


# SHORELAND ZONING ORDINANCE

## Town of Naples

adopted November 14, 1974  
amended March 10, 1990  
amended December 16, 1991  
amended June 13, 2000  
amended June 11, 2002  
amended December 29, 2003  
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**Attested:**

  
Judy Whynot, Town Clerk

## TABLE OF CONTENTS

Section 1.	PURPOSES	3
Section 2.	AUTHORITY	4
Section 3.	APPLICABILITY	4
Section 4.	EFFECTIVE DATE	4
	A. Effective Date of Ordinance and Ordinance Amendments	4
	B. Sections 15.O	4
Section 5.	AVAILABILITY	5
Section 6.	SEVERABILITY	5
Section 7.	CONFLICTS WITH OTHER ORDINANCES	5
Section 8.	AMENDMENTS	5
Section 9.	DISTRICTS AND ZONING MAP	5
Section 10.	INTERPRETATION OF DISTRICT BOUNDARIES	5
Section 11.	LAND USE REQUIREMENTS	6
Section 12.	NON-CONFORMANCE	6
	A. Purpose	6
	B. General	6
	C. Non-Conforming Structures	6
	1. Expansions	8
	2. Foundations	8
	3. Relocation	8
	4. Reconstruction or Replacement	8
	5. Change of Use of a Non-Conforming Structure	9
	D. Non-Conforming Uses	9
	1. Expansions	9
	2. Resumption Prohibited	9
	3. Change of Use	9
	E. Non-Conforming Lots	9
	1. Non-Conforming Lots	9
	2. Contiguous Built Lots	9
	3. Contiguous Lots – Vacant or Partially Built	9
Section 13.	ESTABLISHMENT OF DISTRICTS	10
	A. Resource Protection District	10
	B. Limited Residential District	11
	C. Limited Commercial District	11
	D. Stream Protection District	11
Section 14.	TABLE OF LAND USES	12
Section 15.	LAND USE STANDARDS	13
	A. Minimum Lot Standards	13
	B. Principal and Accessory Structures	14
	C. Aquatic Structures, Moorings and Other Structures	16
	D. Watercraft	22
	E. Campgrounds	22

	F. Individual Private Campsites	23
	G. Commercial and Industrial Uses	23
	H. Parking Areas	23
	I. Roads and Driveways	24
	J. Storm Water Runoff	26
	K. Septic Waste Disposal	26
	L. Essential Services	26
	M. Mineral Exploration and Extraction	26
	N. Agriculture	27
	O. Timber Harvesting	27
	P. Clearing or Removal of Vegetation for Activities	28
	Q. Erosion and Sedimentation Control	30
	R. Soils	31
	S. Water Quality	32
	T. Archaeological Sites	32
	U. Waterfront Density	32
Section 16.	ADMINISTRATION	32
	A. Administering Bodies and Agents	32
	B. Permits Required	33
	C. Permit Application	33
	D. Procedure for Administering Permits	33
	E. Expiration of Notice of Decision	34
	F. Installation of Public Utility Service	34
	G. Appeals	34
	1. Powers and Duties of the Board of Appeals	34
	2. Variance Appeals	35
	3. Administrative Appeals	35
	4. Setback Reduction Appeals	36
	5. Appeals Procedure	36
	6. Appeal to Superior Court	37
	7. Reconsideration	37
	H. Enforcement	38
	1. Nuisances	38
	2. Code Enforcement Officer	38
	3. Legal Actions	38
	4. Fines	39
	I. Definitions	44

## 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 and 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 is enacted in accordance with the provisions of Title 38 Sections 435 – 449 of the Maine Revised Statutes Annotated (M.R.S.A.), and pursuant to the Town's home rule authority and the authority to regulate moorings in Great Ponds delegated to the Town by Title 38 M.R.S.A., Section 3.

**Section 3.     Applicability**

This Ordinance applies to all land areas within 250 feet, horizontal distance, of normal high-water line of any great pond or river; 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, including moorings, extending or located below the normal high-water line of a water body or within a wetland.

**Section 4.     Effective Date**

**Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on December 16, 1991, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of its receipt of the Ordinance, or Ordinance Amendment, it shall be deemed approved.

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

**Section 5.     Availability**

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

**Section 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 municipality, the more restrictive provision shall control.

