Town of Pownal

SHORELAND ZONING ORDINANCE

Adopted on July 20, 2009
Special Town Meeting
# SHORELAND ZONING ORDINANCE
ADOPTED ON JULY 20, 2009

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Town of Pownal
Shoreland Zoning Ordinance

Section 1. Purposes.

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

Section 2. Authority.

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

Section 3. Applicability.

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
• normal high-water line of the upland edge of a freshwater wetland,
• and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

Section 4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance and amendments, which was adopted by the Town Meeting on July 20, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance and Amendments, attested and signed by

* Amended by Special Town Meeting - 8/19/75
** Amended by Special Town Meeting - 6/28/76
*** Amended by Special Town Meeting - 9/14/81
**** Amended by Special Town Meeting - 8/11/83
***** Amended by Special Town Meeting - 3/29/85
****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
^ Amended by Special Town Meeting - 7/20/09
the Town Clerk, shall be forwarded to the Commissioner for approval. If the
Commissioner fails to act on this Ordinance and Amendments within forty-five (45) days
of receipt of the Ordinance and Amendments, it shall be deemed approved.

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

B. Section 15(N). Section 15(N) “Timber Harvesting” is repealed on the statutory date
(month: __________ day: __________ year: ___) when established
under M.R.S.A. Section 438-A(5). At this time, Section 14 - Table 1, Item 4. ‘Timber
Harvesting’ shall be amended to read, “Administered by the Maine Forest Service.”

Section 5. Availability

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

Section 6. Severability.

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

Section 7. Conflicts with Other Ordinances

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

Section 8. Amendments

This Ordinance may be amended by majority vote of the Town legislative body. 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 legislative body

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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 the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

Section 9. Districts and Zoning Map

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

1. Resource Protection District
2. Stream Protection District
3. Limited Residential

B. Scale of Map. The Town of Pownal Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map. The Town of Pownal Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the municipal office. The Town Clerk shall be the custodian of the map.

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

Section 10. Interpretation of District Boundaries

Unless otherwise set forth on the Town of Pownal 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.

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Where there is not specific written descriptions of district boundaries, the Town of Pownal Shoreland Zoning Map is the primary tool to which to refer in determining district boundaries. Where there is inconsistency between the Map and general text descriptions of the shoreland districts, the Map prevails.

The Map is illustrative of the location of the Shoreland District boundaries. Actual locations on the ground shall be identified and flagged in the field. The Planning Board may hire its own wetland surveyor or other licensed professional to peer-review applicant’s surveyor at applicant’s expense.

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.

B. In the Limited Residential District, as defined in Section 13 of the Ordinance, all permitted uses, special exception uses, space standards, performance standards, and nonconformance provisions of the underlying zoning district shall govern, except when the specific applicable provisions of this Ordinance are more restrictive.

Section 12. Non-conformance

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

B. General

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

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

C. **Non-conforming Structures**

1. **Expansions:** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and in accordance with subparagraphs ‘a.’ and ‘b’ below.

   a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing 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 the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) ‘Relocation’ below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion for conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

2. **Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation...
conforms to all setback requirements to the greatest practical extent as determined by
the Planning Board 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 replanted, 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 or 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 distributed,
damaged or removed must be re-established 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.

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******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
^ Amended by Special Town Meeting - 7/20/09
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 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 and reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider, in addition to the criteria in Section 2(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 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 permitted in Section 12(C)(1)(a) above.

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

3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12 (C) (4) above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or Amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot

* Amended by Special Town Meeting - 8/19/75
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****** Amended by Special Town Meeting - 6/1/90
******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
** Amended by Special Town Meeting - 7/20/09
in the same ownership, and that all provisions of this Ordinance except lot area, lot
width and shore frontage can be met. Variances relating to setback or other
requirements not involving lot area, lot width or shore frontage shall be obtained by
action of the Board of Appeals.

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

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

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

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

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

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

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****** Amended by Special Town Meeting - 6/11/90
******* Amended by Special Town Meeting - 3/30/99
******** Amended by Special Town Meeting - 6/19/00
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12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

Section 13. Establishment of Districts

A. Resource Protection District.

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

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands 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 March, 2008 and which are mapped on the Pownal Shoreland District Map.

