, width of lots, setbacks, etc.

NOTES:

(b) Refer to setback as defined in Section 8.

(c) Setbacks from public and private roads are measured from edge of road surface, or edge of legally established right of way if no road exists.

(d) In all districts restrictions on setback of structures from property lines may be varied or nullified by written agreement with the abutting property owner. Said agreement or a copy of said agreement showing signatures shall be filed at the Municipal Office.

(e) The minimum SC setback from shoreline is 75 feet except for functionally water-dependent structures.

(f) Within the shoreland zone: No new lot shall be created except in conformity with all of the requirements of this Ordinance for the district in which it is located. In addition to shore frontage, refer to Section 6B.11.4.3 for the required minimum lot width. For the required measurements, refer to shore frontage and minimum lot width in Section 8. When a legally existing parcel does not contain any shore frontage, the lot may be divided such that the newly created lots do not contain any shore frontage as otherwise required in Sections 3.5 and 6B.11.4.3, provided that all other minimum lot dimensional standards are met, including but not limited to lot area and minimum lot width.

(g) Primary residential use in a Shoreland Commercial District must meet the dimensional requirements of the neighboring shoreland residential district. This requirement does not apply to projects that include covenants held by a qualified workforce housing entity.

(h¹) Height: Structures outside the shoreland zone shall not exceed forty (40) feet. In exceptional cases, which meet the standards of this Ordinance and will not adversely affect the skyline of the Town, Conditional Use Approval may be issued, notwithstanding the above height limitations. Placement of fill to circumvent this height requirement is prohibited.

(h²) Height: Structures in the shoreland zone shall not exceed thirty-five (35) feet. Placement of fill circumvent this height requirement is prohibited.

(n) The setback from the normal high-water line of a great pond is 100 feet, except for these lots where the setback is 75 feet, indicated below.

Map-Lot IDs for 75 ft. setback	Map-Lot IDs for 100 ft. setback
Long Pond & Echo Lake:	
All Lots	
Little Round Pond:	**Little Round Pond:**
012-018	012-015-001
012-019	012-020
012-019-001	
Round Pond:	**Round Pond:**
011-120	011-90
011-122	011-118
011-123	011-119
011-124	
012-013	
Little Echo Lake:	
009-097	
009-098	
009-099	
009-100	
009-101	
009-102	
009-107	
009-107-003	
009-120-010	
009-120-010-001	
009-120-011	

(Added November 16, 2009)
(Amended May 3, 2011)
(Amended May 8, 2018)
(Amended May 7, 2024)

(o) Setback from property lines in Village Commercial:

New or newly renovated structures on the following lots and any future subdivision of said lots may have a -0- foot side-setback if constructed in accordance with the current editions of the NFPA 101 Life Safety Codes & NFPA 5000 Building Construction and Safety Code, Maine State adopted codes, except on the side where affected lots abut structures whose primary use is residential. Rear setbacks are unaffected.

Tax Map 024: Lots 063-002, 073 through 081, 081-001, 082 through 086, 088 through 090, 102, 104, 106 through 108, & 109-003/109-004 Tax Map 026: Lots 004-001, 004-002, 008-002, & 057 through 063. (Added May 3, 2011)

Tax Map 024: Lots 064 through 072. (Added May 8, 2018)

(p) For only those lots in the Village of Northeast Harbor within the Village Commercial District that have public sewer, the minimum lot area required for each dwelling unit on a single lot is 1000 square feet.

SECTION 4 NON-CONFORMITIES

4.1 Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 4. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

4.2 General

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

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

3. **Structures made non-conforming because they fail to meet the setback:** Any principal structure or accessory structures made non-conforming by adoption or amendment of the Land Use Zoning Ordinance of the Town of Mount Desert which is non-conforming because of a failure to meet the setback requirements of Section 3.5 may be reconstructed, or extended, providing that such work otherwise complies with all provisions of this Ordinance.

4. **Determination of Conformity.** In all districts the Code Enforcement Officer is responsible for determining whether conformity is met to the greatest practical extend except, in the shoreland zone the Planning Board is responsible for determining whether conformity to waterbody setbacks are met to the greatest practical extent.

4.3 Non-conforming Structures

1. **Expansions Outside the Shoreland Zone.** A structure located outside the shoreland zone which is nonconforming with respect to a dimensional requirement may be enlarged or extended in any other direction upon issuance of a building permit, provided that such activities otherwise comply with all provisions of this Ordinance.

2. Expansions In the Shoreland Zone. All new structures in the shoreland zone must meet the applicable shoreline setback requirements contained in Sections 3 (Land Use Districts) and 6 (Standards for Uses, Permits and Approval). A non-conforming structure in the shoreland zone 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 the subsections of Section 4.3.2.

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

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

(c) Notwithstanding Section 4.3.2(b), if a nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of this Ordinance are met, and the expansion is not prohibited by Section 4.3.2 above.

(i) The maximum total footprint for the principal structure may not be expanded to an area greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.

(ii) The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

(d) All other nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met and the expansion is not prohibited by Section 4.3.2 and subsections (a), (b) or (c) above.

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

(ii) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(iii) For structures located less than 100 feet from the normal high-water line of a great pond, the maximum combined total footprint for all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.

(iv) For structures located less than 100 feet from the normal high-water line of a great pond, the maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.

(v) For structures located less than 100 feet from the normal high-water line of a great pond, any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of Sections 4.3.2(d)(i) and (ii).

(e) In addition to the limitations in Section 4.3.2 and subsections (a), (b) and (c) above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

(i) The maximum combined total footprint for all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater.

(ii) The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.

(iii) Any portion of the structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, must meet the footprint and height requirements of Sections 4.3.2(d)(iii) and (iv).

(iv) Any portion of the structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of Sections 4.3.2(d)(i) and (ii).

(f) Notwithstanding the limitations on height imposed under the paragraphs above, the height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or to 3 feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This paragraph applies to structures that:

(i) Have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the local floodplain management elevation requirement; and
(ii) Are located in an area of special flood hazard.

(g) Any approved plan for expansion of a nonconforming structure under Section 4.3.2 must be recorded by the applicant in the registry of deeds of the county in which the property is located within 90 days of approval.

The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary and evidence of approval by the permitting authority.

3. **Expansion of Replacement Structure.** If a structure conforms with the requirements of Section 4.3.6 and is less than the required setback from a water body, tributary stream or wetland, the structure may not be expanded, except as allowed pursuant to Section 4.3.2 above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location.

4. **Foundation.** 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 or Code Enforcement Officer, basing its decision on the criteria specified in Section 4.3.5 Relocation.

5. **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, 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 or Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

   Within the shoreland zone only: 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:

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

2. 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.

3. 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.

6. Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or Code Enforcement Officer in accordance with Section 4.3.5 above. An appraiser must make the determination of market value, as defined, of the structure. 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 4.3.2 above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 4.3.5 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 eighteen (18) months of such damage, destruction, or removal. An appraiser must make the determination of market value, as defined, of the structure.

In determining whether the structure reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or Code Enforcement Officer shall consider, in addition to the criteria in Section 4.3.5 above, the physical condition and type of foundation present, if any.

7. **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact than the existing use on:

    a. the subject or adjacent properties and resources;
    or
    b. water body, tributary stream, or wetland

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

4.4 Non-conforming Uses

1. **Expansions**. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 4.3.1 and 4.3.2 above.

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

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

    A lot, building or structure located outside the Shoreland Zone, in or on which a non-conforming use is discontinued for a period exceeding two (2) years, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period.

This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses than the former use, as determined by the Planning Board. The determination of no greater adverse impact for non-conforming uses in the shoreland zone shall be made according to criteria listed in Section 4.3.5 above.

4.5 Non-conforming lots

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

    A. The lot lines or acreage of a legally existing nonconforming lot of record may modify without causing the lot to lose its grandfathered status provided that the lot is not located in whole or in part within the Shoreland Zone and that such a modification does not make the lot more non-conforming.

2. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

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

1. Each nonconforming lot is located in the Village Commercial or Village Residential 1 District and either:

    a. Is served by a public sewer; or

    b. Can accommodate a subsurface sewerage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules;

or

2. Each nonconforming lot located in any other district is either served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

    a. Each lot wholly or partially within the shoreland zone contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

    b. Any lots wholly or partially within the shoreland zone that do not meet the shore frontage and lot size requirements of Section 4.2 are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

4.6 Functional Land Divisions.

1. Functional land divisions of lots are allowed provided the lots are as conforming as possible, reviewed, and approved by the Planning Board. The Planning Board will determine whether each division is a distinct, separate, and historical residential use. The following criteria shall be met for a functional land division to be approved:

    1. The dwelling unit(s) located on the property all predate the adoption of this Ordinance or any amendment thereto which made the structures non-conforming.

    2. The structures located on the property, together with appropriate curtilage (i.e., yard area used with and around structure/s), were separately occupied and used by tenants at the time of the adoption of this Ordinance or any amendment thereto which made the structures non-conforming.

    3. The proposed use reflects the nature and purpose of the use prevailing when the zoning legislation took effect.

4. There is not created a use different in quality or character, as well as in degree.

5. The current use is not different in kind in its effect on the neighborhood.

2. **Reconstruction or Replacement.** Any structures in an approved functional land division which are 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 in accordance with the standards of Section 4.3.6. An appraiser must make the determination of market value, as defined, of the structure.

SECTION 5 CONDITIONAL USE APPROVAL

5.1 General requirement

No person may establish or expand a conditional use without first obtaining Conditional Use Approval of the Planning Board in accordance with the procedure described in this section. The granting of Conditional Use Approval shall in no way relieve any such person from the obligation to obtain a Town building permit and such other permits and approvals as may be required by local ordinances and state and federal laws.

5.2 Application

Application for Conditional Use Approval shall be made to the Planning Board in such forms as the Planning Board may require. Application shall be made by a person who has some right, title, or interest in the property. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer.

5.3 Waiver. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the initial review of the application. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards. Fees shall not be waived.

5.4 Review Procedures

Pre-Application Procedures – Prior to submitting a Conditional Use Approval Application an applicant or authorized agent may request to appear at a regular meeting of the Planning Board to discuss the proposed project. The pre-application review shall not be construed as representing either the pendency or the commencement of the application process per se.

Formal Application Procedures – The review procedures set forth below may, at the Planning Board's discretion, be undertaken at a single meeting.

1. **Determination of completeness.** Following receipt of a formal Conditional Use Approval application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

2. **Notification of completeness.** As soon as the Board determines that the application is complete, the Board shall notify the applicant of this finding and issue a dated receipt.

3. **Public hearing and notice of meeting.** On each application for Conditional Use Approval the Planning Board shall hold a public hearing not less than ten (10) days after public notice. The Town shall send notice of each public hearing by first class mail to all abutting property owners and shall publish such notice in a newspaper with local circulation at the applicant's expense. The notice shall include the date, time, and place of the meeting at which the application will be considered.

4. **Planning Board Decision**

    1. **Written Decision.** Within thirty (30) days after the later of 1) the public hearing or 2) the date on which the applicant furnished all information reasonably requested by the Planning Board, the Planning Board shall render its decision in writing, and such decision shall be signed by all voting members of the Planning Board.

    2. **Findings of fact.** In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed Conditional Use does or does not meet the standards of approval and other requirements of the Town. If the decision is adverse to the applicant, it shall include a statement of findings of fact and of reasons in support of the decision. If the Planning Board attaches restrictions or conditions to the Conditional Use Approval, those restriction or conditions shall be listed on the Conditional Use Approval. The Planning Board shall issue a Conditional Use Approval only when in its majority opinion the applicant has demonstrated by clear and convincing evidence that the proposed use meets the standards of Section 6A and the applicable standards of Sections 6B and 6C. In issuing a Conditional Use Approval the Planning Board may attach such restrictions and conditions to such approval as it deems necessary to ensure compliance with the standards of Section 6A and the applicable standards of Sections 6B and 6C.

    3. **Notification.** The Board shall notify the applicant, and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval, as well as draft and final copies of the meeting minutes. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

5. **On-site inspection.** The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when adverse conditions such as weather make such inspection impractical.

If an application is pending during a period when adverse conditions such as weather make such inspection impractical, the deadline by which the Planning Board shall take final action on the application as specified in subsection 5.3.4 may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection 5.3.3.

6. **Extension of time limits.** All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

5.5 Deadline for establishment of use

Unless more restrictive criteria are required in another section of this Ordinance, the proposed use must be established within twenty-four (24) months of the date of approval of the Conditional Use Application. Otherwise, the approval lapses and a new application is required. The beginning of construction or the commencement of business shall constitute establishment.

5.6 Amendment

No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this Ordinance, and the conditional use permit and approved site plan are amended accordingly.

Minor changes. The Code Enforcement Officer may authorize minor changes in the placement and size of improvements for an approved conditional use permit if the Code Enforcement Officer determines that the changes are consistent with the findings made by the Planning Board in connection with the approval of the conditional use permit and the standards of Section 6 of the Land Use Ordinance. The Code Enforcement Officer must also make a separate determination whether the minor changes are consistent with the standards of Section 6 of the Land Use Ordinance.

Other Changes. Changes to an approved conditional use permit, other than minor changes in the placement and size of improvements, shall require amendment to the conditional use permit by the Planning Board. The requirements for application and approval of a conditional use permit amendment shall be the same as the requirements for original application and approval.

5.7 Reconsideration

A Conditional Use Approval application which has been denied may not be resubmitted for a period of nine (9) months from the denial of the initial application unless there have been significant changes of conditions or circumstances, as determined by the Planning Board.