**Section 8.     Amendments**

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. 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 municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

**Section 9. Districts and Zoning Map**

**A. Official Zoning Map**

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

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. Stream Protection

**B. Scale of Map**

The Official Zoning Map has been drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries are delineated and a legend indicating the symbols for each district has been placed on the map.

**C. Certification of Official Zoning Map**

The Official Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

**D. Changes to the Official Zoning Map**

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

**Section 10. Interpretation of District Boundaries**

Unless otherwise set forth on the Official Zoning Map, district boundaries shown within the lines of roads, streams and transportation right-of-ways shall be deemed to follow the center lines. The abandonment of roads shall not affect the location of district boundaries. When the Code Enforcement Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that the district boundary does not clearly coincide with a property line, he shall refuse action, and the Planning Board shall interpret the location of the district boundary with reference to the scale of the zoning map, the actual field conditions, and the purposes set forth in all relevant provisions of this by-law. Where uncertainty still exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

The depiction of the Shoreland Overlay Districts on the zoning map for the Town of Naples are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement

on the ground of the distance indicated on the maps from the normal high-water mark of the water body or the upland edge of wetland, regardless of the location of the boundary shown on the map.

## **Section 11. Land Use Requirements**

Except as hereinafter specified, no building, structure 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 or conditional use appeal is granted.

## **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 or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

### **B. General**

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

### **C. Non-conforming Structures**

- (1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements approved by the Code Enforcement Officer. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) through (d) below.
  - (a). Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
  - (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by Section 12(C)(1).
    - (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

- (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

- (d) A plan approved by the Code Enforcement Officer for an expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds in the Cumberland County Registry of Deeds, within 90 days of approval. Plans must include, at a minimum:

- (i) The method of expansion (whether the applicant utilized the thirty (30) percent or the footprint expansion option);
- (ii) The existing and proposed footprint of the structure, in addition to the footprint of other nonconforming structures on the parcel;
- (iii) The existing and proposed structure height;
- (iv) A scaled drawing showing the location of the structure and other structures on the lot, in relation to the water body, tributary stream or wetland.

- (2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.

- (3) **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 Code Enforcement Officer 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 Code Enforcement Officer 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 Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Code Enforcement Officer 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 footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) 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 Code Enforcement Officer or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.



- (5) **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, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### **D. Non-conforming Uses**

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Code Enforcement Officer, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) 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 Code Enforcement Officer 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)(5) 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 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 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 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.

#### **DEFINITION OF FOOTPRINT:**

Footprint- "Footprint" means the entire area of ground covered by the structures on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

### **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, exclusive of the Stream Protection District, except that areas which are currently developed, and areas which meet the criteria for the Limited Commercial need not be included within the Resource Protection District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

5. Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement.

**B. 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, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District.

**C. Limited Commercial District**

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

**D. 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 fifty (250) feet, horizontal distance, of the normal high-water line of a great pond or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area is located within two hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

**E. Causeway Overlay District**

- a. The Causeway Overlay District shall be a mix of commercial uses on the ground level and residential and/or commercial uses on upper levels. The Causeway Overlay District overlays the Shoreland Zoning Limited Commercial District, as shown on the Official Shoreland Zoning Map.
- b. Only those uses permitted in the Shoreland Zoning Limited Commercial District (as set forth in Section 14, Table 1 of the Shoreland Zoning Ordinance for the Town of Naples) shall be allowed in the Causeway Overlay District, except as follows:
  - i. No residential use shall be allowed on the ground level of any structure, whether a single-story or a multi-story structure.
  - ii. Residential, commercial, governmental, institutional, and any other permitted use, including a combination thereof, shall be allowed on any upper level of a multi-story structure.
- c. All land uses and structures within the Causeway Overlay District shall conform with the following minimum lot area, shore frontage, and setback requirements:
  - i. Minimum lot area and minimum shore frontage requirements:

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
Residential use (per dwelling unit)	40,000	200

Commercial, Governmental, or Institutional use (per principal structure)	60,000	300
Public and Private Recreational Facilities	40,000	2000

ii. Minimum setback requirements:

Minimum shore setback from normal high water mark (ft.): 100

Minimum setback from lot lines (ft.): 20

The requirements set forth in this supersede the minimum lot area, shore frontage, and setback requirements set forth in Section 15.A of the Shoreland Zoning Ordinance for the Town of Naples. All other requirements of Section 15.A shall apply.

