TOWN OF PHIPPSBURG, MAINE

SHORELAND ZONING ORDINANCE

June 9th, 2009
As amended through May, 2014
The effective date of this Ordinance is June 9th, 2009. This Ordinance repeals and replaces in its entirety the Ordinance entitled "Shoreland Zoning Ordinance, June 5, 1993."

Section 1. Purpose

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

Section 2. Authority

A. This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.) and the general home rule powers of the Municipality.

Section 3. Applicability

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

1. Normal high-water line of any great pond or river,
2. Upland edge of a coastal wetland, including all areas affected by tidal action
3. Upland edge of a freshwater wetland.

B. This Ordinance also applies to:

1. All land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.
2. All 100 year flood plains as defined by the current Flood Insurance Rate Maps.
3. 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. The Effective Date of Ordinance and Ordinance Amendments.

1. This Ordinance, which was adopted by the municipal legislative body on June 9th, 2009 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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. Sections 15.P and 15.P.1.

1. Section 15.P is repealed on the statutory date established under 38 M.R.S.A. section 438-B (5), at which time Section 15.P.1 shall become effective. Until such time as Section 15.P. is repealed, Section 15.P.1 is not in effect.

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

Section 6. Severability

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

Section 7. Conflicts with other Ordinances

A. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
Section 8. Amendments

A. This Ordinance can be amended only by a majority vote at any Phippsburg 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 municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

B. Amendments can be initiated only by a majority vote of the Planning Board, or by a majority vote of the Board of Selectmen or by written petition signed by a number of voters equal to at least ten (10) percent of the number of votes cast in the Town at the last gubernatorial election.

Section 9. Districts and Zoning Map

A. Official Shoreland Zoning Map

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

   a. Resource Protection
   b. Residential
   c. Village
   d. General Development
   e. Stream Protection

B. Certification of Official Shoreland Zoning

1. The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Town Hall.

C. Changes to the Official Shoreland Zoning Map

1. 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

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

Section 11. Land Use Requirements

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

Section 12. Non-conformance

A. Purpose

1. It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not 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 Planning Board permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve an 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. Any repairs or renovations with a value of $1,000.00 or more require a building permit.

*NOTE: Value equals cost of material and labor at fair market rates*
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. Such a permit must be recorded in the Sagadahoc Registry of Deeds. No building permit shall be issued by the CEO without proof of such recording. Further limitations are listed below:

a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure can be expanded, as measured in floor area up to 30% and also the volume by up to 30%, during the lifetime of the structure. Also, any portion of the structure outside the setback is restricted to the same 30% increase. 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 and volume since that date.

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

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 or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee 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 re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board 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 replace 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 by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within eighteen (18) months of such damage, destruction, or removal. 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.
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 Uses: 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 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.

E. Non-conforming Lots (for the purpose of this section the effective date is January 1, 1989)

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot areas, 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 or record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with. 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 existing sewage disposal systems are functioning properly and providing the applicant for such a division demonstrates that sufficient suitable land is available on all lots to be created for replacement sewage disposal systems should be required as a result of future-malfunctioning.

This provision recognizes that Phippsburg has numerous clusters of rental cottages located on marginal soils, which in common ownership may have land available for replacement sewage disposal systems, but which broken up into separate lots may not have land available to replace malfunctioning sewage systems. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance, consistent with the need to assure land for replacement sewage disposal systems.
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.

Section 13. Establishment of Districts

A. Resource Protection District

1. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Village or General Development District need not be included within the Resource Protection District. Except for subsection A 1, below, areas encompassed within the Resource Protection District shall be the actual areas of flood plain, hydric soils, wetlands, natural sites, important wildlife habitat, etc. and no additional buffer zones are imposed.

a. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows (per IF&W map dated 1/1/73), and wetlands associated with 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&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean are characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes: Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.
Section 13

2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

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

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

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

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

B. Residential District

1. The Residential District includes those areas suitable for residential and recreational development.

C. Village District

1. The Village District includes areas of light commercial and residential uses. This district includes areas of two or more contiguous acres in size devoted to a mix of residential, low intensity business and commercial uses, including but not limited to, commercial fisheries, maritime activities, and commercial functionally water dependant uses. Industrial uses are prohibited excluding the packaging and processing of shellfish, finfish and other marine products.

D. The General Development District

1. The General Development District includes the following types of areas:

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

      i. Areas devoted to manufacturing, fabricating or other industrial activities.

      ii. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
iii. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds

b. Areas otherwise discernible as having patterns of intensive commercial, Industrial or recreational uses. Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on residential use. In areas adjacent to great ponds, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds

E. Stream Protection District

1. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.
Section 14. Table of Land Uses

1. 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. If a conflict exists between the table and the rest of the Ordinance, the Ordinance language shall govern. Notwithstanding the provisions of the table or other provisions of this ordinance, land that was cleared or mowed for agriculture, lawns, trails, footpaths or similar low impact land uses at least once in the past five years may continue to be mowed or cleared at the same interval as in the past or as needed for such activities to continue.

Table 1. Land Uses in the Shoreland Zone
Key to Table 1:

yes* - No permit required, however the use must comply with all applicable Town, State and Federal Land Use Rules and Regulations.
No - Prohibited
PB - Allowed with permit issued by Planning Board
CEO – Allowed with permit issued by Code Enforcement Officer
LPI - Licensed Plumbing Inspector

Abbreviations for Districts:

SP - Stream Protection
RP - Resource Protection
R – Residential
GD - General Development
V - Village