5.8 Appeal

The decision of the Planning Board may be appealed to the Zoning Board of Appeals within 30 days of notice of the Planning Board's final written decision. For this purpose, an applicant shall be deemed to have received notice three days after mailing of the final written decision of the Planning Board to the applicant. Other interested parties shall be deemed to have received notice three days after a copy of the final written decision of the Planning Board has been filed as a public record in the Town Clerk's office. The Board of Appeals has authority to hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board

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5.9 Standards

The application for Conditional Use Approval shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of the standards of Section 6A and/or one or more of the applicable standards of Section 6B or 6C. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable standards have been met.

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

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Shoreland Commercial district;
8. Will avoid problems associated with floodplain development and use; (In compliance with Floodplain Management Ordinance of the Town of Mount Desert – Amended March 7, 2006.)
9. Is in conformance with the provisions of Sections 6A, 6B and 6C.

SECTION 6 STANDARDS FOR USES, PERMITS AND APPROVALS

The land use standards in this Ordinance shall be applied to permitted as well as to conditional uses in all zoning districts.

The Planning Board or Code Enforcement Officer(s) in deciding whether or not to issue a permit or approval shall be governed by the standards set forth in this section. The Planning Board or Code Enforcement Officer(s) may reasonably require an applicant for a permit or approval to furnish at the applicant's expense expert testimony, including documentary material, to prove compliance with such standards.

6A GENERAL PERFORMANCE STANDARDS

6A.1 Compatibility

The proposed use shall be compatible with the permitted uses within the district in which it is located as measured in terms of its physical size, visual impact, proximity to other structures, and density of development.

6A.2 Erosion and Sedimentation Control

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

    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.

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

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

4. Stabilization of bare ground. 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 a catch of vegetation is 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.

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

6. Removal of sand or gravel. Removal of sand or gravel from natural beaches or the disruption or removal of buffer strips that protect fragile land areas immediately behind a shoreline and on neighboring properties is prohibited.

7. Tilling of soil. Where soil is tilled in a Conservation District, or where soil in excess of twenty thousand (20,000) square feet lying either wholly or partially within the area covered by this Ordinance is tilled in a Rural or Woodland District, such tillage shall be carried out in conformance with the provisions of a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission, and is approved by the appropriate Soil and Water Conservation District.

   The number of the plan shall be filed with the Planning Board. Non-conformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.

8. When an excavation contractor will perform the activities in the shoreland zone, compliance with the following shall be required:

   a. A person certified in erosion control practices by the Maine Department of Environmental Protection shall be responsible for management of erosion and sedimentation control practices at the site. This person shall be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.

b. Include on the required plan or permit application, the name and certification number of the person who will oversee activities causing or resulting in soil disturbance.

6A.3 Highway Safety

The proposed use shall not cause unreasonable congestion on highways or public roads, or unsafe conditions with respect to the use of highways or public roads existing or proposed. Sufficient off-street parking shall be available.

6A.4 Impact on Town Services

The proposed use shall not unduly burden the capacity of the Town's facilities, including public water and sewage, or the ability of the Town to provide essential public services (such as, but not limited to, schools, fire, and police protection, refuse collection, and parking) to its residents and visitors.

6A.5 Land Suitability

All uses to be on suitable soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists, and other person who is acceptable to the Planning Board to 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.

6A.6 Lighting – Outdoor

1. **Purpose.** To establish minimum requirements for outdoor lighting that enhances visibility and public safety by preventing uncontrolled intrusion into adjacent properties and the natural environment. Voluntary best practices are recommended to promote energy conservation and preserve the Town’s night sky, which is an important part of the Town’s character.

2. **Definitions**

CCT (Correlated Color Temperature). The perceived color of a light source. High color temperatures (e.g., 4000K and 5000K) are rich in blue light, which is a source of night sky light pollution, glare, and potential biological issues.

Dark Sky Friendly: Full cutoff, no light above the horizontal. For LED light sources, <3000K CCT. Up to 3100K will be allowed for manufacturing tolerance.

Direct Light: Light emitted below the horizontal from the lamp, off of the reflector or through the refractive lens or diffuser of the luminaire.

Fixture: The assembly that houses the LED(s) or lamps(s) and can include all or some of the following parts: a housing, mounting bracket or pole socket, lamp holder, ballast, power supply, reflector, or mirror and/or ~~a~~ refractor or lens.

Floodlight or Spotlight: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Foot-Candles (FC) and LUX: Units of illumination. One FC is equivalent to 1 lumen per square foot and 1 LUX equals 1 lumen per square meter. 1 FC = 10.764 LUX. FC or LUX can be measured with Foot-Candle or LUX meters.

Glare: Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see and in extreme cases to cause momentary blindness.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the center line of the luminaire to the lowest direct light-emitting part of the luminaire.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces such as a portico or roof overhang.

Lamp or LED: The component of a luminaire that produces the actual light.

Light Trespass: The excess light produced by a luminaire that extends beyond the boundaries of the property on which it is located.

High Intensity Discharge (HID) Fixtures: HID fixtures contain an arc lamp. HID fixtures in order of high to low efficiency are: Low Pressure Sodium (LPS) -pale yellow; High Pressure Sodium (HPS) - golden orange; Metal Halide - greenish white; and Mercury Vapor - purple-white. Mercury Vapor is considered obsolete.

LED Lighting: A solid state light source that emits light from a semi-conductor, light emitting diode junction (die) when voltage and current are applied. [Note: Current white LEDs utilize a high efficiency blue LED (>10,000K) in combination with phosphors that absorb blue spectra and re-radiate light energy into the green-yellow-red portions of the visible spectrum.]

Lumen: A unit of source light. One Foot-Candle is one lumen per square foot. A 100-watt incandescent, 26-watt CFL (compact fluorescent) and 17-watt LED lamp produce up to 1800 lumens. (See manufacturer's lamp packaging for the lamp's published lumen output).

Non-Specular Reflector: A diffuse reflector such as a painted white surface. Aluminized reflectors with a mirror like surface are specular reflectors.

Luminaire: A complete lighting system which includes a lamp or lamps or LED's and a fixture.

3. **Grandfathering of Nonconforming Lighting.** These requirements apply only to new construction and lighting installations. Upgrading any fixtures with Dark Sky units is highly recommended.

4. **Standards.** All public and private outdoor lighting installed in the Town of Mount Desert shall be in conformance with the standards established by this ordinance.

    a. **Full Cutoff.**

        i. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens shall not emit any direct light above a horizontal plane through the lowest direct light-emitting part of the luminaire.

        ii. Any Floodlight or Spotlight luminaires with a lamp or lamps rated at a total of more than 900 lumens shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire.

    b. **Light Trespass.** All light shall be installed so as to minimally illuminate adjacent properties (<0.1 FC or <1 LUX). Light from fixtures may be visible beyond the property line but brightness must be significantly attenuated to non-distracting levels by the use of shields, diffusers, indirect non-specular reflectors, or other special optical designs. The images of lamps, arc tubes and LED dies shall not be directly visible.

    c. **Excessive Lighting.** Excessive lighting may not be used to direct attention away from existing business and community lighting.

        i. The lighting of structural canopies such as gas station canopies shall not be used to attract attention to the business. Areas under structural canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum illumination) shall be no greater than 5:1 with an average illumination level of not more than 50 Foot-Candles.

        ii. Light fixtures located on the ceilings of structural canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.

5. **Exemptions.** The following are exempt:

    a. Lighting required by the Federal Aviation Administration (FAA) for aviation control/safety;

b. Church Steeples;

c. Lights used by police, fire, and medical personnel during an emergency.

6. Recommended Best Practices:

The following best practices are not enforceable standards of this ordinance and should not be applied specifically to any project or application before the Planning Board or Code Enforcement Officer. Rather, outside of the enforceable standards of this Ordinance, these practices are suggested ways applicants can help improve the quality and sustainability of the Town's outdoor lighting.

a. Motion Sensors. Use of motion sensors to control flood and spotlights should be considered when feasible.

b. LED Lights. Use 2700K correlated color temperature LED lights for better color rendering, higher efficacy, and lower maintenance than HID fixtures.

c. Non-security Parking Lights. Turn off non-security parking lot lights after business hours to save energy and protect the night sky.

d. Minimum Amount of Lighting. Provide the minimum amount of light needed to achieve safe uniform lighting with lights that consume the lowest amount of power possible.

e. Shield or flush mount lights. Fully shield or horizontally flush mount all lights.

f. Signs and flags. Illuminate signs and flags from above and shield all sports lighting.

g. Guidelines for professional design. Request that Architects, Engineers, and Lighting Designers follow illuminating Engineering Society guidelines for intensity and uniformity and not to exceed the minimum recommended values and International Dark Sky Association and American Medical Association recommendations for Full Cutoff and <3000K color temperature for IDA Approved Dark Sky Friendly fixtures.

6A.7 Stormwater

1. **Purpose.** The direct discharge of stormwater from ditches, swales and developed sites to streams and lakes can contribute to water pollution because stormwater can contain sediment, nutrients, hydrocarbons, and other harmful substances. Stormwater can also damage roads, ditches, culverts, and other drainage structures that are not designed or sized to accommodate storm flows. These problems can worsen when an undeveloped woody site is cleared for development since stormwater that was previously intercepted by vegetation and absorbed into the ground is allowed to flow more freely across and off of the site. The closer post-project stormwater flows are kept to pre-project conditions in terms of volume, rate, timing, and pollutant load, the less likely that stormwater will damage the site or public or private property or cause harm to water bodies.

Special care needs to be taken on lots that are within 75 feet of a water body or wetland and where drainage is towards the water body or wetland or on slopes of 25% or greater, or drain to a Town, State of Local roadway drainage system.

2. **Applicability.** In any district all new construction, development or other alteration of a lot must be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions.

3. **Stormwater plan required.** For development on all lots the applicant shall submit a Stormwater Management Plan which demonstrates to the satisfaction of the Code Enforcement Officer that stormwater runoff has been minimized and will not excessively exceed natural predevelopment conditions.

   In the event that the proposed project includes on-site stormwater conveyance structures, evidence will be provided that ensures that these structures have been sized properly and can handle anticipated flows. In the event that a development discharges storm flows into any off-site conveyance and/or control system, evidence will be provided that the off-site systems can handle the anticipated flows without resulting in any adverse conditions. (see Code Enforcement Officer for example of stormwater plan).

4. **Vegetated buffer.** Lots shall be developed to accommodate vegetated buffers whenever possible. The purpose of the buffer is to intercept and then spread out and soften the flow of water.

   Stormwater from the developed portion of the site shall be directed by sheet flow to the buffer. This buffer must be located on the down slope side(s) of the lot. If, due to lot orientation, a driveway or other opening must be located within the buffer, it shall be sited so that drainage from the developed portion of the site, including the driveway, can still be directed by sheet flow into the buffer. The buffer requirement may be met as follows:

   a. **Wooded buffer width.** If the buffer is presently wooded, it shall be at least 25 feet in width. Removal of trees and other vegetation within the buffer cannot result in any cleared openings or disturbance of the existing forest floor except for removal of dead trees and safety hazards.

   b. **Non-wooded buffer width that reverts to woods.** A minimum 25-foot-wide non-wooded buffer may also be used if it is allowed to revert to woods or is planted with shrubs or similar landscaping which minimizes disturbance of ground vegetation and leaf litter.

   c. **Non-wooded buffer width.** If a non-wooded buffer is to be maintained as a field, it shall be at least 50 feet in width and mowing limited to no more than twice per year.

d. **Buffer alternatives.** Berms, detention basins or other alternatives as approved by the Code Enforcement Officer may be used instead of vegetated buffers if they are designed to intercept and then spread out and soften the flow of stormwater without channeling it. The Code Enforcement Officer is authorized to request the review and endorsement of any such alternatives by the Hancock County Soil and Water Conservation District, or Maine Registered Professional Engineer the cost of which shall be borne by the Applicant.

5. **Natural drainage.** Existing swales or drainage courses that carry water through the site are to remain undisturbed to the maximum extent possible. Culverts, stream crossings and other alterations may be permitted if the flow of water is unimpeded as it leaves the property in a manner similar to pre-project conditions and that proper erosion control and stabilization measures are installed at the inlets and outlets.

6. **Directing sheet flow to buffers.** All disturbed portions of the site, including buildings, lawns, and driveways, are to be graded to direct sheet flow of drainage into the buffer areas and not into roadside ditches wherever possible. Any drainage that must be directed to roadside ditches shall be minimized.

7. **Filling or grading to protect the shoreline and prevent erosion.** On slopes greater than twenty-five (25) percent, there shall be no grading or filling within one hundred (100) feet of the shoreline, except to protect the shoreline and prevent erosion.

8. **CEO Inspection.** Following completion of lot development, the Code Enforcement Officer or his/her designee shall inspect the lot to verify that the requirements of the Stormwater Standard have been met. Should the Code Enforcement Officer determine that the lot is not in compliance with the Stormwater Standard, he/she shall initiate enforcement action to bring the lot into compliance in accordance with the provisions of this Ordinance.

9. **Modifications.** The Code Enforcement Officer may approve modifications to the Stormwater Standard if the applicant can demonstrate that the intent of Stormwater Standard will be complied with. In making this determination, the Code Enforcement Officer may request the review and endorsement of the Hancock County Soil and Water Conservation District, or Maine Registered Professional Engineer. The cost of such assistance shall be borne by the applicant.

10. **Maintenance.** Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

6A.8 Vegetation

1. **Clearing.** Clearing of trees or conversion to other vegetation is allowed for permitted construction provided that:

    1. Appropriate measures are taken, if necessary, to prevent erosion when activity is undertaken.

2. The activity is in conformity with Section 6C.3, clearing or removal of vegetation for activities other than timber harvesting.

2. Tree removal near town or state roads. Removal of more than 25% of the trees within 25 feet of any town or state road in any 12-month period (except for those required to complete permitted construction) shall require a Conditional Use Approval of the Planning Board. Other woody plants must be retained or replaced with native species.

