

Town of

WESTPORT ISLAND

in

Lincoln County, Maine

SHORELAND ZONING ORDINANCE

Adopted August 20, 1992
DEP Approved November 23, 1992
Amended March 27, 1993
DEP Approved May 12, 1993
Amended March 27 and June 12, 2004
DEP Approved July 2004
Amended November 6, 2007
DEP Approved January 22, 2008
Amended June 20, 2009
DEP approved August 18, 2009 (conditional)
Amended June 19, 2010
DEP approved (final)
Amended June 23, 2012
Amended June 22, 2024
DEP approved September 18, 2024 (conditional)
Amended June 21, 2025

TABLE OF CONTENTS

SECTION 1. PURPOSES 1
SECTION 2. AUTHORITY 1
SECTION 3. APPLICABILITY 1
SECTION 4. EFFECTIVE DATE 1
SECTION 5. AVAILABILITY 2
SECTION 6. SEVERABILITY 2
SECTION 7. CONFLICTS WITH OTHER ORDINANCES 2
SECTION 8. AMENDMENTS 3
SECTION 9. DISTRICTS AND ZONING MAP 3
SECTION 10. INTERPRETATION OF DISTRICT BOUNDARIES 3
SECTION 11. LAND USE REQUIREMENTS 4
SECTION 12. NON-CONFORMANCE 4
SECTION 13. ESTABLISHMENT OF DISTRICTS 9
SECTION 14. TABLE OF LAND USES 11
SECTION 15. LAND USE STANDARDS: 14
SECTION 16. ADMINISTRATION 38
SECTION 17. DEFINITIONS 47

SECTION 1. PURPOSES

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

SECTION 2. AUTHORITY

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

SECTION 3. APPLICABILITY

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, upland edge of a costal 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.

SECTION 4. EFFECTIVE DATE

A. Effective Date of Ordinance and Ordinance Amendments

1. This Ordinance, which was originally adopted at town meeting on 20 August 1992, and subsequently amended by the town, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance amendment, attested and signed by the Town 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. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance amendment, if the Ordinance or Ordinance amendment is approved by the

Commissioner.

B. **Repeal of Municipal Timber Harvesting Regulation:** The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M. R. S. A. section 438-B (5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M. R. S. A. section 438-B (5), the following provisions of this ordinance are repealed:

1. Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting and land management roads) and Column 4 (Timber Harvesting).

2. Section (O in its entirety; and

3. Section 17. Definitions – The definitions of "forest management activities" and "residual basal area"

Note: The statutory date established under 38 M.R.S.A. section 438-B (5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activities on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-B (5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

SECTION 5. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Town 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 6. SEVERABILITY

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

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

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

SECTION 8. AMENDMENTS

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

SECTION 9. DISTRICTS AND ZONING MAP

A. **Official Shoreland Zoning Map:** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
    1. Resource Protection District
    2. Limited Development District
    3. Limited Residential/Commercial District
    4. Commercial Fisheries/Maritime Activities District

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

C. **Certification of Official Shoreland Zoning Map:** The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the town office. In the event the municipality does not have a town office, the Town Clerk shall be the custodian of the map.

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

SECTION 10. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are

property lines, the center lines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. However, Commercial Fisheries/Maritime Activities (CFMA) District boundaries, Limited Development (LD) and Resource Protection (RP) District boundaries do not have to follow property lines. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

SECTION 11. LAND USE REQUIREMENTS

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

SECTION 12. NON-CONFORMANCE

A. Purpose:

1. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12.

2. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

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

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

C. Non-conforming Structures

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.

Further Limitations:

a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12.C.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area or volume since that date. As with other aspects of a structure, the use of a basement for volume calculation may only include those areas with a minimum height of six feet that are impervious to the elements and do not allow the free flow of air.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the same permitting authority as that for a new structure, basing its decision on the criteria specified in Section 12.C.2, Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12.C.1.a above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

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

   In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the

property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

   Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be reestablished. An area at least the same size as the area where the 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 to that which was disturbed, destroyed or removed.

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

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, 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 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 its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12.C.1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a

structure, vegetation shall be replanted in accordance with Section 12.C.2 above.

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

In determining the market value of a structure, only the value of the structure itself shall be considered, which would be the same regardless of where the structure is located. If the applicant and the Planning Board cannot agree on whether or not the removal, damage or destruction is more than 50% of the market value of the structure, the Planning Board may require the applicant to obtain one or more appraisals of the market value.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider, in addition to the criteria in Section 12.C.2 above, the physical condition and type of foundation present, if any.

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

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

D. Non-Conforming Uses

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

2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the 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 in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12.C.4. above.

E. Non-Conforming Lots

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

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

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

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

   This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on August 20, 1992 and recorded in the registry of deeds if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater

Disposal Rules, and:

a. Each lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area; or

b. Any lots that do not meet the frontage and lot size requirements of Section 12.E.3.a are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area.

SECTION 13. ESTABLISHMENT OF DISTRICTS

A. **Resource Protection District:** The Resource Protection District includes areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, 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&) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of May 6, 2008. The Resource Protection District includes portions of the following properties:

1. The area 250 feet from the identified moderate or high value wetland located on Map 4 Lot 9, known as the Hopkins Pond.
2. The portion of Map 3 Lot 2.1 located 250 feet from the above identified wetland

   (Three additional properties, Map 4, Lots 2, 6.1 and 6.2 have been removed from the RP District since the properties are developed with multiple buildings on each lot. The 250 foot portion of these lots adjacent to the wetland are zoned Limited Development.)

3. The area 250 feet from the pond identified as the Meadow Pond, including portions of Lots 31, 35, 39, 40, 41, 42 on Map 3.

   (Two additional properties, Lots 3.4 and 3.5 on Map 3, which are located within the 250 foot area from the Meadow Pond, are excluded from the Resource Protection District since they are already developed. The 250 foot portion of these lots adjacent to the wetland known as Meadow Pond are zoned Limited Residential.)

B. **Limited Development District:** The Limited Development District includes those areas which had been referred to as the Pond District in the 1974 Shoreland Zoning Ordinance, and identified in the Comprehensive Plan as the Rural District. The Limited Development District includes those properties or portions of properties which are 250 feet from the following wetlands:

1. Squam Creek Marsh including portions of the following lots: Map 3 Lots 38 and

44.1, Map 4 Lots 3, 8, 50, 55 and 61.

2. Heal's Upper Mill (Heal Pond) including portions of the following lots: Map 3 Lots 55.2, 56, 57, 58. 65, 68.2, 68.3 and 68.4.

3. Meadow Pond, including portions of the following lots: Map 3, Lots 3.4 and 3.5

4. Beaver Pond including portions of the following lots: Map 2, Lots 35, 39 and 40.

5. The 250 foot portions of Map 4, Lots 2, 6.1 and 6.2 that are adjacent to Hopkins Pond.

C. **Limited Residential/Commercial District:** The Limited Residential/Commercial District includes those areas which had been referred to as the Rural Residential District in the 1974 Shoreline Zoning Ordinances, and identified in the Comprehensive Plan as the Growth District. This district includes areas of two or more contiguous acres in size and is suitable for both residential and low intensity commercial uses, including functionally water-dependent facilities for hauling and storing a maximum of 10 boats and for individually-operated lobstering and fishing activities. Industrial uses are prohibited.