<table>
<thead>
<tr>
<th>SP</th>
<th>RP</th>
<th>R</th>
<th>GD</th>
<th>V</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>2.</td>
<td>Motorized vehicular traffic on existing roads and trails</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>3.</td>
<td>Forest management activities except for timber harvesting and land management roads</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>4.</td>
<td>Timber harvesting</td>
<td>yes* 13</td>
<td>CEO 13</td>
<td>yes* 13</td>
</tr>
<tr>
<td>5.</td>
<td>Clearing or removal of vegetation for activities other than timber harvesting</td>
<td>CEO 1</td>
<td>CEO 1</td>
<td>yes* 1</td>
</tr>
<tr>
<td>6.</td>
<td>Fire prevention activities</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>7.</td>
<td>Wildlife management practices</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>8.</td>
<td>Soil and water conservation practices</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>9.</td>
<td>Mineral exploration</td>
<td>no</td>
<td>yes* 2</td>
<td>yes* 2</td>
</tr>
<tr>
<td>10.</td>
<td>Mineral extraction including sand and gravel extraction</td>
<td>no</td>
<td>PB 3</td>
<td>PB</td>
</tr>
<tr>
<td>11.</td>
<td>Surveying and resource analysis</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>12.</td>
<td>Emergency operations</td>
<td>yes*</td>
<td>yes*</td>
<td>yes*</td>
</tr>
<tr>
<td>13.</td>
<td>Agriculture</td>
<td>PB</td>
<td>PB</td>
<td>yes*</td>
</tr>
<tr>
<td>14.</td>
<td>Aquaculture</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>15.</td>
<td>Principal structures and uses</td>
<td>SP</td>
<td>RP</td>
<td>R</td>
</tr>
<tr>
<td>a.</td>
<td>One and two family residential and driveways</td>
<td>no</td>
<td>PB 8</td>
<td>CEO</td>
</tr>
<tr>
<td>b.</td>
<td>Multi-unit residential</td>
<td>no</td>
<td>no</td>
<td>PB</td>
</tr>
</tbody>
</table>
c. Commercial | no | PB 5 | PB | PB | PB
---|---|---|---|---|---
d. Industrial | no | no | no | PB | no
e. Governmental and institutional | no | no | no | PB | no
f. Small non-residential facilities for educational or scientific purposes | PB | PB | PB | PB | PB
16. Structures accessory to allowed uses | PB 4 | PB 4 | CEO | CEO | CEO
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland | PB 10 | PB 10 | PB 10 | PB 10 | PB 10
18. Conversion of seasonal residences to year-round | PB 11 | PB 11 | PB 11 | PB 11 | PB 11
19. Home occupations | PB 12 | PB 12 | PB 12 | PB 12 | PB 12
20. Private sewage disposal systems for allowed uses | LPI | LPI | LPI | LPI | LPI
21. Essential Services
   a. Roadside distribution lines (34.5kV and lower) | CEO 6 | CEO 6 | yes* 9 | yes* 9 | yes* 9
   b. Non-roadside or cross-country distribution lines involving ten poles or less in the Shoreland zone | PB 6 | PB 6 | CEO | CEO | CEO
   c. Non-roadside or cross-country distribution lines involving eleven poles or more in the Shoreland zone | PB 6 | PB 6 | PB | PB | PB
   d. Other essential services | PB 6 | PB 6 | PB | PB | PB
22. Service drops, as defined, to allowed uses | yes* | yes* | yes* | yes* | yes*
23. Public and private recreational areas involving minimal structural development | PB | PB | PB | PB | PB
24. Individual, private campsites | CEO | CEO | CEO | CEO | CEO
25. Campgrounds | no | no | PB | PB | PB
26. Road & driveway construction | PB | no 7 | PB | PB | PB
27. Land management roads | yes* | PB | yes* | yes* | yes*
28. Parking areas | no | no | PB | PB | PB
29. Marinas | no | no | PB | PB | PB
30. Filling and earth moving of 10 cubic yards or less | CEO | CEO | yes* | yes* | yes*
31. Filling and earth moving of over 10 cubic yards | PB | PB | yes* | yes* | yes*
32. Signs | yes* | yes* | yes* | yes* | yes*
33. Uses similar to allowed uses | CEO | CEO | CEO | CEO | CEO
34. Uses similar to allowed uses requiring a CEO permit | CEO | CEO | CEO | CEO | CEO
35. Uses similar to allowed uses requiring a Planning Board permit | PB | PB | PB | PB | PB

**NOTES:**

* Must meet all Town, State and Federal land use rules and regulations.
1. Cutting and removal shall be done in accordance with Sec. 15.Q.
2. Requires permit from the CEO if more than 100 square feet of surface area, in total, is disturbed.
3. Not allowed in RP areas so designated because of wildlife value.
4. A variance is required from the Board of Appeals.
5. Only functionally water-dependant uses and uses accessory to such water-dependant uses.
6. See Section 15.M.
7. See Section 15.1
8. See Section 17.E. Special Exceptions. Two-family residential structures are prohibited.
9. Permit not required but must file a written “notice of intent to construct” with CEO.
10. Permit shall be issued only after written approval from the Harbor Master.
11. Requires approval by Licensed Plumbing Inspector (LPI) prior to Planning Board (PB) application.
12. Planning Board review is required to determine if the use is in compliance with Sec 15 G 2 or if a new business permit is required. Standard Planning Board fee applies.
13. See Section 15
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

<table>
<thead>
<tr>
<th>Lot Area (sq. ft.)</th>
<th>Shore Frontage (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>40,000</td>
<td>150</td>
</tr>
<tr>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td>60,000</td>
<td>300</td>
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</tbody>
</table>

1. Residential per Dwelling Unit

a. Within the Shoreland Zone Adjacent to Tidal Areas

b. Within the Shoreland Zone Adjacent to Non-Tidal Areas

2. Commercial or Industrial per Principal Structure

a. Functionally Water Dependant Uses within the Shoreland Zone Adjacent to Tidal Areas in the Village District

b. Within the Shoreland Zone Adjacent to Tidal Areas

c. Within the Shoreland Zone Adjacent to Non-Tidal Areas

3. Public and Private Recreational Facilities

a. Within the Shoreland Adjacent to Tidal and Non-Tidal Areas

4. Road Frontage

a. Commercially Functionally Water Dependant Uses shall be exempt from minimum road frontage. Residential lots shall have a minimum of one hundred-fifty (150) feet of frontage on a public or private way. Multi-family lots shall have a minimum of two hundred (200) feet of frontage on a public or private way. This section shall not prohibit construction on lots that do not front a public or private way, providing the minimum lot size is maintained and providing that a square one hundred-fifty (150) feet on a side may be located within the boundaries of the lot.

5. 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.
6. 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.

7. 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.

8. If more than one residential dwelling unit, 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.

9. Cluster housing within the shoreland zone is allowed provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds and rivers that flow to great ponds and at least seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance, and in the Village District the setback from the normal high-water line shall be at least fifty (50) feet, horizontal distance. However, for Commercially Functionally Water-Dependent uses there shall be no minimum setback within the Village District. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. 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. The Planning Board may increase the required setback of a proposed structure as a condition of permit approval if necessary to accomplish the purposes of this Ordinance in cases where a greater setback may be appropriate. These include, but are not limited to: unmapped wetlands, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
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c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

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

e. Setbacks for public and private roads shall be as follows:

   i. Seventy-five (75) feet from the center of the traveled way; along Route 209 (Main Road) starting at the Town Line at Winnegance to the Main Entrance of the State Park; from beginning of Route 216 (Small Point Road) to the Club Road; from the beginning of Sebasco Road to the culvert at the north end of Wat-tuh Lake; from the beginning of the West Point Road to Holland Drive.

   ii. Fifty (50) feet from the center of the traveled way for all other publicly maintained roads.

   iii. Ten (10) feet from the edge of the traveled way for privately maintained roads, but in no case less than twenty (20) feet from a property line.

   iv. All new or relocated structures shall be set back from an abutting boundary line by a minimum of twenty (20) feet.