#### Section 14. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official 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 approval by the Planning Board and permit issued by the CEO where appropriate.

CEO – Allowed with permit issued by the Code Enforcement Officer.

LPI – Allowed with permit issued by the Local Plumbing Inspector.

#### Abbreviations:

RP – Resource Protection; LR – Limited Residential;

LC – Limited Commercial; SP – Stream Protection

**TABLE 1 - LAND USES IN THE SHORELAND ZONE**

LAND USES		DISTRICTS			
		SP	RP	LR	LC
1.	Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes
2.	Motorized vehicular traffic on existing roads and trails.	Yes	Yes	Yes	Yes
3.	Clearing or removal of vegetation for activities	CEO	CEO <sup>1</sup>	CEO	CEO
4.	Fire prevention activities.	Yes	Yes	Yes	Yes
5.	Wildlife management practices	Yes	Yes	Yes	Yes
6.	Soil and water conservation practices.	Yes	Yes	Yes	Yes
7.	Mineral exploration.	No	Yes <sup>2</sup>	Yes <sup>2</sup>	Yes <sup>2</sup>
8.	Mineral extraction including sand and gravel extraction.	No	PB <sup>3</sup>	PB	PB
9.	Surveying and resource analysis	Yes	Yes	Yes	Yes
10.	Emergency operations.	Yes	Yes	Yes	Yes
11.	Agriculture	Yes	PB	Yes	Yes
12.	Aquaculture	PB	PB	PB	Yes
13.	Principal structures and uses				
	A. One and two family residential, including driveways	PB <sup>4,12</sup>	No <sup>12</sup>	CEO <sup>12</sup>	CEO <sup>12</sup>
	B. Multi-unit residential	No	No	PB	PB

	C. Commercial	No	No <sup>9</sup>	No <sup>9</sup>	PB
	D. Industrial	No	No	No	No
	E. Governmental and Institutional	No	No	PB	PB
	F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	CEO	CEO
14.	Structures accessory to allowed uses	PB <sup>4,12,13</sup>	PB <sup>1,12,13</sup>	CEO <sup>12,13</sup>	CEO <sup>12,13</sup>
15.	Aquatic structures, piers, bridges and uses extending over or below the normal high-water line or within a wetland A. Temporary B. Permanent	CEO <sup>10</sup> PB	CEO <sup>10</sup> PB	CEO <sup>10</sup> PB	CEO <sup>10</sup> PB
16.	Moorings	HM	HM	HM	HM
17.	Conversions of seasonal residences to year-round residences	LPI	No	LPI	LPI
18.	Home occupations	CEO	PB	CEO	CEO
19.	Private sewage disposal systems for allowed uses	LPI	No	LPI	LPI
20.	Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
	A. Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>
	B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	CEO	CEO
	C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
	Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
21.	Service drops, as defined, to allowed uses	Yes	Yes	Yes	Yes
22.	Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
23.	Individual, private campsites	CEO	CEO	CEO	CEO
24.	Campgrounds	No	No <sup>7</sup>	PB	PB
25.	Road construction	PB	No <sup>8</sup>	PB	PB
26.	Parking facilities	No	No <sup>7</sup>	PB	PB
27.	Marinas	PB	No	PB	PB
28.	Filling and earthmoving of <10 cubic yards	CEO	CEO	Yes	Yes
29.	Filling and earthmoving of >10 cubic yards	PB	PB	CEO	CEO
30.	Uses similar to allowed uses	CEO	CEO	CEO	CEO
31.	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
32.	Uses similar to uses requiring a PB permit	PB	PB	PB	PB

In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

<sup>2</sup> Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup> In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup> Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>5</sup> Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

<sup>6</sup> See further restrictions in Section 15.M.2<sup>7</sup> Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.<sup>8</sup> Except as provided in Section 15.I.4

<sup>9</sup> Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>10</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>11</sup> Permit not required but must file a written "notice of intent to construct" with CEO.

<sup>12</sup> Accessory apartments are prohibited in the Shoreland Zone.

<sup>13</sup> Bedrooms are prohibited in accessory structures.