2. Areas within shoreland areas of two or more contiguous acres with sustained slopes of 20% or greater. To be determined in the field by site visit of the Planning board and property owner.

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

B. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland defined as a resource protection wetland. Where a stream and its associated

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shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of
the above identified water bodies or wetlands, that land area shall be regulated under the
terms of the shoreland district associated with that water body or wetland. Streams
flowing out of a great pond are Stream Protection District streams.

C. Limited Residential District

The Limited Residential District includes those areas suitable for residential and
recreational development. It includes areas other than those in the Resource Protection
District and Stream Protection District.

Section 14. Table of Land Uses

All land use activities, as indicated in Table 1, ‘LAND USES IN THE SHORELAND
ZONE’, shall conform with all of the applicable land use standards in Section 15. The
district designation for a particular site shall be determined from the Town of Pownal
Shoreland Zoning Map.

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board

CEO - Allowed with permit issued by the Code Enforcement Officer

Abbreviations:

RP - Resource Protection

SP - Stream Protection

LR - Limited Residential

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Table 1 - Land Uses in the Shoreland Zone

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>DISTRICT</th>
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<tbody>
<tr>
<td></td>
<td>SP</td>
</tr>
<tr>
<td>1. Non-intensive recreational uses not requiring structures</td>
<td>yes</td>
</tr>
<tr>
<td>such as hunting, fishing or hiking</td>
<td></td>
</tr>
<tr>
<td>2. Motorized vehicular traffic on existing roads or trails</td>
<td>yes</td>
</tr>
<tr>
<td>3. Forest management activities except for timber harvesting</td>
<td>yes</td>
</tr>
<tr>
<td>or land management roads</td>
<td></td>
</tr>
<tr>
<td>4. Timber harvesting</td>
<td>yes</td>
</tr>
<tr>
<td>5. Clearing or removal of vegetation for activities other than</td>
<td>CEO</td>
</tr>
<tr>
<td>timber harvesting</td>
<td></td>
</tr>
<tr>
<td>6. Fire prevention activities</td>
<td>yes</td>
</tr>
<tr>
<td>7. Wildlife management practices</td>
<td>yes</td>
</tr>
<tr>
<td>8. Soil and water conservation practices</td>
<td>yes</td>
</tr>
<tr>
<td>9. Mineral exploration</td>
<td>no</td>
</tr>
<tr>
<td>10. Mineral extraction including sand and gravel extraction</td>
<td>no</td>
</tr>
<tr>
<td>11. Surveying and resource analysis</td>
<td>yes</td>
</tr>
<tr>
<td>12. Emergency operations</td>
<td>yes</td>
</tr>
<tr>
<td>13. Agriculture</td>
<td>yes</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td>PB</td>
</tr>
<tr>
<td>15. Principal structures and uses:</td>
<td></td>
</tr>
<tr>
<td>A. One and two-family residential, including driveways</td>
<td>PB&lt;sup&gt;4&lt;/sup&gt;</td>
</tr>
<tr>
<td>B. Multi-unit residential</td>
<td>no</td>
</tr>
<tr>
<td>C. Commercial</td>
<td>no</td>
</tr>
<tr>
<td>D. Industrial</td>
<td>no</td>
</tr>
<tr>
<td>E. Governmental and institutional</td>
<td>no</td>
</tr>
<tr>
<td>F. Small non-residential facilitates for educational, scientific</td>
<td></td>
</tr>
<tr>
<td>or nature interpretation purposes</td>
<td></td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses</td>
<td>PB&lt;sup&gt;4&lt;/sup&gt;</td>
</tr>
<tr>
<td>17. Piers, docks, wharfs, bridges and other structures and uses extending</td>
<td></td>
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<td>over or below the normal high-water line or within a wetland:</td>
<td></td>
</tr>
<tr>
<td>A. Temporary</td>
<td>CEO&lt;sup&gt;11&lt;/sup&gt;</td>
</tr>
<tr>
<td>B. Permanent</td>
<td>PB</td>
</tr>
<tr>
<td>18. Conversions of seasonal residences to year-round residences*</td>
<td>CEO</td>
</tr>
<tr>
<td>19. Home occupations</td>
<td>PB</td>
</tr>
<tr>
<td>20. Private sewage disposal systems for allowed uses*</td>
<td>CEO</td>
</tr>
</tbody>
</table>