2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Residential, Village, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height- the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure. This provision shall not apply to structures such as transmission towers, windmills, antennas, chimneys, steeples, 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 flood-plain soils.

4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers that do not flow to great ponds, for Commercially Functionally Water Dependent use within the Village District and all Town owned landings regardless of District where lot coverage shall not exceed seventy (70) percent. This section shall not apply to any Town owned landing (“town landing”) existing as of passage of this amendment on May 4-5, 2010 having an area of .25 acres (1/4 acre) or less, on which there would otherwise be a limitation on non-vegetated surfaces, particularly those with functionally water-dependent use, subject to the approval of the Planning Board on a case-by-case basis.

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

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

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

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

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

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

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

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

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

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

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

7. All additions, expansions, new construction or construction of accessory structures and repairs thereto, must apply for a permit when the value of the work exceeds $1,000.

8. Erosion Control measures sufficient to avoid significant water pollution from erosion are required for any activity within the Shoreland Zone that results in disturbance of the soil.

C. Temporary Residential Uses

1. A mobile home or recreational vehicle that otherwise meets the standards of this Ordinance, with an occupancy permit, may be located on a lot for up to 24 months to provide temporary housing during the construction of a new home that is being constructed wholly or in part by the owner of the land. Upon completion of the house or within 24 months, whichever is less, the occupancy permit for the temporary housing shall expire and any mobile home shall be removed.
Section 15

2. Friends and relatives may visit Phippsburg residents and locate recreational vehicles or tent sites on a lot with a permanent residential structure for up to seven consecutive days without a permit. After seven days, the Codes Enforcement Officer may issue up to two (2) seasonal permits, at any given time, for up to a total of one hundred and twenty (120) days per calendar year, to the property owner of the lot where the recreational vehicle or tent site is located. These provisions do not apply to any commercial or rental purposes.

NOTE: For a seasonal permit to be issued the existing dwelling must meet the standards of the State Plumbing Code. All temporary occupants must use the sanitary facilities in the existing dwelling unless the unit has a self-contained sanitary system. Wastes from recreational vehicles shall not be connected to the septic system of the dwelling being visited, without the Licensed Plumbing Inspectors approval.

3. The Codes Enforcement Officer may issue up to two (2) seasonal permits, at any given time, for recreational vehicles to be located on a vacant lot for temporary non-commercial use for up to a total of one hundred and twenty (120) days per calendar year. A seasonal permit must be issued to the property owner of the lot where the recreational vehicle is located. The applicant must provide a written sewage disposal plan. The applicant must also produce written authorization from any proposed dumping station.

4. No permanent foundation, except for gravel pads, shall be permitted and no permanent structure, except canopies, shall be attached to any temporary dwelling.

5. Temporary residential uses must meet all applicable shoreland zoning requirements.

D. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond 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 of 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 waters 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 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.
Section 15

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

9. Notwithstanding any other provisions of this ordinance a bridge may be constructed over a stream or wetland if a bridge is the only practical way to reach other property in the same ownership, providing that the bridge is constructed so as to minimize its impact on the stream or wetland, and providing that the owner has all required state permits.

NOTE: New Permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

E. 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 in accord with Town of Phippsburg Shoreland Zone map and all other required set backs.

3. Recreational vehicles shall not be located on any type of a permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

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

1. One campsite per lot existing on the effective date of this Ordinance, or forty thousand (40,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back in accord with Town of Phippsburg Shoreland Zone map and all other required set backs.
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3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

4. The clearing of vegetation for the sitting of the recreational vehicle, tent or similar shelter in a 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 calendar 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 Waste Water Disposal Rules unless served by public sewage facilities.

G. Business Uses

1. New Business Permit

   a. A new business shall not begin operation, unless exempted under G.2, without first obtaining a permit. A change of ownership/management, of an existing business without any change shall require a review within ninety (90) days by the Planning Board for a Transfer of Permit. Any cessation of use exceeding two (2) years, expansion or change of use of an existing business shall be considered a new business for the purposes of this Ordinance and shall require a new business permit. The Town shall provide application forms.

   b. No new business permit shall be issued until a public hearing has been held, notices of which shall be posted in two public places and published in a newspaper with general circulation in the Town at least seven (7) days and not more than fourteen (14) days prior to the hearing.

   c. Applicant shall notify abutters of the proposed business plan. Proof of such notice shall be presented with the application at the public hearing. Acceptable proof shall consist of an abutter's signature on the application form, an abutter's statement and signature on a separate document, or a certified mail return receipt showing either a signature or post office failure to deliver to the abutter's last known address.

   d. New business hearings shall be held by the Planning Board. A quorum shall be any five (5) members of the Planning Board. Those members present at the hearing shall, by a majority vote, approve, approve with conditions, or deny all applications for a new business. Members shall render their decisions in writing, specifying the reasons for denial or imposition of conditions.
Section 15

e. If a permit is granted, such permit shall be posted at the place of business and visible to the public. A new business permit shall become void one (1) year after issuance, if the business is not operational. The permitting authority may grant up to a one (1) year extension.

f. Applicant shall pay a $50.00 new business permit fee plus $45.00 for each public hearing or site walk to defray the cost of advertising. For a business Transfer Permit, standard Planning Board fees apply.

2. Home Business: Home businesses need not obtain a new business permit as required by Section G.1.a. however, an owner shall seek a determination by the Planning Board on their proposal to see if said proposal meets the requirements of this Section including reasonable and safe access and egress as well as parking requirements.

a. No unreasonable nuisance, traffic congestion, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation shall be generated.

b. Signs shall be restricted to one on-premise totaling not more than eight (8) square feet.

c. Home businesses shall be carried on wholly within the principal building or other structure accessory to it, or on the grounds of the property in a manner such that impact on neighbors is minimal. The business shall be clearly secondary to the use of the dwelling unit for residential purposes.

d. Not more than two (2) persons other than family members residing in the home shall be employed in a home business.

e. Home businesses may not expand beyond the limits imposed by this section without fulfilling all the requirements of this Ordinance and obtaining a permit under G.1.

f. the following are examples of a home business:

   i. Sale of home-grown vegetables and plants, crafts made in the home, antiques, and other traditional home business activities that have no significant impact on the character of a residential neighborhood.

   ii. Service businesses such as plumbing, carpentry, and home maintenance services in which at least 75 percent of the activities take place on the premises of the customer.

   iii. Home beauty and barbershops.

   iv. Home mechanic shops.
v. Sale of fish or other marine products harvested/landed by the home business owner(s).

vi. Wharves and piers, storage buildings and the outdoor storage of boats, traps, nets, and other gear used in the commercial harvesting of marine products.

vii. Use of a residence to provide accounting, insurance or tax return services or similar activity.

viii. Incidental use of a home as an office for municipal business activities.

ix. Yard or garage sales, limited to four per year. The duration of each sale shall not exceed three (3) consecutive days.

x. A Bed and Breakfast establishment with not more than two (2) rental rooms may serve breakfast to overnight guests only. No meals shall be served after 11:30 a.m. Such establishments shall meet State requirements and Local Plumbing Inspector approval that the waste water system is adequate.

xi. Businesses that the Planning Board may determine are substantially similar to the above.