D. **Commercial Fisheries/Maritime Activities District:** The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14. This district shall include:

1. Tax Map 7, Lot 52.01 (currently North End Lobster Coop - marina)

2. Tax Map 6, Lot 111.11 (formerly Westport Boat Works - marina)

3. Tax Map 1, Lot 25 (portion only - commercial fishing): A portion of land of the estate of Teresa Richardson, being the existing stone wharf and adjacent land described as follows: Beginning at the southwest corner of land of George D. Richardson, III at a ring bolt in the ledge; thence N 45 53'30" W by land of George D. Richardson III to a 5/8" drill hole; thence Southwesterly to a 1 1/2" iron pipe at land of Dunlop; thence Southwesterly by land of Dunlop to a 1/2" iron pipe near the shore of the Sheepscot River; thence to low water mark in said River; thence Easterly by low water mark to a point in a line extended S 45 53'30" E from the point of beginning; thence N 45 53'30" W to the point of beginning.

4. Tax Map 4, Lot 60.01 (formerly land of George R. Harrison - commercial fishing)

5. Tax Map 4, Lot 56 (portion only - commercial marine construction): A portion of the land of E. Davies Allan being described as follows: Beginning at a point most southerly and easterly in the cove East of the Boathouse peninsula marked by a steel pin in the ledge above high water; thence due magnetic South to a point 250 feet from high water marked by a concrete marker; thence Westerly along the 250

foot setback line to a concrete marker; thence due magnetic North to a pin in the ledge located in the westerly corner of the cove West of the Boathouse peninsula; thence Easterly along the shore to the point of beginning.

6. Tax Map 3, Lot 16 (land of Reginald Lee - commercial fishing)

7. Tax Map 6, Lots 77.1 and 78 (formerly Mary Wright; now Town of Westport Island– marine activities)

8. Tax Map 3, Lots 17.2 and 17.3 (land of Ted & Deb Christie – commercial fishing & marine construction)

9. Tax Map 7, Lot 50 (Sheepscot River Marine Services – commercial fishing & marine construction)

SECTION 14. TABLE OF LAND USES

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

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards)
No - Prohibited
PB - Allowed with permit issued by the Planning Board
CEO - Allowed with permit issued by the Code Enforcement Officer LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection LD - Limited Development
LRC - Limited Residential/Commercial
CFMA - Commercial Fisheries/Maritime Activities

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 within 75 feet of 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:

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

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICTS			
	RP	LD	LRC	CFMA
1. Non-intensive recreational uses not requiring structures, such as hunting, fishing, and hiking	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting and land management roads	Yes	Yes	Yes	Yes
4. Timber harvesting	CEO	Yes	Yes	Yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	Yes	Yes	Yes
5A. Clearing or removal of vegetation within the protected buffer area of a water body or wetland	CEO	CEO	CEO	CEO
6. Fire prevention activities	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes
8. Soil and water conservation practices	Yes	Yes	Yes	Yes
9. Mineral Exploration	No	CEO[1]	CEO[1]	CEO[1]
10. Mineral extraction including sand and gravel extraction	No	PB	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes
13. Agriculture	PB	Yes	Yes	Yes
14. Aquaculture	PB	PB	Yes	Yes
15. Principal structures and uses				
A. One and two family residential, including driveways	PB9	CEO	CEO	CEO
B. Multi-unit residential	No	No	No	No
C. Commercial	No	No	PB	PB[2]
D. Industrial	No	No	No	PB[2]
E. Governmental and Institutional	No	No	PB	PB[2]
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	CEO	CEO	PB[2]
16. Structures accessory to allowed uses	PB	CEO	CEO	PB[2]
17. Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary3	CEO[6]	CEO[6]	CEO[6]	CEO[2,6]
b. Permanent3,4	PB	PB	PB	PB[2]
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	No
19. Home Occupations	PB[5]	CEO[5]	CEO[5]	CEO[5]
20. Commercial or Industrial Uses	No	PB	PB	PB

21.	Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
22.	Essential services	PB	PB	PB	PB
	A. Roadside distribution lines (34.5kV or less)	CEO[7]	CEO[7]	Yes[8]	Yes[8]
	B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB[7]	PB[7]	CEO	CEO
	C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB[7]	PB[7]	PB	PB
	D. Other essential services	PB[7]	PB[7]	PB	PB
23.	Service drops, as defined, to allowed uses	Yes	Yes	Yes	Yes
24.	Public and private recreational areas involving minimal structural development	PB	PB	CEO	CEO[2]
25.	Individual and private campsites	CEO	CEO	CEO	CEO
26.	Campgrounds	No	PB	PB	No
27.	Road construction	No[10]	PB	PB	PB[2]
28.	Land management roads	PB	PB	Yes	Yes
29.	Parking facilities	No	PB	PB	PB[2]
30.	Marinas	No	PB	PB	PB
31.	Filling and earthmoving of less than 10 cubic yards	CEO	Yes	Yes	Yes
32.	Filling and earthmoving of greater than 10 cubic yards	PB	CEO	CEO	CEO
33.	Signs	Yes	Yes	Yes	Yes
34.	Uses similar to allowed uses	CEO	CEO	CEO	CEO
35.	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
36.	Uses similar to uses requiring a PB permit	PB	PB	PB	PB
37.	Relocation of a non-conforming structure	PB	PB	PB	PB
38.	Mobile Home Parks	No	No	PB[11]	No

1. Requires permit from the CEO if more than 100 square feet of surface area, in total, is disturbed.
2. Functionally water-dependent uses and uses accessory to such water dependent uses only within 75 feet, horizontal distance, of the normal high-water line.
3. Requires a permit from the selectmen.
4. Requires a permit from the Department of Environmental Protection.
5. May require a permit from the Planning Board or CEO (see Section 15.V. below)
6. Excluding bridges and other crossings not involving earthwork, in which case no permit is required
7. See further restrictions in Section 15.L.
8. Permit not required but must file a written "notice of intent to construct" with CEO.
9. Single family residential structures may be allowed by special exception only according to the provisions of 16.E, Special Exceptions. Two-family residential

structures are prohibited.
10. Except as provided in 15.H.3.
11. Except in the Shoreland Zone

SECTION 15. LAND USE STANDARDS:

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

A. Minimum Lot Standards

1. Minimum Lot Area and Shore Frontage

Type of Property	Minimum Lot Area (acres)	Minimum Shore Frontage (feet)
Residential per dwelling unit		
• Within the Shoreland Zone adjacent to tidal areas	2	150
• Within the Shoreland Zone adjacent to non-tidal areas	2	200
Governmental, Institutional, Commercial or Industrial per principal structure		
• Within the Shoreland Zone adjacent to tidal areas, exclusive of those areas zoned CFMA	3	200
• Within the Shoreland Zone adjacent to tidal areas zoned CFMA	2	None
• Within the Shoreland Zone adjacent to non-tidal areas	3	300
Public and private recreational facilities within the Shoreland Zone adjacent to tidal and non-tidal areas	3	200

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

4. 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.