*(Table 1 continues on next page)*

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** Amended by Special Town Meeting - 6/28/76
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******* Amended at Town Meeting - 3/8/99
********* Amended by Special Town Meeting - 6/19/00
*° Amended by Special Town Meeting - 7/20/09
## Pownal Shoreland Zoning Ordinance

### LAND USES

<table>
<thead>
<tr>
<th>District</th>
<th>SP</th>
<th>RP</th>
<th>LR</th>
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</thead>
<tbody>
<tr>
<td>Essential services</td>
<td>PB⁶</td>
<td>PB⁶</td>
<td>PB</td>
</tr>
<tr>
<td>Roadside distribution lines (34.5kV and lower)</td>
<td>CEO⁶</td>
<td>CEO⁶</td>
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<td>Non-roadside or cross-country distribution lines involving ten poles or less in the shoreline zone</td>
<td>PB⁶</td>
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<td>Other essential services</td>
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<td>Service drops, as defined, to allowed uses</td>
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<td>Public and private recreational areas involving minimal structural development</td>
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<td>Individual private campsites</td>
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<td>CEO</td>
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<tr>
<td>Campgrounds</td>
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<td>PB</td>
</tr>
<tr>
<td>Road construction**</td>
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<td>Land management roads</td>
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<td>Parking facilities</td>
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<tr>
<td>Marinas**</td>
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<tr>
<td>Filling and earth moving of &lt;10 cubic yards</td>
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<tr>
<td>Filling and earth moving of ≥10 cubic yards</td>
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<td>Signs</td>
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<td>Uses similar to allowed uses</td>
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<tr>
<td>Uses similar to uses requiring a CEO permit</td>
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<td>Uses similar to uses requiring a PB permit</td>
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<tr>
<td>Mobile home parks*</td>
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<td>no</td>
</tr>
</tbody>
</table>

### FOOTNOTES:

1. In RP not allowed within 75 feet horizontal distance of the normal high-water line of great ponds except to remove safety hazards.
2. Requires permit from the CEO if more than 100 sq. ft. of surface area, in total, is disturbed.
3. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance from setback requirements is obtained from Board of Appeals.
5. Functionally water-dependent uses and uses accessory to such water-dependent uses only.
6. See further restrictions in Section 15 (L)(2).
7. Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
8. Except as provided in Section 15(G)(4).
9. Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E) 'Special Exceptions.' Two-family residential structures are prohibited.
10. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

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** Amended by Special Town Meeting - 6/28/76
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****** Amended by Special Town Meeting - 6/11/90
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** Amended by Special Town Meeting - 7/20/09
11 - Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12 - Permit not required but must file a written ‘Notice of intent to construct’ with CEO.

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

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

Section 15. Land Use Standards

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

A. Minimum Lot Standards

1. Minimum Lot Area (Sq. feet) Minimum Shore Frontage (feet)
   a. Residential per dwelling unit 90,000 200
   b. Governmental, Institutional, Commercial, or Industrial per principal structure 90,000 300
   c. Public and Private Recreational Facilities 90,000 200

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

3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

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

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least seventy-five (75) feet from the normal high-water line of streams, tributary streams, or the upland edge of a wetland. 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 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. 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 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.

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** Amended by Special Town Meeting - 7/20/09
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Stream Protection and Limited Residential Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

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.

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 be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation and which cannot be stabilized with vegetative planting;

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

   c. Retaining walls are located outside the 100-year floodplain on rivers, streams, 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

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** Amended by Special Town Meeting - 7/20/09

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identified as recent floodplain soils.

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

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

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

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

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

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

(5) A foot path not to exceed the standards in Section 15(P)(2)(a) may traverse the buffer.

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, Title 38 M.R.S.A. Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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** Amended by Special Town Meeting - 7/20/09
C. 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 on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six (6) feet for non-commercial uses.

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

6. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible and a permit has been obtained from the Department of Environmental Protection pursuant to the Natural Resources Protection Act.

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

8. 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.

D. Campgrounds

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

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Pownal Shoreland Zoning Ordinance

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 seventy-five (75) feet from the normal high-water line of streams, tributary streams or the upland edge of a wetland.