3. Slash. No accumulation of slash shall be left within 50 feet of any town or state road or within 50 feet of the normal high-water line of any water body, and in shoreland zone shall comply with the standards of Section 6C.3. Slash shall be disposed of so that no part extends more than 4 feet above the ground.

6A.9 Dust, Fumes, Vapors, Odors, and Gases

Emission of dust, fly ash, fumes, vapors, odors, or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the establishment creating that emission shall comply with applicable Federal and State regulations.

6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES

6B.1 Agriculture

In non-shoreland areas, all spreading, or disposal 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 (7 M.R.S.A. sections 4201-4209). In shoreland areas, all spreading, or disposal of manure shall comply with Section 6C.1.

6B.2 Reserved

6B.3 Beach Construction

Beach construction on any great pond, river, stream, brook, or coastal wetland shall require a permit from the State Department of Environmental Protection.

6B.4 Boat Storage

No boat in excess of twenty four (24) feet length shall be stored or parked on any residential property within the Town except as such vessel shall be owned or be within the exclusive use or control of the property owner, and shall meet the setback requirements of the district in which the property is located, and in no event shall be stored or parked less than ten (10) feet from the rear line of said property.

6B.5 Campgrounds

Campgrounds are prohibited, and any campgrounds existing on the effective date of this Ordinance are considered non-conforming.

6B.6 Driveway Construction

1. **Primary access driveways.** Driveways that provide the primary access from a public or private way to a building shall hereafter be located, constructed, and maintained in such a manner that there is minimal potential for erosion. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters and meet the following construction standards:

Minimum Width of Right-of-Way or Strip of Land Used for Access:	20 feet
Minimum travel surface width:	12 feet
Minimum unobstructed width:	14.5 feet
Minimum vertical clearance:	14.5 feet

2. **Continuation of compliance.** The minimum construction standards must be maintained at all times to provide adequate ingress and egress for emergency vehicles.

3. **Culverts.** Culverts with a minimum 15" diameter shall be installed at the end of driveways to provide for adequate drainage at the intersection with public or private ways where ditching exists.

4. **Stormwater flows from driveways.** Driveways shall be constructed and maintained to meet the following minimum standards:
    1. **No flow onto streets.** The driveway shall be constructed to prevent water or runoff from the driveway from reaching the paved or traveled portion of a public or private street.
    2. **No flow increase on abutting property.** Driveway construction shall not result in an increase in quantity or concentration of pre-construction stormwater flow from the property onto an abutting property.

5. **Compliance with stormwater standards.** Driveways shall comply with the stormwater standards of Section 6A.7, where applicable.

6B.7 Excavation (other than gravel pits) or filling

Excavation or filling shall be permitted in any district only to the extent such activities are essential or are incidental to any permitted, conditional, or other lawful use. Filling, dumping, or excavation of any matter is allowed as specified in Section 3.4 of the Land Use Zoning Ordinance.

Appropriate measures shall be taken to prevent erosion during or after the filling or excavation, and the applicable standards of Section 6A.2 shall be complied with. All fill permits are approved for a twelve (12) month period only and expire twelve (12) months from the date of approval. The Code Enforcement Officer may renew either the Code Enforcement Officer permit or the Conditional Use Approval for additional twelve (12) month periods.

6B.8 Fences and walls

A solid fence (as opposed to a rail or similar fence) or wall, more than four (4) feet in height, measured vertically from the ground directly beneath the fence or wall, shall require either a Code Enforcement Officer Permit or Conditional Use Approval. Such fences or walls shall not unduly restrict scenic views. The structural side of the fence shall not face the public view.

1. **A Code Enforcement Officer Permit** may be issued for solid fences or walls up to six (6) feet in height provided that:
    1. A setback of six (6) feet is maintained from roads, sidewalks, and right-of-ways.
    2. It does not obstruct highway visibility.
    3. A plan for vegetative screening, in the six (6) foot setback area, is provided that produces a minimum of twenty (20) percent cover of the fence or wall area. The plan must be implemented and maintained.

2. **Fences or walls that do not meet** the above criteria shall require Conditional Use Approval of the Planning Board.

6B.9 Individual Private Campsites.

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

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

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

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

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

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

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

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

6B.10 Home occupations and home offices

Home occupations and home offices (except those of a temporary or casual nature) shall require a permit from the Code Enforcement Officer to insure compliance with the following standards:

1. **Home Occupation or Home Office.** An income producing activity which is conducted in a residential structure or on residential property and:

    1. is compatible with the residential use of the property and surrounding residential uses and;
    2. employs, in addition to the resident family member, either:
        a. no more than three family members residing on the property, or
        b. no more than two persons (family members or not) who do not reside on the property and;
    3. is conducted in a specified structure, existing at the time of the application. No additional structure shall be built or used to accommodate the occupation, without first being granted a permit from the Code Enforcement Officer.
    4. All goods sold on the home property must be produced on the home property.
    5. Off-street parking may be required.

2. **Bed and breakfast.** Bed and Breakfast accommodations are permitted in the legal residence of the host/hostess who shall reside on the premises. There shall be not more than three (3) rooms devoted to guests nor more than eight (8) people accommodated. Off-street parking is required.

6B.11 Lots

1. Minimum lot size. See section 3.5.

2. **Access.**

1. All lots must maintain safe access for fire, police, and emergency vehicles to an abutting public way or to another public way via a driveway, a right of way, or one or more private roads (or a combination of any of the foregoing) validly benefiting the lot.

2. Standards for new, extended, or modifications to an existing driveway are in Section 6B.6. Standards for new, extended, or modifications to an existing private road are in the Town of Mount Desert Road Standards Ordinance.

3. Requirements for lots wholly outside the Shoreland Zone

1. **Lots abutting more than one road.** Lots which abut more than one road shall have the required setbacks along each road used as an entrance or exit.

2. **Residential Dwelling One-Family, Two-Family and Multi-Family.**

    a. All dimensional requirements shall be met separately for each and every Residential Dwelling One-Family on a lot.

    b. A Residential Dwelling Two-Family shall be considered a single structure and all dimensional requirements shall be met separately for each and every Residential Dwelling Two-Family on a lot.

    c. Dimensional Standards shall be met for each residential dwelling unit in a Residential Dwelling Multi-Family.

3. **Accessory Dwelling Units.** For any existing or new lot with a Residential Dwelling One-Family that is wholly outside the Shoreland Zone, one accessory residential dwelling unit is allowed per lot without an increase in the minimum lot area requirement.

    a. Accessory residential dwelling units can be within the Residential Dwelling One-Family, attached to it, or in a new structure.

    b. An accessory dwelling unit must be a minimum of 190 square feet and may be no more than 75 percent of the living area of the primary dwelling unit.

    c. The accessory residential dwelling unit must have adequate water supply and shall meet town and state standards for wastewater disposal.

    d. For an accessory residential dwelling unit permitted in an existing accessory building or secondary building or garage as of the implementation date, the required setback requirements in local ordinance of the existing accessory or secondary building apply.

4. **Minimum area suitable for development.** Each lot shall have sufficient area for the construction of buildings without utilizing wetlands. Any floodplains that are used for the construction of buildings shall be subject to the requirements of the Mt. Desert Floodplain Management Ordinance. The applicant shall be responsible for documenting compliance with this requirement.

    The required area shall be located outside of any setback areas (unless setbacks are reduced pursuant to Section 3.5, footnote d).

5. **Lot lines in subdivisions.** All lot lines abutting a road in a subdivision approved after March 4, 1997 shall run to the middle of the road's right of way.

4. **Requirements for Lots Wholly or Partially within the Shoreland Zone**

1. **Lots abutting more than one road.** Lots which abut more than one road shall have the required setbacks along each road used as an entrance or exit.

2. **Minimum area suitable for development.** Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads

serving more than two (2) lots shall not be included toward calculating minimum lot area.

3. **Minimum width within 100 feet.** 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.

4. **Multiple structures.** 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 that is wholly or partially within the Shoreland Zone, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

6B.12 Manufactured Homes

The Town's regulation of mobile home parks shall be consistent with regulations in state law.

6B.13 Mineral Extraction and Exploration

Quarrying activities are regulated by the Town of Mount Desert Quarrying License Ordinance.

6B.14 Recreational Vehicles

No recreational vehicle shall be used for human habitation unless it is in a campground or individual private campsite which has been established in accord with provisions of this Ordinance. Provided, however, that the Code Enforcement Officer may issue a permit authorizing temporary use of a recreational vehicle for residential purposes not exceeding a total of ninety (90) days, only while a home is uninhabitable and under construction or renovation, and only on the same site as the home that is being constructed or renovated.

6B.15 Sanitary Standards

1. **Availability of public sewer.** All plumbing systems within two hundred (200) feet of a public sewer shall be connected to public sewer where available in accordance with local, state, and federal laws and regulations. The Board of Selectmen may grant an exception to this requirement in accordance with Article 2 of the Town of Mount Desert Sewer Ordinance.

2. **State standards.** All subsurface sewage disposal facilities shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

6B.16 Sign Regulations

1. **Definition.** Any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other figure which is designed, intended, or used to advertise or inform. A sign with a double signboard or display area shall be construed

to be one sign for the purpose of this Ordinance.

1. **Minimum requirement.** No sign shall be changed, structurally altered, erected, or relocated except in conformance with this Ordinance.

2. **Exempt Signs:** The following signs are exempt from the requirements of this ordinance:

    1. **Government Sign.** Municipally authorized directional or informational sign located on property owned, leased or under the control of the Town of Mount Desert.

    2. **Plaque.** An interpretive sign or plaque up to four (4) square feet which identifies or explains a point of articles or historic significance.

3. **Signs Prohibited:**

    1. **Off-premise signs.** Signs relating to goods or services not sold or rendered on the premises are not permitted, except for those permitted under Subsection 4.

    2. **Subdivision, multi-family developments.** Permanent signs which are visible from the public road identifying an entry or name of a subdivision or multifamily development are not permitted.

4. **Signs Permitted**

: Temporary Signs:

1. **Events.** Signs of a temporary, nature, such as political posters, advertisements of special events and functions, notices of meetings, and other signs of a similar nature, are permitted for a period not to exceed thirty (30) days (except banners) and shall be removed by the party erecting the sign.

2. **Banners.** Banners for special events and functions are permitted for a period of fourteen (14) days.

3. **Real estate.** A real estate sign up to nine (9) square feet in area (attached to a building or free standing) may be erected advertising the sale, lease, or rental of the premises upon which the sign is located. All signs shall be removed by the owner or agent when the property is sold or leased.

4. **Agriculture.** Agricultural signs may be erected during the period May 15 through November 1, by growers of fresh fruit and vegetable crops, when such crops are offered for sale on the premises where grown or sold; such signs shall advertise only those fruits and vegetables immediately available. Signs shall not exceed eight (8) square feet in size; must be located within five (5) miles of the farm stand; shall be permitted only during the day crops are offered for sale. Signs must be erected on private property with the landowner's written consent.

5. **Construction.** One sign up to nine (9) square feet in area identifying a current construction project may be erected.

5. **Signs Permitted: Permanent Signs:**

1. **Bulletin board.** A bulletin board or similar sign not exceeding twenty-four (24) square feet in display area in connection with any church, school, library, museum, or similar public structure is permitted.
2. **Home occupation.** Signs announcing the name, address, and profession of a permitted home occupation or a lawfully existing non-conforming home occupation are allowed, providing such signs do not exceed two (2) square feet in display area.
3. **Identification.** Identification signs indicating the location of or direction to a private dwelling may be erected on the owner's property. Such signs shall not exceed two (2) square feet in area nor extend higher than five (5) feet above the ground level. Directional signs solely indicating ingress or egress placed at driveway locations, containing no advertising material or display area shall not exceed three (3) square feet nor extend higher than four (4) feet above ground level.
4. **General.** "No Hunting," No Trespassing," and similar signs, of size no larger than 2 square feet are permitted on private land.
5. **Directional.** Directional signs at intersections of two or more state roads within the Town of Mount Desert are permitted with the approval of the Board of Selectmen and the prior recommendation of the Planning Board, which shall be forwarded to the Selectmen by the applicant with their application for a directional sign.

6. **General Safety Standards.** No sign, whether new or existing, shall hereafter be permitted that causes a sight, traffic, health, or welfare hazard, or results in a nuisance, due to illumination, placement, display, or manner of construction.

    1. **Projecting signs.** No sign shall project over a public right-of-way, but this restriction does not apply to signs over sidewalks.

        Signs erected after March 1, 1992, shall provide a minimum of ten (10) feet six (6) inches clearance over sidewalks and a minimum of fourteen (14) feet clearance over roads and rights-of-way.

7. **Restrictions and Limitations on Signs**

    1. **Permit required.** No permanent sign in excess of two (2) square feet shall be erected within the Town of Mount Desert without first acquiring a building permit from the Code Enforcement Officer.
    2. **Size limit.** No sign (except banners) shall exceed thirty-two (32) square feet in area. Nor shall the aggregate of all signs on site pertaining to any business exceed thirty-two (32) square feet in area unless Conditional Use Approval of the Planning Board is obtained. In the shoreland zone, no sign shall extend higher than twenty (20) feet above the ground.
    3. **Section 3 limits.** No billboard, banner, streamer, pennant, ribbon, spinner, or similar device shall be erected in any district, except those permitted in Subsection 3.1.

4. **Moving parts.** No sign shall have visible moving parts, blinking, moving, or glaring illumination, or any part consisting of banners, pennants, ribbons, streamers, spinners, or other similar devices.

   A string of lights shall not be used for the purpose of advertising or attracting attention. Signs may be illuminated only by shielded non-flashing lights. Neon and other self-illuminating signs are not permitted. For the purpose of this Ordinance, self-illuminated vending and like machines are considered signage.