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

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back one hundred (100) feet, horizontal distance, within the Limited Development District, or seventy-five (75) feet, horizontal distance, within the Limited Residential/Commercial District, from any body of water, tributary stream, or the upland edge of a wetland. A 75-foot setback is also required for any residential dwelling unit in the Commercial Fisheries/Maritime Activities District; there is no minimum setback in the CFMA district for other types of principle and accessory structures, or for roads and parking areas and other structures associated with a launch area. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, in which case the setback shall be 100 feet.

   In addition:

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

   b. 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 bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the

Zoning Board of Appeals.

c. 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, 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.

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

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

4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, excepting one access road, 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 Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.

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

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

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

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

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

e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Floodplain 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;

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

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

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

   ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;

   iii. Only native species may be used to establish buffer areas;

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

   v. A footpath not to exceed the standards in Section 15.Q.1.a. may traverse the buffer.

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

6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide

shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge or 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.

7. Minimum Lot Width

    a. No single family dwelling shall be erected or building altered to accommodate one family as a residence on a lot having a width of less than two hundred (200) feet in the Resource Protection District or the Limited Development District, or one hundred and fifty (150) feet in the Limited Residential/Commercial District or the Commercial Fisheries/Maritime Activities District, measured through that part of the building where the lot is narrowest.

    b. No two-family dwellings shall be erected or buildings altered to accommodate two-family dwellings on lots having less than an additional fifty (50) foot width measured through that part of the building where the lot is narrowest, per living unit, above and beyond the initial two hundred (200) foot width limitation or one hundred fifty (150) foot width limitation, whichever is applicable, for single family dwellings. Two family dwellings are not permitted in the Resource Protection (RP) District.

8. Frontage

    a. No single family dwelling shall be erected or building altered to accommodate one family as a residence on a lot having frontage less than two hundred (200) feet in the Resource Protection District or the Limited Development District, or one hundred and fifty (150) feet in the Limited Residential/Commercial District or the Commercial Fisheries/Maritime Activities District, on a public or private roadway or on any lake, pond, river, stream or seashore, except that there shall be no minimum frontage requirement on any driveway serving two lots or less.

    b. No two-family dwellings shall be erected or buildings altered to accommodate two-family dwellings on lots having less than an additional fifty (50) feet of frontage on a public or private roadway above and beyond the initial two hundred (200) foot limitation or one hundred fifty (150) foot limitation, whichever is applicable, for single family dwellings.

9. Set Back

a. No building or structure or any portion thereof shall be erected within seventy- five (75) feet in the Resource Protection District or the Limited Development District, or forty (40) feet in the Limited Residential/Commercial District or the Commercial Fisheries/Maritime Activities District, from the right-of-way or sideline of any road or street. If there is no established right-of-way sideline for any road or street, said sideline shall be deemed to be sixteen and one-half (16 1/2) feet from the center line of the road or street.

b. Notwithstanding the setback requirements stated above, structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks, retaining walls, parking areas and other structures associated with boat launching facilities or other functionally water-dependent uses, may be erected closer to a right-of-way, road or street whose sole purpose is to provide access to the water body or wetland, or to said structure.

10. Side Yards and Rear Yards

    a. For every building erected in any district, there shall be a minimum side lot clearance on each side of said building of not less than twenty (20) feet, which space shall remain open and unoccupied by any structure.

    b. No building or structure or any portion thereof except steps and uncovered porches extending less than ten (10) feet from building shall be erected within forty (40) feet of any back line.

11. Corner Lots: The setback building line on a corner shall be in accordance with the provisions governing the road or street on which the building faces. If possible, the side lot clearance on the side street shall conform to the setback line for an inside lot on said street or road, but in no event shall side yard clearance be less than forty (40) feet from the right of way sideline.

12. Development of slopes in excess of 20%: On slopes of more than 20%, but less than 35%, new structures or uses otherwise allowed in this ordinance are allowed with a permit from the Planning Board provided that:

    a. Each application shall be accompanied by:

        i. a topographic plan of the construction site with intervals of not more than five feet (5') and showing the slopes on the construction site;

        ii. a plan to prevent erosion or sedimentation; and

iii. evidence that the soils at the construction site are suitable for the proposed use.

b. Clearing shall be limited to those areas needed for construction of any approved structure, driveways, or parking areas.

c. Any driveway or road construction shall be done in conformance with the provisions of Section 15.H of this ordinance.

d. The proposed use conforms with all other standards and review criteria contained in this ordinance.

13. Any new residential, commercial, or industrial structures and uses are prohibited in any undeveloped shoreland area consisting of two or more contiguous acres with sustained slopes of 35% or greater.

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

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

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

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

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

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

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

8. Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the

normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

9. Notwithstanding the 20-foot setback requirement described in Section 15.B.10.a, a pier-float-ramp may be erected closer to the sideline provided:

    a. There is no pier-ramp-float on either of the two abutting lots;

    b. The owner of the abutting lot agrees in writing to allow the pier-ramp-float to be constructed within 20 feet of his/her property line;

    c. The owners of the two abutting lots agree in writing not to alter the pier-ramp- float which qualified under this provision and not to construct any other pier- ramp-float on either of the abutting lots as long as the pier-ramp-float which qualifies under this provision remains in existence. While the pier-ramp-float which qualifies under this provision remains in existence, no other pier-ramp- float will be approved on either of the two abutting lots.

    d. The written agreements referred to in b. and c. are filed with the Planning Board to be retained by the Planning Board; and

    e. If either or both of the abutting lots is/are divided after construction of the pier- ramp-float which qualified under this provision, then the same restrictions on subsequent construction of pier-ramp-floats as applied to the original, undivided, lots will apply to the new lot(s).

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

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

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back one hundred (100) feet, horizontal distance, within the Limited Development District, or seventy-five (75) feet, horizontal distance, within the Limited Residential/Commercial District, horizontal distance, from the normal high-water line of any body of water, tributary stream, or the upland edge of a wetland. Campgrounds are not permitted in the Resource Protection (RP) District.

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

1. One campsite per lot existing on the effective date of this Ordinance, or two acres of lot area within the shoreland zone, whichever is less, may be permitted.

2. 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, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, horizontal distance, within the Limited Residential/Commercial District and the Commercial Fisheries/Maritime Activities District horizontal distance, from the normal high-water line of any body of water, tributary stream, or the upland edge of a wetland.

3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles 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.

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

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

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

F. **Commercial and Industrial Uses:** The following new commercial and industrial uses are prohibited within the Resource Protection District, the Limited Development District, and the Limited Residential/Commercial District:

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

13. Uses similar to uses a. through l. which have a potential for pollution

G. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities 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 Commercial Fisheries/Maritime Activities District may be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

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

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

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

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

4. Parking facilities are prohibited in Resource Protection Districts.

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

1. General Standards:

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

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

   Section 15.H.1.a does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

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

2. Road Standards:

   a. 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.

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

   c. Road grades shall be no greater than twelve (12) percent except for where no reasonable alternative exists as determined by the Planning Board.

d. 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:

i. 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	100-800
11-15	80-60
16-20	60-45
21+	40

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

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

iv. 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.

e. 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.

3. Driveway Standards: Driveways entering onto any Town Road must comply with the following standards:

4. Sight Distance:

Posted Speed (MPH)	Sight Distance (feet)
20	155
25	200

30	250
35	305
40	360
45	425

5. Driveway Width: Driveway width within Town Road rights-of-way must be between 12 and 22 feet inclusive. The width of a driveway is the distance across the driveway, excluding radii, measured parallel to the highway.