E. 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 on thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back at least seventy-five (75) feet from the normal high-water line of water bodies, streams, tributary streams or the upland edge of a wetland.

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

4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in 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.

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****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
^ Amended by Special Town Meeting - 7/20/09
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Parking Areas

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

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

3. In determining the appropriate size of proposed parking facilities, the following shall apply:
   a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
   b. Internal travel aisles: Approximately twenty (20) feet wide.

G. 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 seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by

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******** Amended by Special Town Meeting - 6/19/00
^ Amended by Special Town Meeting - 7/20/09
the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

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

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

4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(P).
5. Road and driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

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

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

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

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

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

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

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

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.

H. Signs

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

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

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

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

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

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

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

7. Signs may be illuminated only by shielded, downward directed, non-flashing lights.
I. **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 water.

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

J. **Septic Waste Disposal**

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (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 minimum setback for new subsurface sewage disposal systems, excluding fill extensions, to be constructed to no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems may not be reduced by variance.

   c. Replacement systems shall meet the standards for replacement systems as contained in the Rules.
K. Essential Services

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

2. The installation of essential services, other than roadside distribution lines, is not permitted 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 and reconstructed without a permit.

L. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

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

2. No part of any extraction operation, including drainage and run-off control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.

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

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

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

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

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

M. 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 seventy-five (75) feet horizontal distance of water bodies, tributary streams or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation

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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. (Assistance in preparing a soil and water conservation plan may be available through the Cumberland County Soil and Water Conservation District office.)

4. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and 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 seventy-five (75) feet, horizontal distance, of streams; nor within twenty-five (25) feet, horizontal distance, of water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and 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.

N. Timber Harvesting

Timber harvesting shall conform with the following provisions:

1. 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:

a. Within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies, tributary streams or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

b. At distances greater than seventy-five (75) feet, horizontal distance, of the normal high water line of water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten
Pownal Shoreland Zoning Ordinance

thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

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

2. 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.

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

   a. Surface waters are frozen; and
   b. The activity will not result in any ground disturbance.

4. 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.

5. 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.

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** Amended by Special Town Meeting - 6/28/76
*** Amended by Special Town Meeting - 9/14/81
**** Amended by Special Town Meeting - 8/11/83
***** Amended by Special Town Meeting - 5/29/85
****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
* Amended by Special Town Meeting - 7/20/09

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6. 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.

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

1. 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 O(1), above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any 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 crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

   b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of Section 15(O)(2)(b) a "well-distributed stand of trees" adjacent to water bodies, tributary streams, and wetlands is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.
Diameter of Tree at 4-1/2 feet Above Ground Level (inches) | Points
---|---
2 - <4 in. | 1
4 - <8 in. | 2
8 - <12 in. | 4
12 in. or greater | 8

Note: As an example, 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 (3) trees between 8 and 12 inches in diameter and two (2) trees over 12 inches in diameter, the rating score is:

\[(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}\]

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 20 points (36 - 16 = 20) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

1. The 25-foot by 50-foot rectangular plots must be established where the landowner or lease proposes clearing within the required buffer;
2. Each successive plot must be adjacent to, but not overlap, a previous plot;
3. Any lot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
4. Any lot 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.

For purposes of Section 15(O)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover

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*** Amended by Special Town Meeting - 9/14/81
**** Amended by Special Town Meeting - 8/16/83
***** Amended by Special Town Meeting - 5/29/85
****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
********* Amended by Special Town Meeting - 6/19/00
** Amended by Special Town Meeting - 7/20/09
and retaining at least five (5) saplings less than two (2) inches in diameter at 4 and one-half (41/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and 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 in Section 15(O) paragraphs (2) and (2)(a) above.

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

c. 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.

3. The provisions contained in Section 15(O)(2) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

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

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

5. Legally existing non-conforming cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted 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(O).

P. 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 require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
   a. Mulching and revegetation of disturbed soil.
   b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
   c. Permanent stabilization structures such as retaining walls or riprap.