5. **Roof signs.** Roof signs shall not be permitted except after the issuance of Conditional Use Approval of the Planning Board. No roof sign shall extend above the roof line of the building.

8. **Maintenance and Conformance of Signs:** No sign shall hereafter be erected, altered, or changed except in conformity with the provisions of this Ordinance. Notwithstanding any provisions contained herein, however, the sign must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring or loose fastenings, and must be maintained at all times in such safe condition.

9. **Removal:** Any sign now or hereafter existing which no longer advertises a bona fide business conducted, product sold, activity or campaign being conducted, or public notice, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or premises upon which such sign may be found within ten (10) days after the written or personal notification from the Code Enforcement Officer.

6B.17 Vehicles, Unregistered

No more than two (2) unregistered and/or uninspected vehicles may be stored on any residential lot, unless said vehicles cannot be viewed from any public way.

6B.18 Wireless Communication Facilities

1. **Purpose.** The purpose of this subsection is to provide a uniform and comprehensive set of performance standards and requirements to be used by the Planning Board during the Conditional Use Approval process upon review of an application for the placement and construction of a wireless communications tower.

These standards and requirements are intended to regulate the location and installation of such facilities in order to:

a. Protect and preserve the aesthetic quality of Mount Desert as set forth in the goals, policies, and objectives of the adopted Mount Desert Comprehensive Plan.

b. Protect and preserve the visual character of the Town and Acadia National Park.

c. Protect abutting properties from potential damage from tower failure, falling ice and to prevent other hazards to public safety through careful siting regulations and engineering requirements.

d. Require co-location on existing and future wireless communications towers and maximize the use of existing and approved towers and other existing structures such as utility poles and buildings to accommodate new communications antennas in order to reduce the number of new towers needed to serve the community's needs.

2. **Exemptions.** The following activities and structures are exempt from a Conditional Use Approval:

   a. A ground, building- or tower-mounted antenna, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, which is not licensed or used for any commercial purpose.

   b. Radio or television satellite dish antenna for the sole use of the resident occupying a residential parcel on which the satellite dish is located.

   c. A single ground- or building-mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located.

   d. A ground- or building-mounted citizens band radio or two-way antenna, including any mast.

   e. A wireless facility that is integrated into an existing or proposed church steeple, flagpole, light standard, power line support device, water tower, or similar structure.

3. **Space requirements.** The maximum height of any tower shall not exceed 125 feet, including antenna arrays and other attachments, subject to the approval of the Planning Board with possible conditions and restrictions to meet the purpose of this chapter.

4. **Mass of antennas per user.** The mass of antennas, including required antenna support structures, on a tower shall not exceed 1,900 cubic feet per array. The Planning Board may allow an increase in the mass if it determines an increase is necessary for the provision of services. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical, or pyramidal geometric shapes encompassing the entire perimeters of the array and all of its parts and attachments.

5. **Lot area requirement.** A wireless communications tower may be placed on a legally nonconforming lot that does not meet the dimensional requirements of the districts it is in after a finding by the Planning Board that such a tower siting will not jeopardize the health, safety and welfare of surrounding lot owners, and all setback requirements are met. This requirement does not apply to towers and antennas that are exempted in Section 8 – Structure Definition.

6. **Setbacks.**

   a. The center of the base of any wireless communications tower must be set back a minimum of 105% of the tower height or the required minimum setback of the district in which it is located, whichever is greater.

   b. No part of the structure, including anchors, overhead lines, masts, etc., shall be located in the required district setback or in any required buffer area both on the ground or in the air space above the ground.

   c. Accessory support buildings containing electronic equipment and any other structures accessory to the wireless communications tower shall meet the required district building setback.

   d. If more than one wireless communications tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.

   e. If other non-accessory uses are located on the same lot or parcel as a tower, all structures associated with such other uses shall be located a minimum distance of 105% of the tower height from the center of the base of the tower.

   f. Setback requirement cannot be waived by abutting property owner as otherwise allowed in Section 3.5 footnote (d).

7. **Co-location requirements.**

   a. Existing towers. Applicants for Conditional Use Approval for a new communications tower must send written notice by certified first-class United States Mail to all other owners of communications towers in the Town and all licensed communications providers utilizing existing towers, regardless of tower location, to service the town, stating their siting needs and/or co-location capabilities in an effort to meet the town co-location requirement. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice, which was sent, and a statement, under oath, that the notices were sent as required.

An application for a new wireless communications tower must include evidence that existing, or previously approved towers cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be:

1. Planned, necessary equipment would exceed the structural capacity of existing and approved towers, considering the existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment.
2. Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower and the interference cannot be prevented or mitigated.
3. Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively.
4. Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers.

b. Construction of new towers. A proposal to construct a new wireless communications tower must include evidence that the tower can structurally support a minimum of three antenna arrays for co-location purposes.

8. **Submissions.** In addition to all of the relevant Conditional Use Approval Application submission requirements, the following submissions, in a form acceptable to the Planning Board shall be required, unless waived by the Planning Board:

a. A report from a professional engineer registered in the State of Maine that describes the communications tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s), and volume of antenna(s) that it can accommodate and the basis for the calculation of capacity.

b. For pole-mounted facilities, certification by a professional engineer registered in the State of Maine that the design is adequate to support, without failure, the maximum forces expected from wind, earthquakes, ice/snow loading when the pole is fully loaded with antennas, transmitters, other equipment, and camouflaging, as described in the submitted plan.

c. Elevation drawings, cross-sectional area, or silhouette, of the facility, drawn to scale and showing all measurements, both linear and volumetric, showing front, sides, and rear of the proposed facility, including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and

trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

d. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, measurements and elevations of the structure shall be provided.

e. Details of all accessory structures, including buildings, parking areas, utilities, gates, access roads, etc.

f. A narrative and demonstration detailing:

   1. The extent to which the proposed facility would be visible from scenic resources as determined by the Planning Board and from Acadia National Park.
   2. The tree line elevation of vegetation within 300 feet of the proposed tower.
   3. The distance to the proposed facility from the designated scenic resources.

g. A visual impact assessment, which shall include a photo montage, field mockup, or other techniques, shall be prepared by or on behalf of the applicant who identifies the potential visual impacts at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from Acadia National Park, archaeological and historic resources, including historic districts, areas, and structures, specifically those listed in the National Register of Historic Places, or eligible for inclusion.

   The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC.

   The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communications facilities in the area and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communications service.

h. Site photos showing vegetation, existing and adjacent structures, and views of and from the proposed site. Topography of and land uses on the proposed parcel and on abutting properties.

i. Landscaping plan showing location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.

j. Identification of any other communications facilities existing or proposed on the site.

k. A written description of how the proposed facility fits into the applicant's communications network, including a demonstration of a coverage and/or capacity problem, demonstration that all alternatives and existing structures have been identified and fairly rejected, that the proposed height is the minimum height necessary to achieve the targeted coverage area and a description of how other tower heights would change the coverage area. It should also describe reasonable anticipated expansion of the proposed facilities on the proposed site and related facilities in the region and reasonable anticipated changes of technology and their effect on expansions of the proposed facility. This submission requirement does not require disclosure of confidential business information.

l. A letter of intent that commits the tower owner and successors in interest to:

   1. Respond in a timely, comprehensive manner to a request for information from potential co-location applicant.
   2. Negotiate in good faith for shared use by other parties.

m. Evidence that co-location on existing or an approved tower is not possible per co-location section above or in adjacent towns.

   If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower and generally describe the means and projected cost of shared use of the existing or approved tower site.

n. Proof of financial capacity to build, maintain, and remove the proposed tower.

9. **Design Standards.** The following design standards shall be met by the applicant. The Planning Board, as part of the Conditional Use Approval review process, shall determine if the applicant has complied with these standards.

All communications facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:

a. Towers shall be constructed of metal or other nonflammable material unless specifically waived by the Planning Board due to technical or engineering reasons.

b. Accessory facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.

c. Accessory facilities shall be constructed out of no reflective exterior materials with earth toned colors or shall be placed underground, if possible.

d. New accessory facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.

e. All buildings, poles, towers, antenna supports, antennas and other components of each communications facility site shall be initially painted and thereafter repainted as necessary with matte finish paint. The color(s) selected shall be one that the Planning Board determines will minimize their visibility to the greatest extent feasible. To this end, improvements that will be primarily viewed against soils or trees shall be painted colors matching these landscapes, while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location unless the Planning Board determines that an alternative proposal will minimize visibility.

f. The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

g. Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.

k. Only security lighting is permitted. All outdoor lighting shall meet Section 6A.6 standards of the Land Use Zoning Ordinance unless required by the Federal Communications Commission, Federal Aviation Administration, or other federal agency.

l. Advertising and commercial signs shall not be permitted on a communications facility.

m. Guy wires shall not be permitted as part of a communications facility.

10. **Location.** All communications facilities shall be located so as to minimize their visibility and to minimize the total number of towers in the Town. The following measures shall guide the location:

    a. Communications facilities shall not be sited in areas of high visibility, as determined by the Planning Board, to meet the purpose of this subsection unless the facility is designed to minimize its profile by blending with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable. The height of a communications tower that is located within the view shed of a scenic vista, scenic landscape, or scenic road, as determined by the Planning Board, may be, at the discretion of the Planning Board, subject to height limitation. Such limitation may restrict the height of the tower such that it does not exceed the height of vegetation within 300 feet of the proposed location.

    b. No facility shall be located so as to create a significant impact to the health or survival of rare, threatened, or endangered plant or animal species.

    c. No facility shall be located within areas two hundred fifty (250) feet of the normal high-water line of any great pond, or areas within two hundred fifty (250) feet of the upland edge of a coastal or freshwater wetland, or areas within seventy-five (75) feet of the high-water line of a stream.

11. **Standards.** In addition to the criteria and standards, listed in Section 6 of the Land Use Zoning Ordinance these additional criteria and standards shall be utilized by the Planning Board in reviewing applications for Conditional Use Approval for proposed communications facilities:

    a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either by landscaping, fencing or other architectural screening.

    b. Antennas shall be as small as technically possible in order to minimize visual impact.

    c. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.

d. Other technically feasible sites have been investigated, and if available, the proposed facility has been located in order to minimize the effect on visually sensitive areas.

e. Co-location, where technically feasible and visually desirable, on an existing tower, has been investigated, and if technically and financially feasible, the proposed facility is co-located.

f. Use of an existing community facility site, such as utility poles, has been investigated as a potential site for a tower, antennas, and other equipment and, if available and technically feasible and visually desirable, is proposed as the site for the facility.

g. Adequate bonding for removal of the communications, facility, in a form, and amount acceptable to the Town Manager has been submitted.

12. **Amendments.** Any change to proposed towers requires Conditional Use Approval. Once a tower has been erected and is operational, changes to the facility that do not increase the height of the facility shall not require Conditional Use Approval unless such changes exceed the design criteria and additional standards and criteria previously approved in the original Conditional Use Approval. If the height of the facility will not increase and the design standards and additional standards and criteria previously approved in the original Conditional Use Approval remain consistent, changes to the facility shall require a permit from the Code Enforcement Officer.

    a. Removal of communications facilities.

    b. If the tower ceases to be used or if the use of the tower is abandoned for any reason, it shall be the responsibility of the owner of the facility to notify the Code Enforcement Officer of the date of abandonment or cessation of use. If the owner fails to give the required notice, the CEO shall make a determination of such date, which determination shall be conclusive as to the date of abandonment or cessation of use.

    c. In the case of a tower which is abandoned or the use of which ceases, it shall be removed within one year of its abandonment or cessation of use. All aboveground structures, equipment, foundations, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment, or utilities shall be removed and the land returned to a condition as near to the original preconstruction condition as possible.

    d. At the time of approval, the applicant for a new tower shall submit to the Town a bond or other financial surety in a form acceptable to the Town

Manager outlined in Performance Guarantees, of the Land Use Ordinance, to be approved by the Finance Director, in the amount of 150% of the estimated demolition cost of the tower and the removal of all accessory facilities as described above, such cost to be determined by an independent professional engineer registered in the State of Maine and the amount shall be acceptable to the Town Manager. The bond or other financial surety shall be in effect for as long as the tower is in place.

e. (The bond shall be used by the Town to demolish a tower which is abandoned or the use of which has ceased, accessory facilities and associated abandoned structures only if the owner has not done so within the required one-year period.

f. The owner may apply to the Town Manager for release of the bond at such time that the owner or assigns remove the tower, accessory facilities and associated abandoned structures as described above and such completed removal is found to be satisfactory by the Code Enforcement Officer. The cost of inspection by the Code Enforcement Officer shall be borne by the owner.

13. **Inspections and Monitoring.** The following procedure shall be undertaken by the owner of the tower:

a. Inspection of towers by an independent tower inspection firm shall be performed to ensure structural integrity. Such inspections shall be performed as follows:

i. Monopole towers at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

ii. Self-supporting towers at least once every five years follow completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.

b. The inspection report shall be submitted to the Code Enforcement Officer within 30 days of its receipt by the tower owner. Based upon the results of the inspection, the CEO may require repair or demolition of the tower.

c. The cost of such inspections, reports, repairs, or demolition shall be borne entirely by the tower owner. Required repairs shall be completed within 90 days or less as required by the CEO for safety reasons.

d. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

e. The owner of a wireless communications facility shall pay for an independent radio frequency engineer approved by the Town to evaluate the electromagnetic radiation emitted from all users of the wireless communications facility every year, with the first evaluation occurring within 30 days after transmission begins.
The levels of electromagnetic radiation emissions must comply with the most up-to-date FCC standards at the time of the monitoring test. A report detailing the monitoring test shall be submitted to the Code Enforcement Officer within 30 days of completion of the monitoring test. Failure to provide required inspection reports in the required time schedule shall be a violation of the Land Use Ordinance.

f. Should the monitoring of a facility reveal that the electromagnetic radiation emitted from the site exceeds the current FCC standards and guidelines, the owner(s) of all facilities utilizing the site shall be notified. In accordance with FCC requirements, the owner(s) must immediately reduce power or cease operation as necessary to protect persons having access to the site, tower, or antennas. In addition, the owner(s) shall submit to the Town an analysis of what caused the problem and a plan for the reduction of emissions to a level in compliance with the current FCC standards within 10 business days. Failure to accomplish this reduction of emissions within 15 business days of initial notification of noncompliance shall be a violation per Section 7.10 of the Land Use Ordinance.