3. Buffer zones: No business shall be established, except as permitted by the Planning Board under the provisions of G.3 or exempted in G.2, unless the following buffer zones are provided between the business, including any accessory buildings and parking lots, and adjacent residential lot lines:

a. Commercial and other non-residential buildings or other commercial or industrial activities shall have a minimum side and rear yard distance of at least 100 feet from residential lot lines.

b. Notwithstanding the above, restaurants with musical entertainment, bars, dance halls, clubs offering musical entertainment, motels, trailer parks, mobile home parks, campgrounds, kennels and boarding kennels, industrial uses, and shopping centers shall have a minimum rear and side yard distance of at least 150 feet from the nearest residential lot line.

c. The Planning Board may approve substitute buffer zones providing the purposes of this Ordinance are maintained. Substitute buffer zones may be approved when the topography of the land, the nature of the vegetation, or building(s) provides screening that is equal in protection to the required width of buffer zones. Substitute buffer zones may also be approved when the character of a neighborhood is predominantly commercial.
**Section 15**

**d.** The Planning Board shall approve, deny, or approve with conditions all applications for substitute buffer zones. The applicant shall have the burden of demonstrating that the topography of the land, the nature of the vegetation, or building(s) provides screening that is equal in protection to the required width of buffers, or that the character of the neighborhood is predominantly commercial. Substitute buffer zones shall not be considered a variance.

**4. Standards for Commercial and Industrial Uses**

**a.** The applicant shall have the burden of demonstrating that the proposed business shall be located and designed so as to prevent unreasonable nuisance to nearby properties, parking on adjacent public roads, danger to children, unsanitary waste disposal, noise, vibration, smoke, fumes, dust, noxious odors, heat, glare or radiation that exceeds conditions previously detectable at the lot boundaries of other properties in the general area.

**b.** New businesses shall also demonstrate that they meet the following standards and requirements:

1. The natural landscape shall be preserved insofar as practical by minimizing tree removal and retaining existing vegetation. Where practical, new landscaping may be required that will define, soften or screen the appearance of the business from adjacent public ways or nearby residential areas, except that establishments catering to the general public need not be screened from public roads.

2. New businesses shall provide safe access to and egress from roads used by the public without causing traffic congestion.

3. Surface waters shall be drained so as not to damage adjacent lands.

4. Exposed storage areas, exposed machinery, and utility buildings shall have sufficient setbacks and screening to provide a visual buffer sufficient to prevent unreasonable adverse impact on other land uses in the area.

5. Evidence shall be provided that sufficient water is available for the proposed use and that adequate water for existing users shall not be diminished.

6. New businesses shall provide sanitary facilities sufficient for its employees and, where appropriate, customer facilities may be required.
vii. Junkyards and automobile graveyards as defined by State Law (currently, Title 30, M.R.S.A., Section 3752) shall not locate within 600 feet of any public way or adjacent residential property line unless the Planning Board finds that screening and forest vegetation permits lesser buffers without adversely affecting adjacent properties, but no junkyard shall be located that is less than 100 feet from the nearest public road or right of way or adjacent property lines. In no instance shall a junkyard or automobile graveyard be located so that discarded vehicles or other wastes are visible from public ways or adjacent properties.

c. The following new commercial and industrial uses are prohibited within the shoreland zone:

   i Auto washing facilities

   ii Auto or other vehicle service and/or repair operations, including body shops

   iii Chemical and bacteriological laboratories

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

   v Commercial painting, wood preserving, and furniture stripping

   vi Dry cleaning establishments

   vii Electronic circuit assembly

   viii Laundromats, unless connected to a sanitary sewer

   ix Metal plating, finishing, or polishing

   x Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with Commercially Functionally Water Dependant Uses

   xi Photographic processing

   xii Printing
H. Parking Areas/Facilities

1. Parking areas/facilities shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Village District parking areas/facilities shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas/facilities serving public boat launching facilities, in Districts other than the General Development I District and Village Districts shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream. There shall be no such minimum setback requirement(s) for any parking areas which are part of any Town owned landing ("town landing") existing as of passage of this amendment on May 4-5, 2010 having an area of .25 acres (1/4 acre) or less, particularly those with functionally water-dependent use, subject to the approval of the Planning Board on a case-by-case basis.

2. Parking areas/facilities 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 areas/facilities, the following shall apply:

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

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

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

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

   a. 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.
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b. Section 15.I.1. does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to a Commercially Functionally Water Dependent Use necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15.I.1. except for that portion of the road or driveway necessary for direct access to the use.

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

3. New roads and driveways are prohibited in a Resource Protection District the Planning Board may issue a permit for a road or driveway to provide access to permitted uses and legally existing non-conforming uses within the District, if the Applicant can clearly demonstrate that:

   a. No reasonable alternative route or location is available outside the Resource Protection area; and

   b. The proposed road or driveway is setback as far as practicable from the normal high water line of the water body, tributary stream, or upland edge of a wetland; and

   c. The proposed road or driveway is located and designed to minimize any adverse environmental impact to the protected resource, but no closer than fifty (50) feet.

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

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

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

7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
Section 15

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

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
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<td>16 – 20</td>
<td>60 – 45</td>
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b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

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

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

e. Driveway culverts at curb cuts and public ways shall have a minimum internal diameter of 15 inches, a minimum length of 20 feet, an armored embankment around the inlet end constructed of 6 inch minus stone and an armored erosion control basin with an armored embankment at the outlet end constructed of 6 inch minus stone. The installation shall comply with the current State of Maine storm water control regulations.

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

J. Signs: The following provisions shall govern the use of signs:

1. General

   a. A two-sided sign is one sign for the purpose of this section.

   b. Moving, animated, or mobile chassis mounted signs are prohibited. Signs may be illuminated by shielded non-flashing lights.

   c. No free-standing or projecting sign shall extend higher than twenty (20) feet above the ground.

   d. No sign shall be located within five (5) feet of a road or other lot line.
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e. One flag, for commercial or home business purposes is allowed. The flag shall not exceed fifteen (15) square feet.

f. State Department of Transportation off-premise directional signs are allowed. All other signs which announce, advertise, or name any service or product not available, sold or manufactured on the premises are prohibited.

g. The Town has the authority to remove any signs not meeting the requirements of Section J.