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

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

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

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

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

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

6. For all soil disturbing activities referred to in Section 15(P)(1) above, except agriculture and timber harvesting, erosion and sedimentation control plans shall be consistent with the standards of this subsection and, except where the standards of this subsection are more restrictive, the erosion and sedimentation control strategies contained in each erosion and sedimentation control plan shall be selected from the “Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices” by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991 or as subsequently amended.

7. Erosion and sedimentation control plans for agriculture and timber harvesting shall meet the applicable standards of this subsection. Erosion and sedimentation controls for agriculture and for timber harvesting shall also be consistent with the standards of Section (15)(M) ‘Agriculture’ and (15)(N) ‘Timber Harvesting’ (so long as it has not been repealed).

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****** Amended by Special Town Meeting - 5/29/85
******* Amended by Special Town Meeting - 6/11/90
******** Amended at Town Meeting - 3/8/99
********* Amended by Special Town Meeting - 6/19/00
** Amended by Special Town Meeting - 7/20/09
Q. Soils

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

R. Water Quality

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

S. Archaeological Sites

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

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******* Amended at Town Meeting - 3/8/99
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** Amended by Special Town Meeting - 7/20/09
Section 16. **Administration**

A. **Administering Bodies and Agents**

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

2. **Board of Appeals**
   
   A Board of Appeals shall be created and maintained accordance with the provisions of Title 30-A Section 2691.

3. **Planning Board**
   
   A Planning Board shall be created and maintained accordance with the provisions of State law.

B. **Permits Required**

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

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

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

   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 that the crossing does not block fish passage in the water course.

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****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
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** Amended by Special Town Meeting - 7/20/09
2. A permit is not required for an archeological excavation so long as the excavation is conducted by an archeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list and unreasonable erosion or sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

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

C. Permit Application

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

2. All applications shall be signed by the owner or owners of the property or other person 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. A fee shall be paid as set by the Board of Selectmen.

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

5. For those applications which require Planning Board Review, the applicant or owner shall deposit in escrow with the Town an amount of money sufficient to cover the costs for any professional review of the erosion and sedimentation control plan or other engineering, landscaping, architectural, historic or archeological plan which is required to be submitted with the application which the Planning Board may determine is reasonably necessary to protect the surface water quality of the Town.

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****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
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**Amended by Special Town Meeting - 7/20/09**
Amounts required for this escrow payment are established by the Board of Selectmen and listed in the Town Fee Schedule. This escrow payment shall be made before the Board engages any outside party to undertake this review and to make recommendations to the Board. Any part of this escrow payment which in excess of the final costs for the professional review shall be returned to the applicant or owner.

D. Procedure for Administering Permits

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

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

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

1. Will maintain safe and healthful conditions;

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

3. Will adequately provide for the disposal of all wastewater;

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

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******* Amended by Special Town Meeting - 6/11/90
******** Amended at Town Meeting - 3/8/99
********* Amended by Special Town Meeting - 6/19/00
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5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;

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

7. Will avoid problems associated with floodplain development and use; and

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

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

E. Special exceptions

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

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

2. The lot on which the structure is proposed is undeveloped and was established and recorded in the Cumberland County Registry of Deeds before the adoption of the Resource Protection District.

3. All proposed buildings, sewage disposal systems and other improvements are:
   a. Located on natural ground slopes of less than 20%; and
   b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers, 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 floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half (1/2) the width of the 100-year floodplain.

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

5. All structures, except functionally water dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but no less than seventy-five (75) feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site’s elevation in regard to the floodplain and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit

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

G. Installation of Public Utility Service

A public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.
H. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers under this Ordinance:

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

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

2. Variance Appeals

Variances may be permitted only under the following conditions:

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

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

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

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

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***** Amended by Special Town Meeting - 5/29/85
****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
^ Amended by Special Town Meeting - 7/20/09

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

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

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

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

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

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

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

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

3. Administrative Appeals

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

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

4. Appeal Procedure

a. Making an Appeal

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

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

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

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

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

Decision by Board of Appeals

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

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

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

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

5. Appeal to Superior Court

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

6. Reconsideration

In accordance with 30-A MRSA Section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five days (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being requested to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision.