6B.19. Animal Husbandry 2 in the Village Commercial and Shoreland Commercial Districts

1. **Permit Required.** A building permit is required for the construction of a henhouse and chicken pen.

2. **Number and Type of Chickens Allowed.**

    1. The maximum number of chickens allowed is six (6) per lot regardless of how many dwelling units are on the lot. In the case of residential condominium complexes without individually owned back yards, the maximum number of chickens allowed is six (6) per complex.

    2. Only female chickens are allowed. There is no restriction on chicken species.

3. **Non-Commercial Use Only.** Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes.

4. **Enclosures.**

    1. Chickens must be kept in an enclosure or fenced area at all times. During daylight hours, chickens may be allowed outside of their chicken pens in a securely fenced yard. Chickens shall be secured within the henhouse during non-daylight hours.

    2. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.

5. **Odor.** Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

6. **Predators, Rodents, Insects, and Parasites.** The property owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation shall be removed by the Animal Control Officer.

7. **Waste Storage and Removal.** Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

6B.20. Mobile Food Vendors

1. Mobile Food Vendors must have a license issued by the Code Enforcement Officer pursuant to the provisions in the Sale of Food and Merchandise Ordinance.

2. Mobile Food Vendors in the Shoreland Commercial District may only operate in designated areas within Town-owned property with written authorization posted on the unit.

3. Mobile Food Vendors may only operate on Private Property in the Rural Woodland District with written authorization posted on the unit.

4. Mobile Food Vendors must receive Conditional Use Approval from the Planning Board in order to operate in the Rural Woodland District. In addition to all of the relevant Conditional Use Approval application submission requirements, the following submissions, in a form acceptable to the Planning Board shall be required, unless waived by the Planning Board:

a. A site plan drawing showing the general layout of the proposed area to be used by the Mobile Food Vendor including the location where the Mobile Vending Unit will be located, parking, vehicular circulation, and any outdoor seating areas. This plan must be legible and drawn to scale. The site plan shall include all of the following:

    1. The general layout and dimensions of the area of used for operations of the Mobile Food Vendor, including the location on the site where the mobile vending unit will be will be parked.
    2. Property lines, required setbacks, and other site features.
    3. Footprint of existing buildings.
    4. Sufficient detail to demonstrate vehicle and pedestrian circulation within the site.
    5. Name, address, and the phone number of the property owner.
    6. Street address and municipal tax map and lot number.
    7. North arrow and drawing scale.

b. A letter showing evidence that the Mobile Food Vendor is authorized to operate on the property.

c. A written description of the business, including the food to be sold, hours of operation, and type of mobile vending unit.

5. In addition to the criteria and standards listed in Section 6 of the Land Use Zoning Ordinance these additional criteria and standards shall apply to Mobile Food Vendors operating in the Rural Woodland District.

a. Hours of operation shall be limited to the hours between 6 a.m. and 10 p.m. The Town of Mount Desert Police Department has the sole discretion to require a cessation in operations of a mobile vending unit where, in the opinion of the Department, the unit is causing or contributing to a breach of the peace or other adverse public safety conditions.

b. All business activity related to a Mobile Food Vendor shall be of a temporary nature, the duration of which shall not exceed 120 days per year.

c. Mobile Food Vendors must be located at least two hundred (200) feet from any fixed based food service establishment with an operating kitchen measured from the nearest edge of the property.

d. Mobile Food Vendors must supply a trash receptacle and a recycling receptacle in a convenient location that does not impede pedestrian or vehicular traffic and is sufficient in size to collect all waste generated by customers and staff of the

mobile vending operation. All trash and debris generated by customers and staff shall be collected by the Mobile Food Vendor and removed from the site each day for lawful disposal and/or recycling.

e. No sales or service of alcohol shall be allowed by Mobile Food Vendors.

f. Mobile Food Vendors shall not create excessive noise. Any auxiliary power required for the Mobile Vending Unit shall be self-contained. No amplified music, compressors or loudspeakers are permitted.

g. No signage other than that exhibited on or inside of the Mobile Vending Unit may be displayed.

h. In addition to the lighting standards in Section 6A.6, any exterior lighting shall be designed and placed in such a manner that it does not result in glare or light spillage onto other properties or interfere with vehicular traffic.

i. Mobile Vending Units must not exceed twelve (12) feet in width, including any side extensions or awnings. Mobile Vending Units must not exceed forty (40) feet in length, including the length of any trailer hitch, trailer, or other extension.

j. Mobile Vending Units and associated site development shall be effectively sited and, whenever possible, buffered from adjacent properties to minimize and otherwise address offsite impacts (e.g., noise, adverse visual impact). The Planning Board may require, as a condition of approval, specific actions to ensure the long-term effectiveness of any buffering or screening.

k. Mobile Vending Units utilizing an electrical connection to maintain power shall do so in a manner that does not create a tripping or public safety hazard.

l. The owner and operator of a mobile vending unit is responsible for applying and obtaining all other necessary local, state, or federal licenses required for the service of food and beverages. The Mobile Vending Unit itself must be in compliance with the motor vehicle laws of the State of Maine.

6B.21 Rooming House

1. Rooming Houses must meet all applicable life safety standards and state plumbing code standards.

2. No more than one rooming house per lot is allowed.

3. All sleeping rooms shall be a minimum size of 70 square feet for one occupant

and 120 square feet for two occupants, plus 50 square feet for each additional occupant.

4. Residents must have access on-site to shared common areas for cooking and eating. A common kitchen facility equipped for cooking meals located on-site must be available to the residents.

5. No cooking is permitted in any sleeping room. No cooking facilities are permitted in any sleeping room.

6. There shall be a minimum of 1 bathroom facility per every 8 people.

6B.22. Hotels and Motels

1. The application for approval shall include a site plan drawing. This plan must be legible and drawn to scale. The site plan shall include, at a minimum, all of the following:
    a. Property lines, required setbacks, and other site features.
    b. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
    c. The location, dimensions, and ground floor elevations of all existing and proposed structures on site.
    d. The location and dimensions of existing and proposed driveways, parking and loading areas, walkways, and sidewalks, on or adjacent to the site.
    e. The location of intersecting roads or driveways within 200 feet of the site.
    f. Proposed landscaping and buffering.
    g. Name, address, and the phone number of the property owner.
    h. Street address and municipal tax map and lot number.
    i. North arrow and drawing scale.

2. Adequate off-street parking shall be provided for all uses on the property. At a minimum there shall be no less than .75 parking spaces for each hotel room.

3. On each lot, only one accessory dwelling unit may be provided for resident staff person(s), which will not be considered as a dwelling unit for the purposes of this Ordinance.

6B.23 Solar Energy Systems

1. **Purpose.** The purpose of this section is to facilitate the effective and efficient use of Solar Energy Systems while protecting the public health, safety and welfare of all citizens.

2. **Standards for All Solar Energy Systems**.

a. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards. Any upgrade, modification or structural change that materially alters the size, placement or output of an existing solar energy system shall comply with the provisions of this ordinance.

b. Height standards.

i. Roof mounted solar energy systems shall be flush mounted on the roof whenever possible and shall comply with the maximum building height allowed for that district. If a support structure is installed to optimize sun capture angle, then the maximum height must comply with the maximum building height. In exceptional cases, which meet the standards of this Ordinance and will not adversely affect the skyline of the Town, Conditional Use Approval may be issued, notwithstanding the above height limitations.

ii. Ground mounted Solar Energy Systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt as measured from the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure.

c. All solar energy systems shall meet applicable setback requirements for the district they are located in as described in Section 3.5.

d. Lot Coverage. A solar energy system shall be considered a structure as defined in this Ordinance and shall comply with the applicable lot coverage standards. When calculating lot coverage for solar energy systems, only the paved, mounting block, or other impervious material on which a ground-mounted solar energy system is installed shall be used.

3. Standards for Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems

a. Small scale roof-mounted solar energy systems are permitted without a permit in all districts.

b. Small-scale ground mounted solar energy systems and medium scale roof mounted solar energy systems require a building permit from the Code Enforcement Officer. The Code Enforcement Officer may obtain and consider the professional opinion of other parties in rendering a decision.

c. Prior to operation, electrical connections must be inspected by a Master Electrician and/or State Electrical Inspector.

d. Any connection to the public utility grid must be inspected by the appropriate public utility unless waived by the public utility.

e. When installing small scale ground mounted solar energy systems, reasonable efforts shall be made to minimize undue visual impacts by preserving native vegetation, screening , fencing or other appropriate measures, including adherence to height standards and setback requirements.

f. While solar panels are designed to absorb sunlight and not reflect sunlight, placement of all Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems should be designed to negate any glare onto adjacent properties or roadways to the maximum extent that is reasonable.

4. Standards for Medium-scale Ground Mounted Solar Energy Systems

a. Medium-scale Ground Mounted Solar Energy Systems require Conditional Use approval from the Planning Board (See LUZO, Section 5).

b. **Application and Review.** In addition to other application requirements from this ordinance, the Applicant shall submit the following supplemental information as part of a Conditional Use application for Medium Scale Solar Energy Systems.

i. An existing conditions plan showing property lines, roads, topography, wetlands, waterbodies, floodplains, existing structures, utility lines, and other physical features of the project site;

ii. A site plan showing proposed changes to the landscape of the site, including but not limited to grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures, fencing;

iii. Blueprints or drawings of the solar energy system showing the proposed layout of the system, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;

iv. Documentation of the major system components to be used, including the panels, mounting system, and inverter(s);

v. Name, address, and contact information of the proposed system installer, the project proponent, project proponent agent, and all co-proponents or property owners, if any;

vi. A one- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods;

vii. Locations of important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife, or rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitat as identified by the Maine Natural Areas Program;

viii. Locations of neighboring local or National Historic properties.

ix. A Decommissioning and Site Reclamation Plan may be requested by the Planning Board based on the size, complexity, and use of the solar array system.

c. **Utility connections.** Applicants shall, to the best extent practicable, as determined by the Planning Board, locate all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

d. **Land Clearing, Soil Erosion, Habitat & Vegetation Management.** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and ordinances. Removal of mature trees shall be avoided to the extent possible. Ground-mounted facilities shall minimize mowing to the extent practicable. Native, pollinator-friendly seed mixtures shall be used to the extent possible. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.

e. **Safety.** The solar system owner or project proponent shall provide a copy of the Conditional Use application to the Fire Chief for review and comment. The Fire Chief shall base any recommendations for approval or denial of the application upon review of the fire safety of the proposed system.

f. **Fencing.** Where fencing is used, fences should be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.

g. **Visual Impact.** Reasonable efforts, as determined by the Planning Board, shall be made to minimize undue visual impacts by preserving native vegetation, screening, fencing or other appropriate measures, including adherence to height standards and setback requirements.

5. Removal and Abandonment

a. All ground mounted solar energy systems that have reached the end of their useful life or that have been abandoned consistent with this ordinance shall be removed.

Disposal of all solid and hazardous waste shall be in accordance with local, state, and federal waste disposal regulations.

b. **Removal of Ground Mounted Solar Energy Systems.** The owner or operator of any solar energy system shall physically remove the installation no more than one year after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

    i. Physical removal of all elements of the solar energy systems from the site, including but not limited to structures, equipment, security barriers, and transmission lines.

    ii. Disposal of all solid and hazardous waste shall be in accordance with local, state, and federal waste disposal regulations.

    iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.

c. **Abandonment of Ground Mounted Solar Energy Systems.** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year. If the owner or operator of the solar energy system fails to remove the installation within one year of abandonment or the proposed date of decommissioning, the Town of Mount Desert retains the right to use all available means to cause an abandoned, hazardous, or decommissioned ground-mounted solar energy system to be removed.

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

6C.1 Agriculture and Animal Husbandry

1. **Manure spreading.** 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 (7 M.R.S.A. sections 4201-4209).

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

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

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

4. **New tilling.** 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; 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.

5. **Livestock grazing areas.** 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; 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.

6C.2 Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic

Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

6C.3 Clearing or Removal of Vegetation For Activities Other Than Timber Harvesting

1. **Resource Protection District.** In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within a strip of land extending 75 feet, horizontal distance, inland from the normal high-water line except to remove safety hazards.

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

2. **Buffer strip**. Except in areas as described in Section 6C.3.1, above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond 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. **Cleared openings.** There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

   2. **Selective cutting.** Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to a great pond or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

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

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

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

The following shall govern in applying this point system:

1. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
2. Each successive plot must be adjacent to, but not overlap a previous plot;
3. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
4. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
5. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

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

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

3. **Other vegetation.** In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 6C.3 paragraphs (2) and (2)(1) above.

4. **Pruning.** Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

5. **Replanting.** 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.

Exemption – public recreational facilities. Section 6C.3.2 does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

3. **Selective cutting outside the buffer.** At distances greater than one hundred (100) feet, horizontal distance, from a great pond, 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.

4. **Cleared opening limit.** 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 Shoreland Commercial District.

5. **Non-conforming openings.** Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

6. **Fields that have re-grown.** Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 6C.3.