2. Commercial Signs

a. Free-standing signs: One free standing sign per business is allowed. The sign shall not exceed twenty-five (25) square feet.

b. Projecting Signs: One projecting sign per business is allowed. The sign shall not exceed twenty-five (25) square feet.

c. Signs on Buildings: Signs shall be limited to the aggregate of one (1) square foot for each linear foot of road side length of the principal structure on the premises. Signs on the building shall not extend beyond the height of the building.

d. A business shall have no more than two (2) of the above three (3) types of signs (that is, (a), (b), or (c) above) and the aggregate shall not exceed fifty (50) square feet.

e. For the benefit of boaters, one additional sign facing the water is allowed. This sign may be placed at or near the water and shall not exceed fifty (50) square feet.

3. Home Business Signs

a. Home businesses may display one sign relating to goods or services rendered on the premises. The sign shall not exceed eight (8) square feet.

4. Name Signs

a. Non-commercial name signs shall be allowed, provided such signs, in the aggregate, shall not exceed eight (8) square feet and providing that not more than two (2) such signs shall be located on the premises.
5. Temporary Signs

a. Two (2) real estate signs, each not exceeding four (4) square feet are allowed on the property being sold, leased or developed. One directional sign, not exceeding four (4) square feet leading to the property is allowed. A waterfront lot may have one (1) additional sign facing the water, at or near the water.

b. A construction sign not exceeding thirty-two (32) square feet shall be allowed on the premises.

c. Political campaign signs not exceeding thirty-two (32) square feet shall be allowed.

d. All temporary signs shall be removed within seven (7) days after fulfilling their purpose.

6. Exemptions: For the purposes of this section, the term “sign” shall not include:

a. Signs erected for public safety and welfare or pursuant to any governmental function.

b. Directional signs solely indicating entrance and exit at driveway locations, containing no advertising material, and where display area does not exceed two (2) square feet or extend higher than seven (7) feet, above ground level.

c. Signs relating to trespassing and hunting, not exceeding two (2) square feet.

d. All non-commercial or non-home business flags are allowed.

K. 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 control systems shall be maintained as necessary to ensure proper functioning.

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

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

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

M. Essential Services

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

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

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

N. Mineral Exploration and Extraction

1. 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:

   a. A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (N) (4) below.
b. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred twenty-five (125) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.

c. Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.

d. 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:

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

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

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

iii. 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.

e. 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.

O. 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, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

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

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

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

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

NOTE: 17 M.R.S.A. sections 2805(4) require a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

P. Timber Harvesting

1. In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

   a. Within the strip of land extending 75 feet, horizontal distance, and inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

      i. The ground is frozen;

      ii. There is no resultant soil disturbance;
iii. The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;

iv. There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and

v. A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

b. Beyond the 75 foot strip referred to in Section 15.P.1.a. above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

2. Except in areas as described in Section 15.P.1. above, timber harvesting shall conform with the following provisions:

a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

i. Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies 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 (5000) 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. Volume may be considered to be equivalent to basal area.
b. Timber harvesting operations exceeding the 40% limitation in Section 15.P.2.a. 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.

c. 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 either 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.

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

   i. Surface waters are frozen; and

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

e. 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.

f. 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.

g. 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 ten (10) percent 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) percent 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.
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P-1. Timber Harvesting – Statewide Standards [effective on the effective date established in Section 4.B.]

1. Shoreline integrity and sedimentation: Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

2. Slash treatment: Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15.P-1.2. does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

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

   b. Adjacent to great ponds, rivers and wetlands:

      i. No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

      ii. Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

3. Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

   a. Option 1 (40% volume removal), as follows:

      i. Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
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ii. A well-distributed stand of trees which is wind firm, and other vegetation including existing ground cover, must be maintained; and,

iii. Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

b. Option 2 (60 square foot basal area retention), as follows:

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

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

iii. Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
c. Option 3 (Outcome based), which requires:

i. An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation’s Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule. Landowners must designate on the Forest Operations Notification form required by 12M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method. The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

4. Skid trails, yards, and equipment operation: This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

a. Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

b. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

c. Setbacks:

i. Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

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

**a.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15.P-1.7. of this rule.

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

1. **(1)** 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;

2. **(2)** 50 feet, horizontal distance, from the normal high-water line of streams; and

3. **(3)** 25 feet, horizontal distance, from the normal high-water line of tributary streams

**ii.** The minimum 100 foot setback specified in Section 15.P-1.5.a.i. above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15.P-1.5.a.ii. above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner’s designated agent demonstrates to the Planning Board’s satisfaction that no reasonable alternative exists and 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 to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

**iii.** On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
iv. New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner’s designated agent makes a clear demonstration to the Planning Board’s satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

v. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15.P-1.7. Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

vi. Road closeout and discontinuance. Maintenance of the water control installations required in Section 15.P-1.5.e. must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

vii. Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15.P-1. Any non-conforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more non-conforming.

viii. Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15.P-1.5.a. if, prior to extension or enlargement, the landowner or the landowner’s designated agent demonstrates to the Planning Board’s satisfaction that no reasonable alternative exists and 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 to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
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ix. Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

6. Crossings of water bodies: Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.


   b. Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15.P-1. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15.P-1.

   c. Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

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

   e. Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

      i. A map showing the location of all proposed permanent crossings;

      ii. The GPS location of all proposed permanent crossings;
iii. For any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and

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

f. Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15.P-1.6.g. below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

i. Concentrated water runoff does not enter the stream or tributary stream;

ii. Sedimentation of surface waters is reasonably avoided;

iii. There is no substantial disturbance of the bank, or stream or tributary stream channel;

iv. Fish passage is not impeded; and,

v. Water flow is not unreasonably impeded. Subject to Section 15.P-1.6.f. iv. above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

g. Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

i. Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

ii. Temporary bridge and culvert sizes may be smaller than provided in Section 15.P-1.6..g.i. if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

(A) Use of temporary skidder bridges;

(B) Removing culverts prior to the onset of frozen ground conditions;
iii. Culverts utilized in river, stream and tributary stream crossings must:

(A) Be installed at or below river, stream or tributary stream bed elevation;

(B) Be seated on firm ground;

(C) Have soil compacted at least halfway up the side of the culvert;

(D) Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and

(E) Has a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

iv. River, stream and tributary stream crossings allowed under Section 15.P-1. but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHB), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

v. Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

h. Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

i. Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15.P-1.6.i. below.
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ii. Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

iii. River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

i. Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

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

ii. Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

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

(A) It shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;

(B) It shall be designed to provide an opening with a cross-sectional area at least 3 ½ times the cross-sectional area of the river, stream or tributary stream channel; or

(C) It shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
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7. Slope Table: Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15.P-1. but in no case shall be less than shown in the following table.