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

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

## Section 15. Land Use Standards

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

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)	Minimum Bldg. Setback from Lot Lines (ft.).
Residential (per dwelling unit)	60,000*	200*	20**
Governmental, Institutional, Commercial, or Industrial (per principal structure)	60,000	300	20
Public and Private Recreational Facilities	60,000	200	20

\* See subsection 5, below, for lots of record as of November 29, 1988.

\*\* See subsections 6 & 7, below, for lots of record as of November 29, 1988 and March 10, 1990.

1. 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.
2. 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.
3. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
4. 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.
5. A lot legally existing as of November 29, 1988, may be built upon for residential use provided the lot area is at least 40,000 square feet and the shore frontage is at least 100 feet, notwithstanding the fact that the lot is contiguous with any other lot in the same ownership, provided that all other requirements of this Ordinance are met.
6. The minimum setback for residential lots as of November 29, 1988, is twenty (20) feet.
7. The minimum setback requirements set forth in this section apply only to setbacks of structures from lot boundary lines. Notwithstanding these boundary line setback requirements, all structures shall comply with the requirements pertaining to setbacks from water bodies as provided in this Ordinance.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. The following great ponds are classified GPA in Naples: Long Lake, Brandy Pond, Sebago Lake, Trickey Pond, Peabody Pond, Cold Rain Pond and Holt Pond.

In addition:

- a. The water body, tributary stream or wetland setback provision shall apply neither 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 be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
  - c. Alternative energy structures may be placed within the setback area but only in a legally existing clearing and any additional vegetation removal necessary must conform to the vegetation removal provisions within the ordinance. In addition, the extent of a proposed alternative energy project must be limited by design to the energy needs of the existing use on the property. Sale of energy to the power grid must be limited to incidental excess power generation. Projects designed for commercial generation of power must comply with structure setback requirements.
  - d. The waterbody, tributary stream or wetland setback provision shall not apply to Municipally owned structures within the reclaimed areas of Route 302 and the Naples Bay Bridge Project area.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection 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. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
4. Non-vegetated surfaces, within the shoreland zone shall not exceed twenty percent (20%) of the lot or a portion thereof, located within the shoreland zone, including land area previously developed. The non-vegetated surfaces within the Shoreland zone for Municipally owned/controlled Naples Causeway Project shall not exceed 60% of the lot or a portion thereof, located within the Shoreland zone, including land area previously developed. These limitations do not apply to public boat launching facilities regardless of the district in which the facility is located.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed.

5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - a. The site has been previously altered and an effective vegetated buffer does not exist;
  - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - d. The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
  - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
    - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
    - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
    - iii. Only native species may be used to establish the buffer area;



- iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
  - v. A footpath not to exceed the standards in Section 15.P.2.a., may traverse the buffer;
6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreland access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Aquatic Structures, Moorings and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization.

- 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. In the case of an aquatic structure which does not (1) extend from its point of attachment to land a distance of more than fifty (50) feet into or toward the adjacent body of water, and (2) which does not contain a gross floor area in excess of three hundred (300) square feet on a parcel with water frontage of 50' to 200'; four hundred (400) square feet on a parcel with water frontage of 200'+, and in the case of a municipal aquatic structure (as defined in the Definitional Ordinance), a permit must be obtained from the Code Enforcement Officer. Such permit may be granted if the Code Enforcement Officer determines that the structure is consistent with any applicable provisions of the Shoreland Zoning Ordinance, is located on or adjacent to the land it purports to serve, and will not unreasonably interfere with navigation and aquatic access to adjacent lots, insofar as they are currently being used. Such permit shall not expire unless the structure is removed and not replaced for a twenty-four (24) month period.
- 5. In the case of a non-commercial aquatic structure, which either (1) extends from its point of attachment to adjacent upland a distance of more than fifty (50) feet into or toward the adjacent body of water, or (2) contains a gross floor area in excess of three hundred (300) square feet, a permit must be obtained from the Planning Board. Such permit may be granted if the Planning Board finds that the use or construction of the structure is consistent with any applicable provision of the Shoreland Zoning Ordinance and the Comprehensive Plan, is located on or adjacent to the land it purports to serve, will not unreasonably interfere with navigation and aquatic access to adjacent lots insofar as they are currently being used, and will not significantly contribute to or aggravate existing foreseeable future aquatic congestion. A permit issued under this section shall not expire unless the structure is removed and not replaced for a twenty-four (24) month period, or unless the use of said structure ceases for a twenty-four (24) month period.
- 6. In the case of a commercial aquatic structure which either (1) extends from its point of attachment to land and a distance of more than fifty (50) feet into or toward the adjacent body

of water, or (2) contains a gross floor area in excess of three hundred (300) square feet, or (3) accommodates one or more boats or vessels which provide access to moored boats or vessels, a permit may be granted by the Planning Board.