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

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

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

2. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

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

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

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

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

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

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

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

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

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

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

8. Exemptions to Clearing and Vegetation Removal Requirements. The following activities are exempt from the clearing and vegetation removal standards set forth in Section 6.C.3, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 6.C.3 apply;

2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 3.5 are not applicable;

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

4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 6.C.1 are complied with;

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

    1. A coastal wetland; or

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

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

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

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

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

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

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

9. Revegetation Requirements. When revegetation is required in response to violations of the vegetation standards set forth in Section 6.C.3, to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with, and signed by a qualified professional, that describes revegetation activities and maintenance.

   The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

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

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

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

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

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

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

    4. No one species shall make up 50% or more of the number of trees and saplings planted;

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

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

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

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

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

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

    4. No one species shall make up 50% or more of the number of planted woody vegetation plants; and

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

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

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

    2. Where necessary due to a lack of sufficient ground cover, an area must be

supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

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

6C.4 Commercial and Industrial Uses

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

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

6C.5 Essential Services

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

2. **Exclusion from RP, Stream Protection.** The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection nor Stream Protection District except to provide services to a permitted use within the Resource Protection or Stream Protection District or except where the applicant demonstrates that no reasonable alternative exists.

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

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

6C.6 Parking Areas

1. **Setback from water.** Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Shoreland Commercial District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the Shoreland Commercial District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

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

3. **Determination of size.** In determining the appropriate size of proposed parking facilities, the following shall apply:

    1. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long. However, should the Planning Board find that there are special circumstances of topography, traffic access and safety, or environmental concerns, the Planning Board may waive provisions of this section provided that such waiver does not have the effect of nullifying the purpose of this section,
    2. Internal travel aisles: Approximately twenty (20) feet wide.

6C.7 Piers, Docks, Wharves, Bridges, and other Structures and Uses Extending over or below the Normal High-Water line or within a wetland

Requirement. The Planning Board or Code Enforcement Officer may require the submission of an environmental impact assessment on natural areas and may require mitigation measures such as 1.) Changes in the design and/or location of the marine structure, and/or 2.) Changes in the magnitude of activities on the marine structure. Bridges and other crossings not involving earthwork, do not require a permit.

The performance standards are as follows:

Commercial and public marine structures are exempt from requirements 12 through 14.

1. **Access from shore.** Access from the shore shall be developed on soils appropriate for such use and measures shall be taken to minimize soil erosion both during and after construction.

   Whenever possible, access from the shore to the marine structure shall be placed on bedrock. The Planning Board may require consultation with the local Soil and Water Conservation District Office.

2. **Interference with existing uses and beaches, etc.** The location of the marine structure shall not interfere with developed or natural beach areas, nor access to existing marine structures or points of public access, nor shall it unreasonably interfere with the use of other marine structures and landing places.

3. **Effect on fisheries, wildlife, etc.** The marine structure shall be designed, sited, and constructed to minimize adverse impacts on fisheries, significant wildlife habitats or unique natural areas including, but not limited to: fin fish and shellfish fisheries, salt marshes, eel grass beds, shorebird and nesting habitats, critical fish spawning and nursery areas.

4. **Size.** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.

5. **No new structures.** 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 body or wetland as an operational necessity. A structure constructed on a float or floats is prohibited unless it is designed to function as and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

6. **New permanent piers and docks.** 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.

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

8. **Height limit.** Except in the Shoreland Commercial District, structures built on, over or abutting a pier, dock, wharf, or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

9. **Interference with natural flow.** Interference with the natural flow of any surface or subsurface waters shall be minimized during the construction and subsequent use of the marine structure.

10. **Encroachment on navigation.** The marine structure shall be designed, sited, and constructed so as not to encroach upon officially designated navigation channels.
11. **Mooring area.** The Planning Board shall request comment from the Harbor Master in cases where the applicant proposes to build a marine structure in an officially designated mooring area.

12. **Dimensional limits.** The marine structure shall comply with the dimensional limits listed below. The facility shall be no larger than necessary to accomplish the purposes for which it is designed. Its size and construction shall not change the intensity of the adjoining land use, and by no means shall exceed a total distance of more than one-third the width of the coastal wetland or water body, when proposed for coastal or inland waters. Notwithstanding the dimensional limits below, in areas where the horizontal distance from the normal high-water line to the mean lower low water is in excess of 160 feet, no permanent structure will be allowed seaward of the upland edge of a coastal wetland.

Marine Structure	Dimensional Requirement
Maximum length of entire marine structure (i.e., pier, ramp and float combined)	225 feet [1]
Maximum length of all permanent structures	150 feet
Maximum length of all non-permanent structures (i.e., ramp and float)	75 feet [2]
Maximum width of pier walkway	6 feet
Maximum width of ramp	6 feet
Maximum square footage of floats	400 square feet
Maximum square footage of floats for communal piers, docks and wharves (see 13 below) Two property owners Three or more abutting property owners	 800 square feet 1200 square feet
[1] Or length needed to obtain six feet of depth of water at mean lower low water, whichever is less. [2] In cases where no permanent structure is proposed the applicant will be permitted to install a ramp and float extending no further than 75 feet into the water body or coastal wetland.	

13. **Communal dock.** When proposed by the applicant, new subdivisions may provide a communal dock in lieu of the development of docks on individual lots. The applicant may request additional square footage of floats provided a demonstrated need can be shown.

14. **Limit on number.** There shall be no more than one marine structure on a lot.

6C.8 Principal and Accessory Structures

1. **Setback.**

1. In the Resource Protection District all new principal and accessory structures shall be set back at least 250 feet, horizontal distance from the shoreline, except for structures, roads, or other regulated objects specifically allowed in that district in which case the setback requirements specified below shall apply.
2. All new principle and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds or seventy-five (75) feet, horizontal distance, from the normal high-water line on designated lots, and any division thereof, as indicated in Section 3.5.
3. All new principle and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of streams, tributary streams, or the upland edge of a wetland.

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

2. **Highly unstable coastal bluffs.** For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual as determined by the Planning Board to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

3. **Accessory structure for non-conforming lots.** On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

NOTE: All tidal land which is subject to tidal action during the highest annual tide is coastal wetland.

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

4. **Height.** Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Conservation, Shoreland Residential 1, 2, 3 and 5, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height.

5. **Elevation of lowest floor.** The lowest floor elevation or openings of all buildings and structures, including basements, shall comply with the Floodplain Management Ordinance dated March 7, 2006.

6. **20% footprint limitation.** The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the Shoreland Commercial District adjacent to tidal waters, where lot coverage shall not exceed seventy (70) percent.

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

    1. **Previous alteration.** The site has been previously altered and an effective vegetated buffer does not exist;

    2. **25-foot setback.** The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

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

    4. **Height.** The total height of the wall(s), in the aggregate, are no more than 24 inches;

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

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

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

    1. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
    2. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
    3. Only native species may be used to establish the buffer area;
    4. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
    5. A footpath not to exceed the standards in Section 6C.3.2.1 may traverse the buffer.

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

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

6C.9 Roads and Driveways

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

1. **Setback,** 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, 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. In reducing the setback, the Planning Board shall maintain, to the greatest practical extent, the seventy-five (75) foot setback.

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

Section 6C.9.1 neither applies to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 6C.9.1 except for that portion of the road or driveway necessary for direct access to the structure.

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

3. **New roads and driveways are prohibited in a Resource Protection District or Stream Protection District** except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District or Stream Protection District, upon a finding that no reasonable alternative route or location is available outside the district.

   When a road or driveway is permitted in a Resource Protection District or Stream Protection District the road and/or driveway shall be set back as far as practicable as determined by the Planning Board from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

4. **Steepness.** Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 6A.2.

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

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

infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

    3. **Slopes greater than 10%.** On sections having slopes greater than ten (10) percent, 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. **Culvert size.** 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.

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

6C.10 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:

1. **Clearing setback from water.** 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.
2. **Holding tank.** A holding tank is not allowed for first-time residential use in the shoreland zone.

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

6C.11 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.

SECTION 7 CODE ENFORCEMENT OFFICER

7.1 **Appointment.** A Code Enforcement Officer (CEO) shall be appointed by the Town Manager and confirmed by the Board of Selectmen.

1. A Deputy Code Enforcement Officer (Deputy CEO) may be appointed by the Town Manager and confirmed by the Board of Selectmen.

2. In the event that the CEO is absent or otherwise unavailable, the Deputy CEO is authorized to act on his or her behalf.

3. The CEO may also serve as Building Inspector.

7.2 **Duties.**

The Code Enforcement Officer (CEO) shall administer and enforce this Ordinance. No permit application shall be approved by the Code Enforcement Officer except in compliance with the provisions of this Ordinance. The Code Enforcement Officer shall have the following duties, among others, in enforcing this Ordinance:

1. **Applications and fees.** Act upon all applications and collect any fees due; refer/process all applications as required.

2. **CEO Permit approvals.** Act upon permit applications that are under the jurisdiction of the CEO as set forth in Section 3.4 of this Ordinance.

3. **Applications for Conditional Use Approval.** Review applications which are under the jurisdiction of the Planning Board, as set forth in Section 3.4, for completeness of submissions and refer such applications to the Planning Board for Conditional Use Approval. Provide assistance as needed to the Planning Board in the Board's review of applications for Conditional Use Approval.

4. **Board of Appeals applications.** Refer requests for variances and administrative appeals to the Board of Appeals.

5. **Inspections.** Inspect sites where permit applications have been approved to ensure compliance with local ordinances and State laws or rules. The CEO shall have the reasonable right of entrance to properties as necessary to carry out the duties assigned in this section, consistent with the requirements of federal and state law.

6. **Complaints and violations.** Investigate complaints and reported violations. The CEO shall reply, in writing, within fourteen (14) days to any written complaint regarding violation of this Ordinance.

7. **Reports and records.** Keep written inspection reports and thorough records.

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

8. **Violation notices.** Issue violation notices.

9. **Appeals.** Participate in appeals procedures.

10. **Consent agreements.** Process or act on consent agreements involving violations of this Ordinance and appear in court when necessary.

11. **Permit revocations.** Revoke any permit issued by the Code Enforcement Officer after notice if it was issued in error or if it was based on erroneous information.

7.3 Permits Required

It shall be unlawful, without first obtaining a permit from the appropriate reviewing authority, to engage in any activity or use of land or structure requiring approval in the district in which such activity or use would occur; or expand, change, install or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed. Approval shall be required for:

1. **Activities requiring Code Enforcement Officer approval.** Any activity listed in Section 3.4 requiring approval from the Code Enforcement Officer.

2. **Activities requiring Planning Board approval.** Any activity listed in Section 3.4 as requiring Conditional Use Approval from the Planning Board.

3. **Road culvert.** A permit is not required for the replacement of an existing road culvert as long as:

    1. The replacement culvert is not more than 25% longer than the culvert being replaced;

    2. The replacement culvert is not longer than 75 feet; and

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

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

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

7.4 Permit Application

1. **Written application**. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the Code Enforcement Officer. The following items, when appropriate, shall be included on the application.
    1. The shape, size, and location of the lot to be built upon and structure(s) to be erected, altered, or removed.
    2. Any structure(s) already on the lot.
    3. Setbacks of structure(s).
    4. Statement of intended use.
    5. Any other information needed by the Code Enforcement Officer, Planning Board, or the Board of Appeals to determine compliance with the provisions of this Ordinance.
    6. Documentation that the applicant has right, title or interest in the property.

2. **Signature.** All applications shall be signed by an owner of the property or individual who can show evidence of right, title or interest in the property, or the owner's legal agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information on it is complete and accurate. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

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

4. **Plumbing Permit & Subsurface Wastewater Disposal Permit.** If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit and/or subsurface wastewater disposal permit including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface wastewater disposal system.

5. **Photographic record required.** Permit applications for development within the Shoreland Zone shall provide preconstruction photographs as part of the application materials and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the location in which the activity took place.

7.5 Procedure for Administering Permits

1. **Submission of Permit applications to Code Enforcement Officer**

    1. **Determination of complete application.** Within 30 days of the date of receiving a written application for approval of either the Code Enforcement Officer or the Planning Board, the Code Enforcement Officer shall notify the applicant in writing either that the application has been accepted as a complete application or, if the application is incomplete, that specific additional material is needed to make the application complete.

    2. **Code Enforcement Officer permits and approvals.** The Code Enforcement Officer shall within a period of ten (10) business days after determining an application is complete either, approve, approve with conditions, or deny such applications in accordance with the provisions of this Ordinance.

    3. **Referrals.** All applications which require Conditional Use Approval of the Planning Board or action by the Board of Appeals shall within a period of thirty (30) days of completeness be referred to the applicable board for action and public notice shall be given. After approval, with or without conditions by such Board, the Code Enforcement Officer shall issue a permit within ten (10) working days after being notified of such approval.

    4. **Written notification.** If approval is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the municipality is responsible for enforcing.

2. **Applicant Responsibility**

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

    2. **Posting.** Within three (3) days of receiving the approval, the applicant shall conspicuously post any approval issued, on the lot where the activity will occur.

3. **Special Exceptions.** In addition to the criteria specified in Section 5.9 above, excepting structure setback requirements, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

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

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

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

    1. Located on natural ground slopes of less than 20%; and
    2. Located outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood plain elevation;

    and the development is otherwise in compliance with any applicable municipal flood plain ordinance.

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

4. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1500 square feet. This limitation shall not be altered by variance.

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

4. **Expiration of permit.** All building Permits shall be void unless the foundation, as described on the Building Permit application, is completed within one year of the date of issuance.

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

6. Certificate of Occupancy. A Certificate of Occupancy is an authorization that states a building is safe to reside in and ready to be occupied. No structure or portion of a structure that is regulated by this ordinance may be occupied until a Certificate of Occupancy has been issued by the Building Inspector/Code Enforcement Officer. Temporary Certificates of Occupancy may be issued provided

no serious life safety hazard exists as determined by the Authority Having Jurisdiction/Code Enforcement Officer. Occupancy of any structure for which a permit is required and issued after March 3, 1998, is unlawful without written approval and is a violation of the ordinance and subject to penalties as prescribed in Section 7.10 of the ordinance.