6. Corner Clearance: The minimum corner clearance for driveways is 75 feet from intersections.

7. Turnaround Area/Parking: Driveways will be designed such that all maneuvering and parking of any vehicles will take place outside of Town Road rights-of-way and such that vehicles may exit the premises without backing onto the highway traveled way or shoulder.

8. Intersection Angle: To the maximum extent practical, the driveway will be constructed perpendicular to the highway at the access point.

9. Drainage Standards:

    a. Driveway grades shall be no greater than twelve (12) percent within 25 feet of a Town Road except for where no reasonable alternative exists as determined by the Planning Board.

    b. The Code Enforcement Officer, in consultation with the Road Commissioner, shall determine the required culverts and other water runoff control installations required for driveways within Town Road rights-of-way depending upon local conditions and include those requirements as a condition of any permits granted.

    c. Culverts and other water runoff control installations required for driveways within Town Road rights-of-way shall be maintained by the property owner on a regular basis to ensure effective functioning.

I. **Signs:** The following provisions shall govern the use of signs in the Resource Protection, Limited Development and Limited Residential/Commercial Districts:
    1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed twenty (20) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

3. Residential users may display a single sign not over six (6) square feet in area relating to the sale, rental, or lease of the premises.

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

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

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

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

J. Storm Water Runoff

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

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

   NOTE: Pursuant to 38 M.R.S.A. section 420-D, construction that will result in one (1) acre or more of disturbed area requires a permit from the Department of Environmental Protection, as well as a Maine Construction General Permit.

K. **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 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 upland edge of a wetland; and

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

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

L. Essential Services

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

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

3. The installation of underground propane tanks shall conform to the rules put forth by the State of Maine for the regulation of such tanks. Notice of such installation shall be made by the owner of the property to the LPI and the Fire Chief.

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

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

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15.M.3. below.

2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, within the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from the normal high-water line of any body of water, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property. Mineral exploration and extraction are not permitted in the Resource Protection (RP) District.

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

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

on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A. section 1300 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

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

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

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

N. Agriculture

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

2. Manure shall not be stored or stockpiled within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from any body of water, tributary stream or wetland. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

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

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

4. There shall be no new tilling of soil within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from any body of water or coastal wetland; 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 compliance with this

provision) may be maintained.

5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from any body of water or coastal wetland; 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.

O. **Timber Harvesting:** Timber harvesting shall conform with the following provisions:

1. Selective cutting of no more than forty (40) per cent of the total volume of trees four inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:

    a. Within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, of the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees (as defined in Section 15.P.1.b.) and other vegetation, including existing ground cover, shall be maintained.

    b. At distances greater than one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet within the Limited Residential/Commercial District, horizontal distance, of the normal high water line of any body of water, tributary stream, or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet, they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal.

2. Timber harvesting operations exceeding the 40% limitation in Section 15.O.1. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.

3. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high water line of a water body. In all other areas, slash shall be

removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high water line of a water body or tributary stream shall be removed.

4. Timber harvesting equipment shall not use stream channels as travel routes except when:

    a. Surface waters are frozen; and

    b. The activity will not result in any ground disturbance.

5. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

6. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

7. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to the (10) per cent, shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each ten (10) per cent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high water line of a water body or upland edge of a wetland.

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

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

2. At distances greater than one hundred feet (100 feet), within the Limited Development District, or seventy-five (75 feet) within the Limited Residential/Commercial District and the Commercial Fishing/Maritime/Activities District, horizontal distance, of the normal high-water line of any body of water, 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) per cent of the trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses

shall be included in the forty (40) per cent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event, shall cleared openings for any purposes, including but not limited to, principal and accessory structures, driveways, lawns and sewerage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Commercial Fishing/Maritime Activities District.

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

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

Q. Clearing or Removal of Vegetation within the Protected Buffer Area of a Water Body or Wetland

1. Except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, within the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District and the Commercial Fisheries/Maritime Activities District, horizontal distance, of the normal high-water line or any other body of water, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

   a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a 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.

   b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15.Q.1.b a "well-distributed stand of trees" in a Limited Development District, 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	1
4 - < 8	2
8 - < 12	4

12 or greater	8

In the Limited Residential/Commercial District, 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, if a 25-foot x 50-foot plot contains four 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: (4 x 1) + (2 x 2) + (3 x 4) + (2 x 8) = 36 points

If this were in the Limited Development District, trees totaling 12 points (36 – 24 = 12) may be removed from the plot, provided that no cleared openings are:

The following shall govern in applying this point system:

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

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

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

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

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

For the purposes of Section 15.Q.1.b. “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above the ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered or removed, except to provide for a footpath or other permitted uses as described in Section 15.Q.1.

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

e. In order to maintain a buffer strip of vegetation, when the removal of storm- damaged, 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.

Section 15.Q.1. 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.

2. Building Permit applications for all activities involving the clearing or removal of vegetation within the protected buffer area of a water body or wetland shall include the following:

a. A completed permit application with the appropriate fee attached.

b. A scaled site plan of the parcel identifying areas where the proposed activities will occur.

c. A detailed plan of the proposed area(s) of activity showing the 25-foot by 50-foot rectangular plots described in 15.Q.1. above and the proposed inventory of vegetation to be retained in each plot showing compliance with 15.Q.

d. Before and after photographic representation of the area(s) of proposed activity sufficient to identify the plots by retained vegetation after the proposed activity has been completed.

3. Exemptions

a. The removal of individual storm-damaged. diseased, unsafe or dead trees that do not result in the creation of a cleared opening.

b. The creation of a footpath that is in compliance with Section 15.Q.1.a.

c. Maintenance of legally existing cleared openings.

R. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan, which need not be prepared by a licensed or certified engineer. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

    a. Mulching and revegetation of disturbed soil.

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

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

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

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

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

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

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

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

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. 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.

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

T. **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.

U. **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.

V. **Home Occupations:** It is the intent and purpose of these provisions to provide liberal, flexible standards for the establishment and maintenance of home occupations that simultaneously provide the community with a practical mechanism by which to monitor and regulate their use.

1. Home occupations which meet the following conditions do not require a Code Enforcement Officer (CEO) or Planning Board Permit:

    a. Do not employ any persons who do not make the residence their permanent home.

    b. Do not display any exterior signs, exterior exhibits, exterior storage or materials or any other exterior indications of the home occupation or variation from the residential character of the principal dwelling or accessory building. Billboards and signs relating to goods or services not

sold on the premises shall be prohibited;

c. Do not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio and television reception, or causes other nuisances which extend beyond the limits of the subject property; and

d. Are not likely to generate regular or seasonal traffic.