<table>
<thead>
<tr>
<th>Average slope of land between exposed mineral soil and shoreline (percent)</th>
<th>Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>10</td>
<td>45</td>
</tr>
<tr>
<td>20</td>
<td>65</td>
</tr>
<tr>
<td>30</td>
<td>85</td>
</tr>
<tr>
<td>40</td>
<td>105</td>
</tr>
<tr>
<td>50</td>
<td>125</td>
</tr>
<tr>
<td>60</td>
<td>145</td>
</tr>
<tr>
<td>70</td>
<td>165</td>
</tr>
</tbody>
</table>

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

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, and inland from the normal high-water line, except to remove safety hazards. Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

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

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. Such footpath shall be designed to minimize erosion.

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.2.b.a. "well distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.
### Section 15

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

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

\[
(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 
\]

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

#### ii. The following shall govern in applying this point system:

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

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

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

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

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

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

#### d. 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.

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet above ground level (in inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 to less than 4</td>
<td>1</td>
</tr>
<tr>
<td>4 to less than 8</td>
<td>2</td>
</tr>
<tr>
<td>8 to less than 12</td>
<td>3</td>
</tr>
<tr>
<td>12 or greater</td>
<td>8</td>
</tr>
</tbody>
</table>
Section 15

e. 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. paragraphs 2. and 2.a. above.

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

g. 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.

h. Section 15.Q.2. does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas, are limited to the minimum area necessary.

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

4. In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. Individual clearings shall not exceed ten thousand (10,000) square feet; if two (2) or more openings are created they shall be separated by a minimum of one hundred (100) feet, horizontal distance. This provision shall not apply to the General Development or Village Districts.

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

6. 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.

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. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
Section 15

a. Mulching and revegetation of disturbed soil.

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

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

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

3. Erosion and sedimentation control measures shall be equal to or exceed all DEP approved methods and 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 rip rap.
S. Soils

1. 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 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

1. 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.

2. Overboard discharge from sewage disposal systems, wherein sewage or any part thereof, chlorinated or otherwise, is discharged directly into surface waters, is prohibited, excepting that systems installed prior to the passage of this Ordinance may continue as long as they are in compliance with all State water pollution and plumbing laws and regulations. No expansion, renovation or change in use shall be allowed that results in an increase in the overboard discharge of sewage.

3. Privies and other waste water systems may be permitted as approved by the State Waste Water Disposal Rules.

U. Archaeological Sites

1. 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 or other mapped historic or prehistoric places 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.
Section 16. General Building Requirements

A. Permits Required

1. It shall be unlawful to construct, add to, alter or to commence the construction, addition, or alteration of a building, mobile home or structure where the value of such construction or addition exceeds $1,000 without first filing with the Codes Enforcement Officer an application in writing and obtaining a permit therefor, which will be posted in a visible, public location.

2. The $1,000 exemption from the need to have a building permit shall not apply to the construction of a foundation or slab for a dwelling unit. No work shall be done on a foundation for a house, mobile home slab, cottage or other dwelling unit until the Codes Enforcement Officer has reviewed the site for compliance with the provisions of this Ordinance and issued a permit.

3. All applications shall be accompanied by a fee in accordance with the following estimated value of construction schedule:

   - $1,000 to $5,000 $20
   - $5,001 to $10,000 $40
   - $10,001 to $100,000 $40 plus $1.50 per $1,000
   - $100,001 to $200,000 $40 plus $2.50 per $1,000
   - $200,001 and over $40 plus $3.50 per $1,000

   If the estimated value of the project is deemed unreasonable by the CEO, the CEO has the right to assess a renovation at seventy five (75.00) dollars per square foot and new construction at one hundred twenty five (125.00) dollars per square foot. The fee for construction commenced before a permit is issued shall be twice the normal fee.

4. 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. A one (1) year extension may be granted by the permitting authority.

5. If the proposed use will require the installation or expansion of a subsurface wastewater disposal system, a valid permit from the LPI shall be required.

6. No permit shall be issued for additional bedrooms or uses until the applicant demonstrates that the waste water system is lawful for both the existing structure and the proposed changes.

7. All modifications to existing structures or change of use shall be in conformity with all provisions of this Ordinance, the Maine State Plumbing Code and Subsurface Waste Water Disposal Rules. No permit shall be issued for activities prohibited by this Ordinance or other Town or State codes, laws and ordinances.
B. Construction Standards

1. All dwellings and mobile homes shall be erected on solid ledge or foundation walls not less than seven inches thick and carried not less than 12 inches below the frost line, or upon a concrete slab not less than six inches thick, or upon pressure treated or concrete posts that extend to solid ledge or to at least four feet into the earth.

2. All construction and materials shall conform to generally accepted standards of good practice and shall conform to all applicable state laws and Town regulations and Ordinances.

3. New dwelling construction and renovations shall conform to the following standards:

   a. Smoke alarms shall be installed as follows:

      i. At least one in each sleeping room

      ii. At least one outside each separate sleeping area in the immediate vicinity of the bedrooms.

      iii. At least one on each additional story of the dwelling, including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

      iv. When more than one smoke alarm is required to be installed within an individual dwelling unit the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

      v. All smoke alarms shall be listed and installed in accordance with the provisions of the State Building Codes and the household fire equipment provisions of NFPA 72.

   b. There shall be two (2) inches or more clearance between combustible materials and masonry chimneys.

   c. All masonry chimneys shall be lined.

   d. All hallways shall have a minimum finished width of thirty-six (36) inches.

   e. Dwelling units shall have a minimum of two (2) exterior doors and each shall have a minimum finished cleared opening of thirty-four (34) inches.
f. Walls and doors between attached garages and living spaces must be built of fire shield material with a one (1) hour rating.

g. Multi-family structures shall contain no more than ten (10) dwelling units. Such units shall be separated by fire shield material with a one (1) hour rating and be connected to common water and waste water systems. Structures containing three (3) or more units are subject to Subdivision review.

h. No building shall exceed 35 feet in height, measured from the mean original grade at the downhill side of the building.

i. All building shall conform to Title 10 Chapter 1101, Maine Model Building Code (IBC 2003 or IRC 2003) as amended.

C. Solar Access

1. No new structure or addition shall be built that casts a shadow on south-facing windows or other solar collecting devices on neighboring properties on December 22nd unless the owners of such devices and windows shall agree in writing that they do not object to such shading. Neither shall any new vegetation be allowed to grow so as to cast such a shadow without the owner of a solar device agreeing. Any tree, shrub or any planted landscaping growing at the time of the construction or installation of the solar device may be allowed to remain and grow out its natural life.

D. Mobile Homes

1. Mobile homes shall be allowed on any lot of land where a single family home would be allowed, but no mobile home may be moved into the Town or moved onto a lot within the Town before plumbing and building permits have been issued. No permits shall be issued unless that owner provides evidence demonstrating that the mobile home meets the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, U. S. Code, Title 42, Section 5401 et seq.