1. The National Fire Protection Association 101 Life Safety Codes, shall be enforced, as amended from time to time and adopted/approved by the State Fire Marshal's Office.

2. Contractors or Sub-contractors installing structural or mechanical parts of a building regulated, by a, b, c, & d below of this ordinance shall sign off on the Certificate of Occupancy that said installation is in accordance with the requirements contained in said section.

    a. **Chimneys, Smoke Pipes or Flue Pipes**. Chimneys, smoke pipes and flue pipes shall conform with the requirements of the 1996 National Fire Protection Association 211 Code for Chimneys, Fireplace, Vents and Solid Fuel Burning Appliances, or as amended.

    b. **Oil Burner Installation**. Oil burner installation and service shall conform to the requirements of the National Fire Protection Association 31 Oil Burning Equipment current edition as designated by the State of Maine Oil and Solid Fuel Board.

    c. **LP Gas Equipment Installation**. LP Gas equipment installation and service shall conform to the requirements of the National Fire Protection Association 58 Liquefied Petroleum Gases, Storage and Handling, current edition as designated by the State of Maine Oil and Solid Fuel Board.

    d. **Electrical Installation**. The building shall have a safe and adequate electrical service and wiring, all of which shall conform to the requirements of the National Fire Protection Association 70 National Electrical Code, current edition as designated by the State of Maine Electricians Examining Board. All commercial work and residential service entrance work shall be done under the direction of a master electrician. Before any electrical service, wiring, and device is put into use, the Master Licensed Electrician responsible for the installation or a State of Maine Electrical Inspector shall give written notice to the Building Inspector that the installation adheres to the prescribed standards.

3. **Inspection Of Work Performed by Licensed Oil Burner Technicians, LP Gas Technicians and Electricians**. It is the responsibility of the licensed professional to perform work in accordance with applicable laws. The State of Maine provides random monitoring of work performed by these professionals and no further inspection is required.

However, if during the course of a required inspection the Building Inspector should notice work, performed by licensed tradesmen that may be in violation of code, the Building Inspector may request an inspection by a State Inspector.

Manufactured and/or Modular Homes that are in compliance with the Manufactured Housing Act (Title 10 Maine Revised Statutes Chapter 951) are exempt from all state or other political subdivision codes, standards, rules, or regulations that regulate the same matters. M.R.S. Title 10 Subsection 9043(6).

a. **Inspection and certification.** Manufactured housing produced by a manufacturer approved in subsection 5, shall be inspected by an approval agency in accordance with this section, and certified by that agency as having been constructed in accordance with the standards adopted by the board provided the approval agency makes that determination. M.R.S. Title 10 Subsection 9043(4)

b. **Certification.** The manufacturer of that housing, regardless of the approval alternative used, shall certify that the manufactured housing conforms to all applicable standards whether adopted by the board (Manufactured Housing Board) and that manufacturer's certification must be permanently affixed to the manufactured housing in accordance with such requirements as the board may by rule prescribe. Affixation of a certificate to manufactured housing signifies the manufacturer's representation and warranty to all purchasers of the housing that the housing was manufactured in accordance with all applicable standards of the board in effect on the date of manufacture. Therefore, no Certificate of Occupancy shall be issued.

4. **Tiny homes.**

a. Tiny homes constructed on a trailer that may be mobile and potentially moved from where it was constructed to a site for use as a “dwelling unit” for human occupancy.

   The Secretary of State shall issue certificates of title for new tiny homes beginning with model year 2020. The Secretary of State shall issue a certificate of title for a used tiny home of any model year that was previously issued a State of Maine certificate of title. A certificate of title issued pursuant to this subsection remains in effect unless cancelled pursuant to section 669. Therefore, no Certificate of Occupancy shall be issued.

b. Tiny homes constructed on a site in a more traditional stick-built manner but meeting certain size standards established in the laws and codes adopted.

   This type of tiny home would be a structure constructed under the same codes and standards as a larger, more traditional dwelling and on a foundation, but still meeting the size limitation of less than 400 SF.

This is identified in the MUBEC rules under the IRC (Chapter 5) which would be allowed the use of Appendix V. Appendix V provides some code exceptions that have been approved to accommodate the limited size and deemed to provide an acceptable level of safety for the occupants.

This type of construction would be subject to all other utility codes adopted by the State of Maine, to include but not limited to, the Maine Internal Plumbing code, State Electrical codes, and Fuel Gas codes.

c. The Town of Mount Desert does not enforce the Maine Uniform Building & Energy Codes (MUBEC); therefore, a Third-Party Inspector would be required to conduct all inspections, at the property owners' expense of the Tiny Home to assure it meets all the requirements listed above and attached, and provide a report to the Code Enforcement Department, prior to issuing a Certificate of Occupancy.

7.6 **Violations.** If, upon inspection or investigation, the CEO shall find what appears to be a violation, he/she shall notify in writing the person(s) believed to be responsible, within ten business days. The notice shall describe the nature of the violation, and state what appeal procedures may be available. The CEO shall order any necessary action to correct the violation, including discontinuance of the activity and/or removal of buildings, and abatement of nuisance conditions. The CEO shall maintain a copy of all such notices, which shall be available for public inspection during regular office hours. Each day that the violation occurs shall constitute a separate offense, beginning with the day following notification by the Code Enforcement Officer of such violation. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

7.7 **Disputes and appeals.** The Board of Appeals has authority to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in their review of and action on a permit application under this Ordinance. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

7.8 **Notification of Town Manager.** Consistent with 30-A MRS § 4452, if the violator fails to correct the violation stated in the Notice of Violation issued under Section 7.6, the CEO shall notify the Town Manager. The CEO and the Town Manager will make recommendations for penalty and/or legal action to the Selectboard. The Selectboard shall make the final decision for any legal action consistent with 30-A MRS § 4452.

7.9 **Enforcement.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. A decision by the Board of Selectmen to proceed against an alleged violator for violations of this Ordinance or any

permit issued pursuant to this Ordinance is not appealable to the Zoning Board of Appeals. This Ordinance shall be enforced in accordance with Title 30-A M.R.S.A. Section 4452.

7.10 **Penalties.** Any person, including but not limited to a landowner, a landowner's agent or a contractor or firm, or corporation who violates, who violates any provision or requirement of this Ordinance, or disobeys, refuses to comply with, or resists the enforcement of, any provision of this ordinance or who starts construction or under-takes a land use activity without a required permit, shall be penalized in accordance with 30-A M.R.S.A. Section 4452.

7.11 **Consent agreement.** The Board of Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action.
The Board of Selectmen may, at their option, ask the Court to approve a consent order. Such agreements shall not allow an illegal structure or use to continue unless:

1. **Erroneous advice.** There is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Town official and there is no evidence that the owner acted in bad faith, or;

2. **Greater damage.** In such cases where the removal of the structure or use will result in a greater threat or hazard to public health and safety or will result in substantial environmental damage.

SECTION 8 DEFINITIONS

General: In reading and interpreting this Ordinance the following definitional rules apply:

1. words used or defined in one tense or form shall include other tenses and derivative forms;
2. words in the singular number shall include the plural number, and words in the plural number shall include the singular;
3. the masculine gender shall include the feminine, and the feminine gender shall include the masculine;
4. the words "shall" and "must" are mandatory;
5. the words "may" and "should" are permissive;
6. the word "person" includes individuals, firms, corporations, associations, and other similar entities;
7. the word "Town" means the Town of Mount Desert;
8. the term "municipal officers" covers elected, appointed, and employed personnel acting as provided by the law within the Town of Mount Desert;
9. any word used in this ordinance and defined in this section shall have the meaning set forth in this section.
10. any term, phrases, words, and their derivation not defined below shall be given that definition, which is promulgated in WEBSTER'S NEW COLLEGIATE DICTIONARY, on file in the Town Office.

Words and Terms Defined -

ABUTTING PROPERTY: Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

ACCESSORY FACILITY OR STRUCTURE: A facility or structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. 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.

ACCESSORY RESIDENTIAL DWELLING UNIT: A self-contained dwelling unit located within, attached to or detached from a Residential Dwelling, One-Family located on the same parcel of land.

ACCESSORY USE: A use that is incidental and subordinate to the principal use.

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

AGRICULTURE: The production, keeping or maintenance for sale or lease, of plants 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.

ALTERATION: As applied to a building or structure, is a substantial change or rearrangement in the structural parts or in the exit facilities, or a substantial enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ANIMAL HUSBANDRY: The care and keeping of livestock and domestic animals.

ANIMAL HUSBANDRY 2: The care and keeping of poultry.

AREA OF SPECIAL FLOOD HAZARD: Land in a floodplain having a 1% or greater chance of flooding in any given year, as identified in the effective federal flood insurance study and corresponding flood insurance rate maps.

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

ATTAINABLE HOUSING: Decent, safe, and sanitary dwelling units that meet the following criteria:

A. For rental housing, a development in which a household whose income does not exceed two hundred fifty percent (250%) 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 a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, rent and utilities that are paid separately from the rent, e.g. electric, water, heat, sewer, trash, etc.).
B. For owned housing, a development in which a household whose income does not exceed two hundred fifty percent (250%) 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 a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, mortgage, mortgage and

homeowner's insurance, real estate taxes, and homeowner association fees). For the purposes of this definition, "majority" means 51 % or more of available units within a development or on the same lot.

For the purposes of this definition, "area median income" means income that is at the midpoint of the Hancock County Area excluding HMFA income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development.

AUTO SERVICE STATION: A place where gasoline or any other automobile engine fuel, kerosene, motor oil, lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises, including the sale of minor accessories and the servicing and minor repair of automobiles, but NOT including storage of unlicensed vehicles or body, frame, or fender straightening and repair.

AUTO REPAIR GARAGE: A place 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.

BACK LOT: A lot that does not have minimum lot width on a public or private road and has direct access to a public or private way that meets the standards of Section 6B.6.

BANNER: A temporary sign of cloth or similar material that celebrates an event, season, community neighborhood, or district and is sponsored by a recognized community agency or organization.

BARN: A building or shelter used for the habitation of livestock.

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

BASEMENT: Any portion of a structure with a floor-to-ceiling height of 5 feet or more and having more than 50% of its volume below the existing ground level.

BOAT CONSTRUCTION: The occupation or industry of building boats.

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.

BOAT STORAGE, REPAIR & SERVICE: A commercial facility which provides one or more of the following marine services: boat storage, repairs, handling and

outfitting; sale of marine supplies and equipment; but not including such marine facilities as dock rental, food services, or other shore facilities.

BUREAU OF FORESTRY: State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

BUILDING: A roofed structure.

BULK STORAGE: The storage of chemicals, petroleum products, grains, and other materials in structures for subsequent resale to distributors or retail dealers or outlets. Bulk storage is a warehousing and wholesaling operation.

CAMPGROUND: A facility for the temporary parking of campers, recreational vehicles, tents, or other shelters for temporary human occupation of two (2) or more parties. Temporary shall mean use of a tent, camper or other device providing shelter for human habitation on the campground for no more than seventy-five (75) consecutive days in any one calendar year.

CANOPY: The more or less continuous cover formed by tree crowns in a wooded area.

CHARITABLE FUNCTION: An activity of which all the proceeds raised would be for the benefit of Volunteer Fire Departments, Libraries, Schools, Churches, or other benevolent purposes.

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

CODE ENFORCEMENT OFFICER: A person appointed by the Municipal Officers to administer and enforce this Code.

CO-LOCATION: The use of a communications facility by more than one communications provider.

COMMERCIAL FISHING: All activities relating to the commercial harvesting of fish, shellfish, and other marine organisms.

COMMERCIAL USE: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the

production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

CONDITIONAL USE: A use which by its nature in a particular zoning district requires case by case determination to assure compliance with the provisions of this Ordinance and avoidance of harm to public or private interests.

CONSTRUCTED: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises, which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

CONSTRUCTION EQUIPMENT: Heavy machinery and tools that are used to build and maintain various types of infrastructure and buildings. Construction equipment includes bulldozers, excavators, cranes, backhoes, and dump trucks.

COOKING FACILITIES: A stove, microwave, or other cooking device.

DEVELOPMENT: A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

DIMENSIONAL REQUIREMENTS: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

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

DISTRICT: A specified portion of the Town delineated on the official zoning map of the Town, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

DRIVEWAY: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, serving not more than two lots.

DWELLING UNIT: (See Residential Dwelling Unit)

DWELLING ONE-FAMILY: (See Residential Dwelling One-Family)

DWELLING TWO-FAMILY: (See Residential Dwelling Two-Family)

DWELLING MULTI-FAMILY: (See Residential Dwelling Multi-Family)

ELECTRICAL EQUIPMENT: Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended location.

ELECTRICITY GENERATION (PRODUCTION, OUTPUT): The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

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

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

EXCAVATION: The removal or recovery by any means whatsoever of soil, rock minerals, mineral substances, or organic substances other than vegetation from water or land, on or beneath the surface thereof or beneath the land surface, whether exposed or submerged.

EXPANSION OF A STRUCTURE: An increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches, and greenhouses.

EXPANSION OF A USE: The additional use of more footprint of an existing structure, land or water area devoted to a particular use; additional one or more weeks of the use's operating season; or additional business hours of operation. Excludes moorings that are regulated by the harbormaster.

FACILITY: A place where an activity occurs.

FAMILY: One or more persons related by blood, marriage, adoption, or guardianship, or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit: such group to be distinguished from a group occupying a boarding house, lodging house, club fraternity, or hotel.

FENCE/WALL, SOLID: Any fence or wall in which the individual solid portions visually exceed the open portions. The individual solid portions shall not exceed twelve (12) inches in width.