2. Home occupations that do not meet the provisions of Section V.1 shall require a permit from the Planning Board~~,~~ if in the Resource Protection District, or a permit from the Code Enforcement Officer if in the Limited Development District, and shall comply with the following conditions:

a. Not more than two persons who do not make the residence their permanent home may be employed (including part time workers);

b. The appearance of the structure or accessory structure is not altered, subject to the provisions of subsection (d) hereafter or the occupation within the residence is conducted in a manner that would not cause the residence to differ from its residential character by means of colors, lights, or sounds;

c. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed twenty (20) square feet in area and shall not exceed two (2) signs per premises.

d. Additions to the residence or accessory structure for the express purpose of a home occupation are constructed and finished in the same manner as the original structure such that the character and appearance of the principal structure are maintained;

e. Retail sales are limited to the sale of products or goods produced, fabricated or substantially altered on the premises as a result of the home occupation. This may include products that are not manufactured on the premises as defined above, but which are customarily incidental to the product created by the home occupation;

f. There is adequate off-street parking on the premises for customers or clients use;

g. There is no objectionable increase in traffic over that traffic normal for the neighborhood;

h. It does not adversely affect any natural resource or environmentally

sensitive area including, but not limited to the water supply;

i. The home occupation that uses chemicals not commonly found in a residence and any chemicals in quantities not commonly used in a residence shall be required to collect and dispose of said chemicals in an environmentally safe manner;

j. The home occupation shall not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio and television reception, or causes other nuisances which extend beyond the limits of the subject property. All waste material from the home occupation shall be removed promptly from the premises, according to federal, state and local laws.

3. Home occupations not meeting the above standards shall be considered to be commercial uses, and are then not permitted in the Resource Protection (RP) District. In all other districts, they are required to file a Site Plan Review Application with the Planning Board (see Site Plan Review Ordinance).

4. Any change or expansion in business activity shall require a new permit or site plan review.

SECTION 16. ADMINISTRATION

A. Administering Bodies and Agents

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

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

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

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

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

a. Not more than one standard culvert size wider in diameter than the culvert being replaced,

b. Not more than 25% longer than the culvert being replaced, and

c. Not longer than 75 feet;

And:

Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

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

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

C. Permit Application

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

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

3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt. Applications shall be accompanied by the appropriate fee or - if an online application - the appropriate fee will be submitted as soon as possible after the submission of the online form. See fee schedule at the Town Office.

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

5. Prior to the issuance of any permit other than a permit for a driveway, a valid 911

address must exist, and signage, either permanent or temporary, shall identify the street, road, or driveway. When the street or road does not intersect a town or state road or street, then all roads or streets leading to the building site must also be identified with either permanent or temporary signs. Temporary signs must be replaced by permanent signs within 90 days.

D. Procedure for Administering Permits

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

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

After the submission of a complete application to the 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 Commercial Fisheries/Maritime Activities district;

8. Will avoid problems associated with flood-plain development and use; and

9. Is in conformance with the provisions of Section 15, Land Use Standards.

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

E. **Special Exceptions:** In addition to the criteria specified in Section 16 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:

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

      b. Located outside the floodway of the 100-year flood plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all building, including basement, 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 ½ the width of the 100-year flood plain.

   4. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet.

   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 100 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion,

the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood plain, and its proximity to moderate value and high value wetlands.

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

G. **Installation of Public Utility Service:** No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

H. Appeals

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

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

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

2. Variance Appeals

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

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

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

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

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

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

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

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

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

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

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

f. A copy of each variance request, including the application and all supporting materials supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the

Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Administrative Appeals

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

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

4. Appeal Procedure

a. Making an Appeal

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

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

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

(b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features

of the lot pertinent to the relief sought.

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

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

b. Decision by Board of Appeals

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

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

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

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

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

6. Reconsideration: In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the

majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

I. Enforcement

Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

1. Code Enforcement Officer

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

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

   c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

2. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the selectmen, 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 finds, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The 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. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the

illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

3. Fines

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

   NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues.

SECTION 17. DEFINITIONS

Abutter(s)-Owner(s) of record of immediately adjacent property: owner(s) of record of property located immediately across a public road or right of way.

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

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

Agriculture - the production, keeping or maintenance for sale or lease, of plants 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 Forestry Management and Timber Harvesting.

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

Appellate Hearing - A Board of Appeals hearing at which only the material which was the basis for the decision or action by the Planning Board, is reviewed to determine if the action or decision can be upheld.

Applicant - The person submitting an application under the provisions of a specific ordinance, including a firm, association, organization, partnership, trust, estate, governmental agency,

municipality, company, corporation, two or more individuals having a joint or common interest, or other legislative entity, as well as an individual.

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

Basal Area - the area of cross-section of a tree stem at four and a half (4 ½) feet above ground level and inclusive of bark.

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

Board of Appeals-The Board of Appeals of the Town of Westport Island, to which an aggrieved party may apply for review of a decision or action taken by the Code Enforcement Officer or the Planning Board. The Board of Appeals also hears variance appeals. See Appellate Hearing and de novo Hearing.

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 boat trailers.

Building - any permanent structure having one or more floors and a roof, which is used for the housing or enclosure of persons, animals, or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building. Sidewalks, fences, driveways, parking lots, retaining walls, electrical transmission poles and lines, signs and flagpoles are not considered to be buildings.

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

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

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. Coastal wetlands may include portions of coastal sand dunes.

- NOTE: All areas below the maximum spring 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 or CEO - A person certified under Maine law and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," as defined, 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.

Complete Application - an application shall be considered complete upon the submission of the appropriate fee and all information required by the town ordinances, or by a vote of the appropriate Board to waive the submission of certain required information. The Board shall inform the applicant of its determination that the application is complete. For applications not requiring a review by the Planning Board, the Code Enforcement Officer shall make the determination that the application is complete.

Conforming - A building , structure or land use, or a portion thereof, which complies with the provisions of all applicable Westport Island Ordinances.

Constructed - Built, erected, altered, reconstructed or moved including the operations on the premises that are required for the construction. Excavation, filling draining and blasting shall be considered a part of construction.

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

Curb Cut - The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street. A curb cut on a State road requires a permit from the State.

dBA, Decibel - A standard measure of relative sound pressure levels. Quiet Residential measures apporoximately 40 dBA.

DBH - the diameter of a standing tree measured four and a half (4.5) feet from ground level.

de novo Hearing - A Board of Appeals hearing in which new information can be admitted, in addition to the record and materials of the decision or action of the Code Enforcement Officer.

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 occurring naturally.

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 a 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 educational, vocational rehabilitation, or related services.

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

Driveway - a vehicular access-way serving two lots or less, or two single-family dwellings or one two-family dwelling, or less.

Dwelling - See Residential Dwelling Unit

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; cable installations for television; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the floor area and/or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and green houses. A volumetric expansion increase includes attached and covered expanded areas.

Expansion of use - the addition of one or more months to a use's operating season, over a ten year period, or the use of more floor area or ground area devoted to a particular use.

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

Floodway - the channel of a river or other watercourse and adjacent land area that must be reserved in order to discharge the l 00-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.

Forested Wetland-A freshwater wetland dominated by woody vegetation that is six (60 meters

tall (approximately 20 feet).

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

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

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

1. Of ten (10) or more contiguous acres; or ifless than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of the ten (10) acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Frontage - That portion of a lot fronting upon and providing rights of access to a public or private road listed on the Schedule of Town Roads on file with the Town Clerk, or to an approved and accepted new right of way laid out in accordance with the Town Ordinances, to be measured continuously along a single street or road line. Owners of lots fronting upon two streets may select that which may be considered "frontage." On a comer lot frontage shall be measured to the point of intersection of the extension of the sidelines of the roads. The minimum frontage for permitted uses within the Town of Westport Island must be met by contiguous frontage within the Town of Westport Island on an improved or accepted right of way in the Town of Westport Island. Alternatively frontage may be considered to be shore frontage.