E. Debris from Destroyed Buildings

1. Debris and waste from buildings destroyed by fire, deterioration, accident, storms or flooding shall be removed by the owners within six months of being notified to do so by the Codes Enforcement Officer.
F. Structure Demolition or Removal Notice

1. Property owners and contractors shall notify the Codes Enforcement Officer before the demolition of any structure can take place. The Codes Enforcement Officer will, in turn, notify the Phippsburg Historical Preservation Commission who will determine whether that structure is associated with events that have made a significant contribution to the broad patterns of our history; or that is associated with the lives of persons significant in our past, or embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that have yielded, or may be likely to yield, information important in prehistory or history (National Historic Register of Historic Places.) If the structure is deemed not to be of historical significance, the Phippsburg Historical Preservation Commission will notify the Codes Enforcement Officer that the demolition delay should be withdrawn. This determination will be made as soon as possible, but no later than 45 days after Commission notification from the Code Enforcement officer. If the property is deemed to be of significant historical value, the Phippsburg Historical Preservation Commission will negotiate with the owner or contractor for permission to move the structure or negotiate/seek a suitable alternative for the structure.

G. Occupancy Permit

1. No structure shall be used for the first time in Phippsburg for residential purposes until a permit is issued by the Codes Enforcement Officer.

2. No permit shall be issued for occupancy of a residential structure until the plumbing inspector certifies that the dwelling has sanitary facilities installed and operating that meet all the requirements of the State Plumbing Code.

3. Structures that have not been used for residential purposes for more than five (5) years shall be considered new residential structures and shall require an occupancy permit.

4. The penalty for occupying a structure without first receiving a certificate of occupancy shall be $20.00 per day.
Section 17. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer: A Code Enforcement Officer shall be appointed or reappointed annually by July 1st. The person so named shall also be qualified and fulfill all duties of a Licensed Plumbing Inspector.

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

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

2. A permit is not required for the replacement of an existing road culvert as long as:
   a. The replacement culvert is not more than 25% longer than the culvert being replaced;
   b. The replacement culvert is not longer than 75 feet; and
   c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.

3. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer’s level 1 or level 2 approved lists, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures. Prior to excavation, a copy of documentation showing size and scope shall be provided to the Codes Enforcement Officer.

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

5. A curb cut permit is required from Maine Department of Transportation (MDOT) for all State roads and from the Road Commissioner for Town maintained roads.
C. Permit Application

1. Every applicant for a permit shall submit on a form provided by the Town a written application to the appropriate official as indicated in Section 14. Building permit applications shall include a scaled site plan and or blueprints not to exceed 11x17 or in digital format.

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

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

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

D. Procedure for Administering Permits.

1. Within 35 days of the date of receiving a written application, the Planning Board or Codes 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 the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

2. 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.

3. 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:

   a. Will maintain safe and healthful conditions;

   b. Will not result in water pollution, erosion, or sedimentation to surface waters;

   c. Will adequately provide for the disposal of all wastewater;
d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

f. Will protect archaeological and historic resources as designated in the comprehensive plan;

g. Will not adversely affect existing commercial fishing or maritime activities.

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

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

4. 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.

1. In addition to the criteria specified in Section 17.D. above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District and General Development District provided that the applicant demonstrates that all of the following conditions are met:

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

   b. 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 or General Development District. (for the purposes of this section lots abutting the freshwater wetlands labeled as IWWH on the official shoreland zoning map revised May 2009 will have a starting date of July 1, 2009 all other lots shall have a starting date of January 1, 1989).

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

      i. Located on natural ground slopes of less than 20%; and
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ii. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

d. 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. This limitation shall not be altered by variance.

e. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance and 100 feet from upland edge of a freshwater wetland. 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

1. 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 one year. 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. An additional extension may be granted by the permitting authority, at no fee, if the site is permanently revegetated.

G. Installation of Public Utility Service

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

H. Appeals

1. The Board of Appeals shall have powers and duties granted in the current “Board of Appeals Ordinance.”
I. Enforcement

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

2. Code Enforcement Officer

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

   b. The Code Enforcement Officer shall conduct on-site inspections to ensure 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.

3. Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage. Penalties for violation of Section 15.Q. shall include fines, replanting and landscaping.
4. Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452. All fines levied under this Ordinance shall be paid to the Town of Phippsburg.

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to $5000 (30-A, M.R.S.A. section 4452).

Section 18. Definitions

A. In this Ordinance the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the present tense includes the future tense; the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the word "lot" includes the words "plot" or "parcel." In case of a difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

B. Terms not defined shall have the customary dictionary meaning, found in Randall House Webster’s Dictionary 2nd Edition, copyright 2001 by Randall Publishing, Inc., located in the Phippsburg Town Hall. The following definitions apply:

Abutter - A person who owns adjacent property and including property directly across any road.

Accessory Structure or Use - A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. A separate accessory structure shall not be less than eight (8) feet from the primary 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 greenhouse products. Agriculture does not include forest management and timber harvesting activities.

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

Alteration - Any change, addition, or modification in construction, or change in the structural members of a building, such as bearing walls, columns, beams or girders.
Basal Area - The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark. \((3.1416 \times \text{DBH}^2) / (4 \times 144)\)

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

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

Building - See Structures

Building Height - The vertical distance between the mean original grade at the downhill side of the building and the highest point of the building, excluding chimneys, steeple, antennas, and similar appurtenances which have no floor area. Where retaining walls are required to be constructed within 20 feet of a building, the wall shall be considered to be part of the building and the height of the building shall be measured from the lowest finished grade level adjoining the wall.

Bureau - State of Maine Department of Conservation’s Bureau of Forestry

Camper - A portable structure designed to be used as a temporary dwelling for travel and designed to fit upon or in the back of a truck, including converted buses or other vehicles. This structure shall not be used as a permanent dwelling.

Campground - Any area or tract of land to accommodate two (2) or more parties in temporary living quarters including, but not limited to, tents, recreational vehicles or other shelters, for which a fee is charged.

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

Coastal Wetland - All tidal and sub tidal 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 which 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.

Codes Enforcement Officer - A person appointed by the Selectmen to administer and enforce this Ordinance. Reference to the Codes Enforcement Officer shall be construed to include the Building Inspector and Plumbing Inspector, where applicable.

Commercial use - The use of land, buildings, or structures, the intent of which is the production of income. This includes the rental of a residential dwelling unit. **(The rental of a residential dwelling unit will not require a business review by the Planning Board)**
**Complete Application** - All documentation necessary for review and decision by the permitting authority.

**Conforming Use** - A use of buildings, structures or land which complies with all the applicable provisions of this Ordinance.

**Cross-sectional area** - 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.

**DBH** - The diameter of a standing tree measured 41/2 feet from ground level.

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

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

**Disability** - A 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.

**Disruption of shoreline 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.

**District** - A specified portion of the municipality, delineated on the Shoreland Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**Dwelling** - A fixed structure, containing one or more dwelling units.