FILL: Sand, gravel, earth, or other material of any composition placed or deposited.

FILLING: The process of depositing fill in a low-lying area.

FISH PROCESSING: Activities such as, but not restricted to, canning, freezing, and packaging of fish.

FLEA MARKET: See GARAGE SALE.

FLOOD PLAIN. FLOOD- PLAIN OR FLOODPLAIN: The lands adjacent to a body of water which have been or may be covered by a regional flood. (See Flood Plain Ordinance)

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

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

FOOTPATH: A landscape path or cleared way for pedestrians with a travelled surface not exceeding 6 feet in width that may be improved and may include stairs. Footpaths are not for motorized vehicle use. Footpaths in the shoreland zone need to be meandering and stairs must meet State Shoreland Zone and Natural Resource Protection Act standards. See Code Enforcement Officer for allowable materials for footpaths in the Shoreland Zone.

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

FORESTED WETLAND: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

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

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

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

2. Inundated or saturated by surface or ground water at a frequency and for 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.

FUNCTIONAL LAND DIVISION: A functional land division is the division of a lot of land into the distinct, separate, historical residential uses of the property into separate non-conforming lots.

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

GARAGE SALE (FLEA MARKET, YARD SALE): Open air or partly enclosed market for second hand articles and antiques.

GRAVEL PIT: A mining operation undertaken primarily to extract and remove sand, fill, or gravel.

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

GROUND COVER: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A system that is structurally mounted to the ground and is not roof-mounted, may be of any size.

GUEST HOUSE: A structure to house only family members or guests which shall not become a dwelling unit as defined in this Ordinance.

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

HEIGHT OF A STRUCTURE: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. With respect to existing principal or accessory structures, including legally existing nonconforming structures, located within an area of special flood hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required by a local floodplain management ordinance, the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

HIGH WATER, HIGH-WATER, OR HIGHWATER: See NORMAL HIGH-WATER LINE

HISTORIC MARKER: A plaque or sign to commemorate an event or person of historic interest and to associate that point of interest with a specific locale.

HOME OCCUPATION: An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses.

HORTICULTURE: Includes the use of greenhouses and nurseries for commercial purposes and the sale of such products.

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

INDEPENDENT SCHOOL: A non-profit entity or institution offering academic curriculum for Pre-Kindergarten to and including 12th grade in building(s) with an aggregate footprint not to exceed a total of 5,000 square feet.

INDIVIDUAL PRIVATE CAMPSITE: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include, among other things, a gravel pad, parking area, fire pit or tent platform.

INDUSTRIAL: The assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or the extraction of minerals.

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

LICENSED FORESTER: A forester licensed under 32 M.R.S.A. Chapter 76.

LIVESTOCK (HOOFED): Animals such as cattle, goats, horses, pigs, etc., including llamas.

LIVING AREA: The total of all floor areas of a residential structure as measured from the interior walls. The following areas are excluded from living area calculations: garage area; basement or attic area, except when these areas are used or intended to be used for human habitation; other building area that is not

accessible by a stairway or where the floor to ceiling height is less than 5 feet; and decks or open patios.

LOT (TRACT): A parcel of land described on a deed, plot, or similar legal document, and is all contiguous land within the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate parcel or tract of land unless such road was established by the owner of land on both sides of the road thereof after September 22, 1971.

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

LOT COVERAGE: The area of the lot covered by impervious surfaces, excluding driveways and parking areas, except in the shoreland zone where lot coverage includes all non-vegetated surfaces.

MANUFACTURED HOMES/HOUSING: A dwelling or dwellings and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site.
The term includes any type of building that is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and that may be a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this ordinance, there are 2 types of manufactured housing:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are 8 body feet or more in width and 40 body feet or more in length or, when erected on site, are 320 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

    a. This term also includes any structure that meets all the requirements of this subparagraph 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, United States Code, Title 42, Section 5401, et seq.; and

2. Those units commonly called "modular homes" that the manufacturer certifies are constructed in compliance with Title 10, chapter 951, and rules adopted under that chapter, meaning structures, 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 in the unit.

MARINE STRUCTURE: Piers, docks, floats, wharves, bridges and other marine structures extending over or below the normal high-water line of a water body or within a wetland.

MARINA: A business establishment having frontage on navigable water and providing for hire docking facilities or moorings at its location unless such uses are incidental to the principal use of the property. In addition, it may also provide other services such as: boat storage and repair; boat sales; boat hauling and launching; bait and tackle sales; sale of marine supplies and marine fuel. Placement of moorings are exclusively regulated by the Harbor Master consistent with the Harbor Ordinance and Maine Revised Statutes, Title 38, Chapter 1.

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, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site. Excluding gravel pits as defined.

MINIMUM LOT WIDTH: The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

MIXED-USE BUILDING: A building that contains a mixture of residential and non-residential uses.

MOBILE FOOD VENDOR: A mobile food vendor is a self-contained food service operation, located in a readily movable motorized wheeled or towed vehicle, used to store, prepare, display, or serve food intended for individual portion service.

MOBILE VENDING UNIT: A mobile motorized wheeled or towed vehicle used to store or display merchandise and/or prepare and serve food.

MOBILE HOME PARK: A parcel of land under unified ownership approved by the Town for placement of 3 or more manufactured homes.

MOTEL (HOTEL): A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

M.R.S.: (Maine Revised Statutes) Maine State Law.

MOUNTING: The manner in which a solar PV system is affixed to the roof or ground (i.e., roof mount, or ground mount).

NATIVE: Indigenous to the local ecosystems.

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

NON-CONFORMING LOT: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

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

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

NON-NATIVE INVASIVE SPECIES OF VEGETATION: species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

NORMAL HIGH-WATER (HIGH WATER OR HIGHWATER) 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 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 great pond during the period of normal high-water are considered part of the great pond.

OFFICE BUILDING: A building used primarily for conducting the affairs of a business, profession, service, or industry.

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

PARKING AREA (shoreland zone): Land area used for parking vehicles excluding an area associated with a driveway used for parking two (2) vehicles or fewer.

PARKING LOT: A lot on which three or more motor vehicles are parked and which use is not associated with or accessory to another use established on such lot.

PERMITTED USE: A use specifically permitted within a district.

PERSON: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND.

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

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

POWER: The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc. in Alternative Current (AC).

PREMISES: See PROPERTY

PRINCIPAL STRUCTURE OR USE: A structure or use other than one which is wholly incidental or accessory to another structure or use on the same lot.

PROPERTY (PREMISES): A lot together with any structures and other physical facilities which are located on it.

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.

PUBLIC SEWER: A sanitary system main leading to a treatment plant maintained by the Town, of adequate size and condition to receive a proposed discharge without modification of existing mains.

PUBLIC UTILITY: Any person, firm, corporation, municipal department, board, or commission, authorized to furnish gas, steam, electricity, waste disposal, communication facilities, or transportation of water to the public.

QUALIFIED WORKFORCE HOUSING ENTITY: Non-profit organizations, public agencies, or private corporations, whose fundamental purpose is to promote year-round housing opportunities for the professional, business, or service sectors.

RECENT FLOODPLAIN SOILS: The following soil series as described and identified by the National Cooperative Soil Survey:

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

RECREATION FACILITIES - INDOOR: Include swimming pools, tennis courts, gymnasiums, and other recreational facilities which are enclosed by a building or other structure, capable of accommodating more than ten (10) persons.

RECREATION FACILITIES - OUTDOOR: Include swimming pools, tennis courts, playing fields, basketball courts, golf courses, and other recreational facilities which are not in any way permanently enclosed by a building or structure and capable of accommodating more than ten (10) persons. Such facilities may include building or other structures as accessory for such facility.

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

REPLACEMENT SYSTEM: A system intended to replace:

1. an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. any existing overboard wastewater discharge.

RESIDENTIAL DWELLING UNIT: A room or a group of rooms designed for permanent, seasonal, or temporary habitation by one family at a time that includes cooking, toilet, and sleeping facilities. The term shall include manufactured housing, and rental units that contain cooking, toilet and sleeping facilities (regardless of the time period rented). Recreational vehicles are not residential dwelling units.

RESIDENTIAL DWELLING ONE-FAMILY: A structure or a portion of a structure designed for human habitation that includes facilities for cooking, eating, and sleeping for one family.

RESIDENTIAL DWELLING TWO-FAMILY: A single structure containing two attached dwelling units, each of which has independent access. The two dwelling units shall share a common floor, roof, or wall. A covered porch or enclosed breezeway measuring no longer than 12 feet in length between the two dwellings shall meet the requirement of a shared floor, roof, or wall.

RESIDENTIAL DWELLING MULTI-FAMILY: A structure or a portion of a structure designed for human habitation that includes facilities for cooking, eating, and sleeping for three or more families. The units may or may not have an internal connection to another unit or units.

RESIDENTIAL STORAGE BUILDING/SHED: A structure or building used primarily for storage purposes.

RESIDUAL BASAL AREA: The average of the basal area of trees remaining on a harvested site.

RESTAURANT: A business principally engaged in serving prepared foods and drinks to the public, including business serving groups, either on or off the premises.

RETAIL STORE: An establishment engaging in the selling of goods and merchandise to the general public.

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.

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

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A system that is mounted on the roof of a building or structure, may be of any size.

ROOMING HOUSE: A building or portion thereof that does not otherwise qualify as a one or two-family dwelling, and that provides sleeping accommodations for a total of 16 or fewer people on a transient basis (i.e., no less than 30 days) or on a permanent basis; the rooming house shall provide an onsite shared cooking facility for access by all occupants, but there shall be no other separate cooking facilities for individual occupants.

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 salt marsh cord grass (Spartina alterniflora). More open areas often support widgeon grass, eel grass, and Sago pondweed.

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

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

SEASONAL PRODUCE SALES: The sale of locally grown or prepared fruits, vegetables, or other food stuff (including fish), beverages or ice, in the season when grown, caught, or prepared.

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

SERVICE DROP: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
    a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
    b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service
    a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
    b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

SETBACK: The horizontal distance measured in a straight line from any property line, shoreline or road (or edge of legally established right-of- way if no road exists) abutting a lot or property to the nearest part of a structure or other regulated object or area. Setback shall apply to all sides of a lot having shore frontage or road frontage, unless stated otherwise within this Ordinance. For the purpose of setback requirements, fences, walls, signs, roads, parking areas, footpaths, sidewalks & driveways shall not be considered structures, except that roads, sidewalks, walls, parking areas, and driveways must meet shoreline setbacks.

SHORE FRONTAGE: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

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

SHORELINE: The normal high-water line, or upland edge of a freshwater or coastal wetland.

SLASH: The residue, e.g., treetops and branches, left on the ground after removal of woody vegetation or a timber harvest.

SLOPE: An inclined earth surface. Slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A fifty (50) percent slope, for example, refers to a 100 vertical foot rise in elevation over a horizontal distance of 200 feet. A fifty (50) percent slope is expressed in engineering terms as a 2:1 slope. (Added 5-6-2008.)

SMALL WIND ENERGY CONVERSION SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower, footings, electrical infrastructure, fence and any other associated equipment or structures. Any single small wind energy conversion system, herein defined, shall have a rated capacity of not more than 100 kilowatts and is a legal accessory use whenever situated."

SOLAR ARRAY: Multiple solar panels combined together to create one system.

SOLAR COLLECTOR: A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted, and may be of any size as follows:

1. Small-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is less than 15,000 square feet (approximately one-third of an acre);

2. Medium-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres); and

3. Large-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres).

SPECIAL EVENT: A gathering of people designed to celebrate, sell, honor, discuss, teach about, observe, encourage, or influence community endeavors. An event is something that happens, an occurrence, especially one that is of some importance. Special events include concerts, festivals, art shows, antique shows, and the like, but does not include events specific to individual retail establishments.

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

STREET: (See Road).

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 flows to another water body or wetland within the shoreland area.

STRUCTURE: Anything temporarily or permanently located, built, constructed, or erected, for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on, above, or below the surface of the land, or water. The term includes structures temporarily or permanently located, including porches, decks, or patios. The term structure shall not include flagpoles,

church steeples, fences, poles customarily used for the transmission of electricity, television antennas, mailboxes, radio antennas, driveways, roads, subsurface wastewater disposal systems and wells. Signposts, as referenced in the "Ordinance Regulating the Building and Street Numbering in the Town of Mount Desert", shall not be included as structures.

A. Permanent: A building or structure that is intended to remain in place for a period of more than 180 days in any consecutive 12-month period.

B. Temporary: A building or structure not meeting the definition of permanent.

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

SUSTAINED SLOPE: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TIDAL WATERS: All waters affected by tidal action during the highest annual tide.

TILT: The angle of the solar panels and/or solar collector relative to horizontal. Tilt is often between 5 and 40 degrees. Solar energy systems can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year-round.

TIMBER HARVESTING: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 6C.3 *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

TRAILER: See CAMPER

TRANSIENT: A person visiting the community and staying at a place that does not constitute his or her permanent residence or usual dwelling unit. The term “transient” shall not include seasonal workers who are staying at a place while employed in the area.

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

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

TURNOUT AREA: The area directly adjacent to the barn where animals are turned out.

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.

USE: The purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

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

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

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof planes and fixed exterior wall planes as measured from the exterior faces of these walls and roof. (Excluding foundations, but including basements as defined in this section.)

WATERBODY, WATERBODY: Any great pond, or stream.

WATER CROSSING: Any project extending from one bank to the opposite bank of a stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords,

bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

WETLAND: a freshwater or coastal wetland.

WIDTH OF LOT: The distance measured between the intersections of the side lot lines and the road at the front lot line measured as horizontal distance in a straight line. In shoreland zone, see MINIMUM LOT WIDTH.

WOODY VEGETATION: Live trees or woody, non-herbaceous shrubs.

YARD SALES: See GARAGE SALE.