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, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, but including water front dock and port facilities, ship yards and boat building facilities, marinas, and if locally permitted, could include industrial uses dependent on water front transportation or requiring large volumes of cooling or processing water, and cannot be reasonably located or operated at an inland site. Uses that primarily provide the general public access to coastal or inland waters such as boat launching facilities, mooring sites and similar uses.

Grade - the degree of inclination of a road or slope. Percent grade is measured as vertical drop

divided by horizontal distance times 100.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

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

Groundwater-All of the water found beneath the surface of the ground. For purposes of aquifer protection this term refers to the subsurface water present in aquifers and recharge areas.

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

Height of a structure - 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; and B. With respect to new principal or accessory structures and to existing principal or accessory structures other than those described in paragraph A, including legally existing nonconforming structures, the vertical distance between the mean original grade (prior to construction) 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.

Historic Structure-Any structure that is a) Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior), or is preliminarily determined by the Secretary of the Interior, as meeting the requirements for individual listing on this Register. b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district, or a district preliminarily determined by the Secretary of the Interior to qualify as a registerd historic district. c) Individually listed on a state inventory of state historic places in states with historic preservation programs which have been approved by the Secretary of the Interior. d)Individually listed on a local inventory of historic places in the community with historic preservation programs that have been certified either 1) by an approved state program as determined by the Secretary of the Interior, or 2) directly by the Secretary of the Interior in states without approved

programs.

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

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream or wetland than the closest portion of the existing structure from the water body, tributary stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures. Structures which are located closer than 75 feet from the high water line, may be increased in size no more than 30% in linear or volumetric measure over the life of the structure.

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

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

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

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

Land Owner-The record owner of the fee simple title to a parcel, tract or lot.

Licensed forester - a forester licensed under Maine law

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

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

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

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

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

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

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units on land in common ownership. These structures are not permitted in the Town of Westport Island, unless they are grandfathered.

Native - indigenous to the local forests.

New Construction - all structures newly constructed on a lot which conforms to the specifications of this Ordinance.

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 amendments 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, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. Any non-conforming structure which is located less than the required setback from a water body and which is removed, damaged or destroyed by more than 50% of the market value of the structure (only) at the time of the destruction, damage or removal, may be replaced or reconstructed so

that such reconstruction or replacement is in compliance with the normal setback requirements to the greatest possible extent as determined by the Planning Board.

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.

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

100 Year Flood - The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

Party - Owners of record of immediately adjacent property; owners of record of property located immediately across a road or right of way; other property owners who having shown that their property may be affected by the proposed development under a specific criterion or standard, shall be admitted to testify, with participation limited to that criterion or standard.

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

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

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

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

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

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

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

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

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

Recreational vehicle - a vehicle or an attachment to a vehicle designed 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.

Relocation of a Structure - any structure moved to a new lot or a structure moved to a new location on the lot it occupied. Both lot and structure must conform to the provisions of Westport Island Ordinances.

Renovation - any construction which does not increase the square footage of the structure

Replacement - any structure already constructed, and which is to be moved to the existing site of a structure destroyed by fire or other natural calamity, or new construction of a structure on the existing site of a building lost because of the foregoing reasons.

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, or the replacement of a holding tank.

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

Residual stand - a stand of trees remaining in the forest following timber harvesting and related activities

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (I) unit vertical or less.

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

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

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.

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 regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, 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 cordgrass (Spartina patens) and black rush. Common three square occurs in fresher areas.

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

1. In the case of electric service:
    a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of- way; and
    b. the total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service:
    a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
    b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

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

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, river or salt water body; within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred and fifty (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.

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

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

Slope - the degree of inclination of the ground. Percent slope is measured as vertical drop divided by horizontal distance times l 00.

Solid Waste - Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, but not limited to rubbish, garbage, refuse derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include hazardous waste, biomedical waste, septic tank sludge or agricultural waste. The fact that a solid waste, or constituent of the waste, may have a value, be beneficially used, have other use, or be sold or exchanged, does not exclude it from this definition.

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

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

Subsurface sewage disposal system - any system designed to dispose of waste or waste water on or beneath the surface of the earth; including, but not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filters; piping; or any other fixture, mechanism or apparatus used for those purposes. This 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 maximum spring tide.

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 15.P. of the Shoreland Zoning Ordinance, "Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting."

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

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 on exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. This definition does not include the term "stream" as defined elsewhere, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation has been removed by human activity. NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Town Road - a roadway owned and maintained by the Town of Westport Island

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 maximum spring 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 20 feet) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and a half (4 ½) feet above ground level.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any lake, great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, tributary stream or wetland, whether under, through, or over the water or wetland. Such projects may 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.

Wetland - a freshwater or coastal wetland.

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

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF WESTPORT ISLAND	) MANDATORY SHORELAND ZONING ACT
LINCOLN COUNTY	)
SHORELAND ZONING ORDINANCE	)
ORDER # 37-2025	) CONDITIONAL APPROVAL

Pursuant to the provisions of 38 M.R.S. §§ 435-448, the Mandatory Shoreland Zoning Act (Act), and the Maine Department of Environmental Protection's Guidelines for Municipal Shoreland Zoning Ordinances, 06-096 C.M.R. ch. 1000 (amended January 26, 2015) (Guidelines), the Department of Environmental Protection has considered the request for approval of the Town of Westport Island's Shoreland Zoning Ordinance (Ordinance), as amended on June 21, 2025, and FINDS THE FOLLOWING FACTS:

1. The Act requires municipalities to establish zoning controls in areas within 250 feet of the normal high-water line of great ponds and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of the normal high-water line of streams. Such zoning standards must be consistent with or no less restrictive than those in the Guidelines. 38 M.R.S. §§ 435 & 438-A.

2. The Act specifies that before a locally adopted shoreland zoning ordinance, or amendment to that ordinance, is effective, it must be approved by the Commissioner of the Department of Environmental Protection (Commissioner). The Commissioner may approve, approve with conditions, or deny the ordinance or amendment. If denied, or approved with conditions, such action must be preceded by notice to the municipality. If the Commissioner fails to act within 45 days of receipt of the ordinance or amendment, then the ordinance or amendment is automatically approved. 38 M.R.S. § 438-A.

3. On September 18, 2024, the Department approved the Town of Westport Island's Ordinance, as amended on June 22, 2024, with conditions in Department Order #43-2024 addressing deficiencies, including:

   A. Section 9 **Non-conformance** D *Non-Conforming Lots* fails to indicate the correct Date in which the standard is established.

   B. Section 15 **Land Use Standards** A (5) *Minimum Lot Standards* fail to indicate the correct frontage required for a second residential dwelling unit or principal structure or use.

   C. Section 15 **Land Use Standards** B *Principal and Accessory Structures (8.b) Frontage* fails to indicate the correct frontage required for a second residential dwelling unit or principal structure or use.