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

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

**Erosion Control** - See Section 15 R
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**Essential services** - Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a structure** - An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

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

**Family** - One or more persons occupying a premise and living as a single residential dwelling unit.

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

**Floor area** - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Forest management activities** - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Forested wetland** - A freshwater wetland dominated by woody vegetation that is nineteen and a half (19.6) feet tall (six (6) meters tall) or taller.

**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, frost walls, or other base consisting of concrete, block, brick or similar material.
**Freshwater wetland** - Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

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

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

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

**Frontage, Shore** - The horizontal distance, measured in a straight line, between the inter-sections of the side lot lines with the shoreline at normal high water elevation.

**Frontage, Street/Road** – The distance as measured along the center of the traveled way between the intersections of the side lot lines with the traveled way.

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

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

**Great pond classified GPA** - Any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4- A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds. **NOTE:** There are no GPA identified great ponds in the Town of Phippsburg.

**Ground cover** - Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor
**Harvest Area** - The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

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

**High Intensity** - A use or change of use that would result in an acute detrimental change of environmental, safety, traffic, noise and density levels.

**Home occupation** - An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home and excluding the rental of a dwelling unit for twenty-eight (28) days or less per calendar year.

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

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

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals, excluding the packaging/processing of harvested marine products.

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

Licensed Forester - A forester licensed under 32 M.R.S.A. Chapter 76.

Lot - A parcel of land in single ownership, described on a deed, plat, or similar legal document.

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

Lot Lines - The lines bounding a lot.

Lot Line, Front - On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

Lot line, Rear - The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

Lot Line, Side - Any lot line other than the front lot line or the rear lot line.

Lot of Record - A parcel of land, the dimensions of which is shown on a document or map on file with the County Register of Deeds or in common use by Town or County Officials, as of January 1st, 1989.

Mapped - An area marked for zoning on the Official Phippsburg Shoreland Zoning Map.

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.
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**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.

**Mobile Home** - A structure designed as a dwelling unit for location on a permanent foundation, and containing sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment of outside systems; and designed to be transported after fabrication on its own wheels. A mobile home shall contain not less than 450 square feet of gross floor area. Mobile homes shall be allowed on any lot of land where a single family home would be allowed, but no mobile home may be moved into the Town or moved onto a lot within the Town before plumbing and building permits have been issued. No permits shall be issued unless that owner provides evidence demonstrating that the mobile home meets the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, U. S. Code, Title 42, Section 5401 et seq.

**Mobile Home Park** - A plot of land laid out to accommodate at least three mobile homes.

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

**Native** - Indigenous to the local forests.
New business - For the purposes of this Ordinance, a new business is a business that meets one or more of the following criteria:

1. A business beginning operations that does not qualify as a home business under this Ordinance.

2. An existing business that expands the area devoted to retail customers by more than 20 percent.

3. An existing business that converts existing space to a different line of business, such as the conversion of a storage area to retail use, or the conversion of a portion of a retail store or all of a retail store into restaurant facilities.

4. An existing business that moves or expands to a new location or onto land that is not contiguous to the lot where the business began.

5. A home business that expands to the point where it no longer meets the criteria for home businesses under this Ordinance.

6. A grandfathered business that is sold, leased or rented to other operators shall require, without a public hearing, a transfer of permit review from the Planning Board.

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

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

Non-conforming Lot of Record - A lot of record that does not meet the lot area and/or street frontage and/or shore frontage requirements of this Ordinance.

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.

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.

Normal high-water line (tidal waters) - It is the point of highest inland flow of the tides when the tides at Portland have a height of 11 feet. In the case of wetlands adjacent to rivers and ocean front, the normal high-water line is the upland edge of the wetland, and not the edge of open water.

Permanent Foundation - A continuous enclosed masonry foundation, heavy concrete slab or wood foundation treated to prevent decay.

Permitted - an allowed use only with written approval from the permitting authority.

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

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

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

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

Planned Unit and/or Cluster Development - Land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including street, utilities, lots and building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and for other uses and improvements on the land. Developments may be single operation or a programmed series of operations including all buildings and lands, with provisions for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

Portable Structures - Including but not limited to rigid framed tents and tractor trailers

Premises - One or more lots which are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures, and improvements.

Principal structure - The building in which the primary use of the lot is conducted.
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Principal use - A use other than one which is wholly incidental or accessory to another use on the same premises.

Private club - access by membership only

Private recreational facility - Access by membership only

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

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

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

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

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

Residential Lot Line - Any part of a property line within 200 feet of a dwelling.

Residential Structure - A residential dwelling unit built for the support, shelter or enclosure of persons

Residual basal area - The average of the basal area of trees remaining on a harvested site.

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

Riprap - Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.
River - A free-flowing body of water including its associated 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.

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is salt marsh 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 sea-son 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.

Seasonal - A use, structure or activity that is in place for seven (7) months or less per calendar year

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

1. In the case of electric service
   a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
   b. The total length of the extension is less than one thousand (1,000) feet.

2. In the case of telephone service
   a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
   b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

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

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

Shoreline - The normal high-water line or upland edge of a freshwater or coastal wetland.

Sign - A name, identification, description, display or illumination which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relate to an object, product, place, activity, person, institution, organization or business.

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

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

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

Special Exception Permit - See Section 17.E.

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.

Structures - 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, including but not limited to, rigid framed tents and tractor trailer boxes.

Subdivisions - See Town of Phippsburg Subdivision Ordinance.

Substantial start - Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost, excluding the planning and design costs.

Subsurface sewage disposal system - Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414 (over board discharge), any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.
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**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.Q., Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

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

**Travel Trailer** - A portable structure built as a vehicle designed for use as a temporary dwelling for travel. This structure shall not be used as a permanent dwelling in Phippsburg.

**Tributary stream** - Means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. **NOTE:** Water setback requirements apply to tributary streams within the shoreland zone.

**Upland edge of a wetland** - The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the 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 duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems (tree trunks) that are approximately twenty (20) feet (six (6) meters) tall or taller.

**Use** - The purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

**Value** - Equal to the cost of materials plus labor at fair market rates

**Variance** - A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to the conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present.
**Vegetation** - All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

**Volume of a structure** - The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof. Screened porches with thirty inch (30”) or greater knee wall are to be considered as volume.

**Water Body** - Any great pond, river or stream.

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

**Wetland** - A freshwater or coastal wetland.

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

**Woody vegetation** - Live trees or woody, non-herbaceous shrubs

**Yard** - The area of land on a lot not occupied by the principal building.

**Yard or Garage Sale** - Casual public sale of goods, new or used, by other than an established business.
APPENDIX B FROM 38 M. R. S. A. 437

38 §437. Significant river segments identified

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

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

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

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

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

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

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

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

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

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

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

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

### Amendment Summary

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