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

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

I. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.
2. Code Enforcement Officer

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

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

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, beginning on March 1, 1994, 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

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*** Amended by Special Town Meeting - 9/14/81
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****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
** Amended by Special Town Meeting - 7/20/09
authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

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

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues. However, in a Resource Protection District the maximum penalty is increased to $5000. (38 MRSA Section 4452)

Section 17. Definitions

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. Other examples of accessory structures are free-standing garages, barns, and workshops.

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

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

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*** Amended by Special Town Meeting - 9/14/81
**** Amended by Special Town Meeting - 8/11/83
***** Amended by Special Town Meeting - 5/29/85
****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/8/99
******** Amended by Special Town Meeting - 6/19/00
^^ Amended by Special Town Meeting - 7/20/09

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and timber harvesting activities.

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

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

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

Boarding (Lodging or Rooming) House - A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders. This does not include a family living as a single housekeeping unit regardless of whether meals are supplied as part of the fee, or to a health facility licensed by the Maine Department of Human Services.

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

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

Business and Professional Use - Establishments primarily engaged in rendering services on a fee or contract basis such as: advertising and mailing; building maintenance, employment services; research, or the office of a member of a recognized profession maintained for the conduct of that profession.

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

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

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

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****** Amended by Special Town Meeting - 6/11/90
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** Amended by Special Town Meeting - 7/20/09
DBH - the diameter of a standing tree measured 4.5 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 - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by a bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special educational, vocational rehabilitation, or related services.

Driveway - a vehicular access-way serving two lots or less. Driveways shall not be considered as affording road or street frontage.

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

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

Expansion of a structure - an increase in the 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 premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, but no group shall consist of more than five unrelated persons, as distinguished from a group occupying a boarding house, lodging house or hotel as defined herein.

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.

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

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

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

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

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

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

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****** Amended by Special Town Meeting - 6/11/90
******* Amended at Town Meeting - 3/9/99
******** Amended by Special Town Meeting - 6/19/00
** Amended by Special Town Meeting - 7/20/09
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 and inland waters and which cannot be located away from these waters. The uses include, but are not limited to recreational fishing and boating facilities, navigation aides, basins and channels, industrial uses requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to inland waters.

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

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

Home occupation - an accessory use of a dwelling unit or an accessory structure for gainful employment involving the manufacture, provision or sale of goods and/or services. It is clearly incidental and secondary to the uses of the dwelling unit for residential purposes. It is so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence other than for a sign as permitted under Section 151. Any home occupation shall be permitted if it complies with the requirements of this section.

1. The home occupation shall be carried on by one or more members of the family residing in the dwelling unit. Only two employees who are not part of the family are permitted at any one time.

2. The home occupation shall be carried on wholly within the principal or accessory structure.

3. Exterior displays or signs other than those permitted under Section 151, exterior storage of materials, and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.

4. Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced beyond what is normally produced in the zoning district.

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5. Traffic generated shall be in keeping with the character of the neighborhood. Parking needs shall be met off-street.

6. If a home occupation is located in an accessory structure, the square footage used for that occupation shall not be larger than the first floor square footage of the principal residential structure.

**Hotel** - A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms and recreational facilities.

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction of 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 non-conforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream or wetland than the closest portion of the existing structure from the water body, tributary stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

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***** Amended by Special Town Meeting - 5/29/85
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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.

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.

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.

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

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

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

Native - indigenous to the local forests.

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

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

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed

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******** Amended by Special Town Meeting - 6/19/00
** Amended by Special Town Meeting - 7/20/09

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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 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 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 during the period of normal high-water are considered part of the river.

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

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

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

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

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

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.
Recent flood plain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

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

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

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

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

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

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

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.

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****** Amended by Special Town Meeting - 6/11/90
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Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

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, tributary stream or upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

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

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, the upland edge of a freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

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 a shoreland zone.

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** Amended by Special Town Meeting - 7/20/09
Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guy wires and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes.

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

Subsurface sewage disposal system - any system designed to dispose of waste or waste water on or beneath the surface of the earth; 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 MRSA Section 414, any surface waste water disposal system or any municipal or quasi-municipal sewer or waste water treatment system.

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

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. 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(O), 'Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.'

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 on exposed soil, parent material or bedrock; and which is connected hydrologically to 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.

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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 freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

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

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

Water body - any stream.

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

Wetland - a freshwater wetland.

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

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