TOWN OF WESTPORT ISLAND) MANDATORY SHORELAND ZONING ACT
LINCOLN COUNTY)
LAND USE ORDINANCE)
ORDER #37-2025) CONDITIONAL APPROVAL

D. Section 17 **Definitions** fail to contain the correct definitions for Height of Structure and Stream

4. On September 10, 2025, the Town of Westport Island submitted the following Ordinance amendments adopted on June 21, 2025, to the Department for review:

A. Section 12 **Non-conformance** E. *Non-Conforming Lots* 3. Contiguous Lots - Vacant or Partially Built was amended in part as follows by adding the **highlighted bolded** language:

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 nonconforming, owned by the same person or persons on **August 20, 1992,** and recorded in the registry of deeds if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

a. Each lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area; or

b. Any lots that do not meet the frontage and lot size requirements of Section

12.E.3.a are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area.

B. Section 13 **Establishment of Districts** D. *Commercial Fisheries/Maritime Activities District* was amended in part as follows to document the locations of these districts the **highlighted bolded** language:

D. Commercial Fisheries/Maritime Activities District: The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this

district as indicated in the Table of Land Uses, Section 14. This district shall include:

a. Tax Map 7, Lot 52.01 (currently North End Lobster Coop - marina)

b. Tax Map 6, Lot 111.11 (formerly ~~currently~~ Westport Boat Works - marina)

c. Tax Map 1, Lot 25 (portion only - commercial fishing): A portion of land of the estate of Teresa Richardson, being the existing stone wharf and adjacent land described as follows: Beginning at the southwest corner of land of George D. Richardson, III at a ring bolt in the ledge; thence N 45 53'30" W by land of George D. Richardson III to a 5/8" drill hole; thence Southwesterly to a 1 1/2" iron pipe at land of Dunlop; thence Southwesterly by land of Dunlop to a 1/2" iron pipe near the shore of the Sheepscot River; thence to low water mark in said River; thence Easterly by low water mark to a point in a line extended S 45 53'30" E from the point of beginning; thence N 45 53'30" W to the point of beginning.

d. Tax Map 4, Lot 60.01 (formerly land of George R. Harrison - commercial fishing)

e. Tax Map 4, Lot 56 (portion only - commercial marine construction): A portion of the land of E. Davies Allan being described as follows: Beginning at a point most southerly and easterly in the cove East of the Boathouse peninsula marked by a steel pin in the ledge above high water; thence due magnetic South to a point 250 feet from high water marked by a concrete marker; thence Westerly along the 250 foot setback line to a concrete marker; thence due magnetic North to a pin in the ledge located in the westerly corner of the cove West of the Boathouse peninsula; thence Easterly along the shore to the point of beginning.

f. Tax Map 3, Lot 16 (land of Reginald Lee - commercial fishing)

g. Tax Map 6, Lots 77.1 and 78 (formerly Mary Wright; now Town of Westport Island– marine activities)

h. Tax Map 3, Lots 17.2 and 17.3 (land of Ted & Deb Christie – commercial fishing & marine construction)

i. Tax Map 7, Lot 50 (Sheepscot River Marine Services – commercial fishing & marine construction)

TOWN OF WESTPORT ISLAND) MANDATORY SHORELAND ZONING ACT
LINCOLN COUNTY)
LAND USE ORDINANCE)
ORDER #37-2025) CONDITIONAL APPROVAL

C. Section 14 **Table of Land Uses** *Table 1. Land Uses in the Shoreland Zone* 19 & 20 was amended in part as follows adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

LAND USES	DISTRICTS			
	RP	LD	LRC	CFMA
19. Home Occupations	PB[5]	CEO[5]	CEO[5]	**CEO[5]** ~~Yes~~
20. Commercial or Industrial Uses	**No**	**PB**	**PB**	**PB**

D. Section 15 **Land Use Standards** A. *Minimum Lot Standards* 1 Minimum Lot Area and Shore Frontage was amended as follows adding the **highlighted bold** language and removing the ~~strikethrough~~ language:

1. Minimum Lot Area and Shore Frontage

Type of Property	Minimum Lot Area (acres)	Minimum Shore Frontage (feet)
Residential per dwelling unit		
• Within the Shoreland Zone adjacent to tidal areas	2	150
• Within the Shoreland Zone adjacent to non-tidal areas	2	200
Governmental, Institutional, Commercial or Industrial per principal structure		
• Within the Shoreland Zone adjacent to tidal areas, exclusive of those areas zoned CFMA	~~2~~ **3**	200
• Within the Shoreland Zone adjacent to tidal areas zoned CFMA	~~No~~ 2	None
• Within the Shoreland Zone adjacent to non-tidal areas	~~2~~ 3	300
Public and private recreational facilities within the Shoreland Zone adjacent to tidal and non-tidal areas	~~2~~ 3	200

E. Section 15 **Land Use Standards** A. *Minimum Lot Standards* 5 were amended as

follows removing the ~~strikethrough~~ language:

5. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use. ~~The only exception to this requirement is that a second residential dwelling unit or principal structure or use may be allowed on a single parcel with only an additional fifty (50) feet of shore frontage above and beyond the frontage requirement for one principal structure or use.~~

F. Section 15 **Land Use Standards** B. *Principal and Accessory Structures* 8 Frontage b was amended as follows, adding the **highlighted bold** language and removing the ~~strikethrough~~ language:

b. No two-family dwellings shall be erected or buildings altered to accommodate two-family dwellings on lots having less than an additional fifty (50) feet of frontage on a public or private **roadway** ~~or on any lake, pond, river, stream or seashore~~, above and beyond the initial two hundred (200) foot limitation or one hundred fifty (150) foot limitation, whichever is applicable, for single family dwellings.

G. Section 15 **Land Use Standards** H. *Roads and Driveways* was amended to create a new subsection that contains provisions that apply to both roads and driveways as well as to provide clarifying language consistent with Chapter 1000.

H. Section 15 **Land Use Standards** V. *Home Occupations* was amended to add clarifying language consistent with Chapter 1000.

I. Section 16 **Administration** C. *Permit Application* was amended as follows adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

A. Permit Application

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

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

and correct.

3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt. Applications shall be accompanied by the appropriate fee or - if an online application - the appropriate fee will be submitted as soon as possible after the submission of the online form. See fee schedule at the Town Office.

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

5. Prior to the issuance of any permit other than a permit for a driveway, a valid 911 address must exist, and signage, either permanent or temporary, shall identify the street, road, or driveway. When the street or road does not intersect a town or state road or street, then all roads or streets leading to the building site must also be identified with either permanent or temporary signs. Temporary signs must be replaced by permanent signs within 90 days.

J. Section 17 **Definitions** amended the following terms to be consistent with Chapter 1000 and the Mandatory Shoreland Zoning Act adding the **highlighted bold** language and removing the ~~strikethrough~~ language:

Height of a structure - **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; and**

B. With respect to new principal or accessory structures and to existing principal or accessory structures other than those described in paragraph A, including legally existing nonconforming structures, the vertical distance between the mean original grade (prior to construction) 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.

TOWN OF WESTPORT ISLAND) MANDATORY SHORELAND ZONING ACT
LINCOLN COUNTY)
LAND USE ORDINANCE)
ORDER #37-2025) CONDITIONAL APPROVAL

Stream - **a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent , highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream**. ~~a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.~~

5. The Department's review of the Ordinance has revealed the following significant deficiency:

   A. Section 14 **Table of Land Uses** *Table 1. Land Uses in the Shoreland Zone* 20 Commercial or Industrial Uses includes items that would be less restrictive than the standards found in Chapter 1000.

6. The Town of Westport Island was notified by the Department of the above deficiency, and the proposed conditional approval of the Ordinance.

BASED on the above Findings of Fact, the Commissioner makes the following CONCLUSION:

1. The deficiencies noted in paragraph 5 above can be addressed by the Commissioner approving the Ordinance with conditions. This will result in the Ordinance being substantially consistent with the requirements of the Mandatory Shoreland Zoning Act, 38 M.S.R., Section 438-A, and the Guidelines in effect as of the date of this Order.

THEREFORE, the Commissioner APPROVES the Ordinance, as amended on June 21, 2025, SUBJECT TO THE ATTACHED CONDITIONS:

A. Section 14 **Table of Land Uses** *Table 1. Land Uses in the Shoreland Zone* 20 Commercial or Industrial Uses shall be amended in part as follows by removing the ~~strikethrough~~ language:

TOWN OF WESTPORT ISLAND) MANDATORY SHORELAND ZONING ACT
LINCOLN COUNTY)
LAND USE ORDINANCE)
ORDER #37-2025) CONDITIONAL APPROVAL

LAND USES	DISTRICTS			
	RP	LD	LRC	CFMA
~~20. Commercial or Industrial Uses~~	~~No~~	~~PB~~	~~PB~~	~~PB~~

CONDITIONS of Department Order#43-2024 are hereby REPEALED and replaced with this Order

DONE AND DATED AT AUGUSTA, MAINE, THIS 24th DAY OF OCTOBER 2025.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Mark Stebbins
For: Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

DEP INFORMATION SHEET

Appealing a Commissioner's Decision on a Shoreland Zoning Ordinance

Date: April 2025 **Contact: Clerk.BEP@maine.gov or (207) 314-1458**

SUMMARY

This document provides information regarding a municipality's rights and obligations in filing an administrative or judicial appeal of a shoreland zoning ordinance decision made by the Commissioner of the Department of Environmental Protection ("DEP").

There are two methods available to a municipality seeking to appeal a shoreland zoning ordinance decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection ("Board"), or (2) a judicial appeal before Maine's Superior Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A municipality filing an appeal with the Board should review the applicable rules and statutes, including the DEP's Chapter 2 rule, *Processing of Applications and Other Administrative Matters* (06-096 C.M.R. ch. 2); Organization and Powers, 38 M.R.S. §§ 341-D(4) and 346; and the the Mandatory Shoreland Zoning laws 38 M.R.S. § 438-A(3).

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Within 30 calendar days of the date of a final license decision of the Commissioner; a municipality may appeal to the Board for review of that decision. "Aggrieved person" means any person whom the Board determines may suffer a particularized injury as a result of a Commissioner's license decision. A complete appeal must be received by the Board no later than 5:00 p.m. on the 30th calendar day of the decision being appealed. With limited exception, untimely appeals will be dismissed.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or via electronic mail (e-mail) and must contain all signatures and the required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017). **Please contact the Board Clerk at clerk.bep@maine.gov or DEP staff at 207-287-7688 with questions or for contact information regarding a specific license.**

REQUIRED APPEAL CONTENTS

A written appeal must contain the information specified in Chapter 2, section 23(B) or section 24(B), as applicable, at the time the appeal is submitted. **Please carefully review these sections of Chapter 2**, which is available online at https://www.maine.gov/sos/cec/rules/06/chaps06.htm, or contact the Board Clerk to obtain a copy of the rule. Failure to comply with the content of appeal requirements may result in the appeal being dismissed pursuant to Chapter 2, section 23(C) or section 24(C).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with the administrative record.* Generally, the record on which the Board decides an appeal is limited to the record prepared by the agency in its review of the application, any supplemental evidence admitted to the record by the Board Chair and, if a hearing is held on the appeal, additional evidence admitted during the hearing. A municipality that seeks to appeal a decision to the Board is encouraged to contact the DEP to inspect the record before filing an appeal.

2. *Be familiar with the applicable rules and laws.* An appellant is required to identify the licensing criterion or standard the appellant believes was not satisfied in issuing the decision, the bases of the objections or challenges, and the remedy sought. Prior to filing an appeal, review the decision being appealed to identify the rules and laws that are applicable to the decision. An appellant may contact the DEP or Board staff with any questions regarding the applicable rules and laws or the appeal procedure generally.

3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a separate stay of the decision is requested and granted (*see* Chapter 2, section 23(M)), the licensee may proceed with an approved project pending the outcome of the appeal. Any activity initiated in accordance with the approved license during the pendency of the appeal comes with the risk of not knowing the outcome of the appeal, including the possibility that the decision may be reversed or modified by the Board.

4. *Alternative dispute resolution.* If the municipality agree to use mediation or another form of alternative dispute resolution ("ADR") to resolve the appeal and so notify the Board, the Board will not hear the matter until the conclusion of that effort, provided the participants engaged in the alternative dispute resolution demonstrate satisfactory progress toward resolving the issues. *See* Chapter 2, section 23(H) or contact the Board Executive Analyst (contact information below) for more information on the ADR provision.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of each appeal and develop a service list of appeal participants and any interested persons for use in the appeal proceeding. Electronic mail (e-mail) is the preferred method of communication during an appeal proceeding; however, the Board reserves the right to require paper copies of all filings. Once the Board Chair rules on the admissibility of all proposed supplemental evidence, the licensee (if the licensee is not the appellant) may respond to the merits of the appeal. Instructions specific to each appeal will be provided in correspondence from the Board Executive Analyst or Board Chair. Generally, once all filings in an appeal proceeding are complete, the DEP staff will assemble a packet of materials for the Board (Board packet), including a staff recommendation in the form of a proposed Board Order. Once available, appeal participants will receive a copy of the Board packet and an agenda with the meeting location and start time. Once finalized, the meeting agenda will be posted on the Board's webpage

https://www.maine.gov/dep/bep/index.html. Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board. *See* Chapter 2, Section 23(I). The Board may affirm all or part of the decision under appeal; affirm all or part of the decision under appeal with modifications, or new or additional conditions; order a hearing to be held as expeditiously as possible; reverse the decision under appeal; or remand the decision to the Commissioner or State Fire Marshal, as applicable, for further proceedings.

II. APPEALS TO MAINE SUPERIOR COURT

The filing of an appeal with the Board is not a prerequisite for the filing of a judicial appeal. Maine law generally allows aggrieved persons to appeal final license decisions to Maine's Superior Court (*see* 38 M.R.S. § 346(1); Chapter 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A judicial appeal by a party to the underlying proceeding must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at clerk.bep@maine.gov or 207-287-2811 or the Board Executive Analyst at bill.hinkel@maine.gov, or 207-314-1458 or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and rule provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal, and to comply with the notice requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9061. This information sheet is not intended to supplant the parties' obligations to review and comply with all statutes and rules applicable to an appeal and insofar as there is any inconsistency between the information in this document and the applicable statutes and rules, the relevant statutes and rules apply.