Such permit shall be granted if the Planning Board finds that the use or construction of the structure is consistent with any applicable provisions of the Shoreland Zoning Ordinance and the Comprehensive Plan, is located on or adjacent to the land it purports to serve, will not unreasonably interfere with navigation and aquatic access to adjacent lots insofar as they are currently being used, and will not significantly contribute to or aggravate existing or foreseeable future aquatic congestion, and the owner(s) have provided adequate off-street long-term parking on the adjacent upland or within three hundred (300) feet of the adjacent upland. Such permit shall be issued for a period of one (1) year and may be renewed upon terms consistent with this section.

In addition, with respect to renewal of annual permits, the Board shall also be required to find that the aquatic structure has been maintained in a safe condition having regard to the nature of its use.

7. In the case of all commercial aquatic structures (as defined in this ordinance) except for watercraft parking facilities the maximum number of motorized watercraft docked or moored or otherwise accommodated there in shall not exceed a total density of one (1) motorized watercraft for every twenty-five (25) feet of shore frontage, measured in a straight line between the; points of intersection of the side lot line with the shoreline at normal high-water elevation.
8. In the case of all aquatic structures (as defined in this ordinance), the "temporary adjacent upland access structure" is not included in the dimensional restriction of this ordinance. However, the "temporary adjacent upland access structure" shall be the minimum size required to provide access to the aquatic structure as determined by the reviewing authority.
9. In the case of a watercraft parking facility (as defined in this ordinance), a permit shall be granted if the Planning Board finds that all applicable provisions of the Shoreland Zoning Ordinance, except for Section 15, Subsection C-7, are fully complied with and that the following conditions are satisfied.
  - a. The facility shall not provide fuel, water, sanitary or other services to persons using the facility.
  - b. The facility shall not permit any vessel to remain docked at the facility between the hours of 2:00 a.m. and 7:00 a.m. any day; and
  - c. The owner of the facility shall staff, maintain, police and assume all liability for the facility.
10. Existing Structures: Existing aquatic structures, other than commercial aquatic structures, may continue to be used, repaired and maintained to the same extent as they existed or were used as of the effective date of this ordinance. Those structures which have been seasonally removed from the water may be seasonally returned to the water provided they have been in use within the twenty-four (24) months preceding the effective date of this ordinance. Existing structures may not be enlarged without a permit required by Section 15.C.5. Existing commercial aquatic structures which do not conform to the requirements of the ordinance may continue to be used, repaired, maintained and annually licensed (if maintained in a safe

condition) to the same extent as they existed on or within twenty-four (24) months prior to the effective date of this ordinance. Marinas, state licensed campground, the three (3) commercial docks and the one (1) municipal dock abutting the Causeway, existing as of the effective date of this ordinance shall not be required to obtain an annual date of this ordinance shall not be required to obtain an annual license. Provided, nevertheless, that such aquatic structures, other than marinas, state licensed campgrounds and the three (3) commercial docks and the one (1) municipal dock abutting the Causeway, existing as of the effective date of this ordinance, shall either be rendered conforming or be removed within ten (10) years following the effective date of this ordinance.

Within one hundred eighty (180) days after enactment of this ordinance, the Planning Board, with the advice of the Code Enforcement Officer, shall compile a list of existing commercial aquatic structures, which do not conform to the requirements of the ordinance. The list shall be transmitted to the municipal officers. Thereafter, the municipal officers shall give notice to the owners of such structures, or if the owners are unknown, to the owners of the adjacent upland, identifying the non-conformity and describing what steps, if any, short of removal, must be accomplished, or if removal must be undertaken, within the periods of times set forth herein.

11. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
12. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protections, pursuant to the Natural Resources Protection Act.
13. 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.
14. 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.
15. Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.
16. No more than one non-commercial pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided. This limitation does not apply to commercial uses, such as marinas.
17. Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is

obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

- a. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
- b. Revegetation must occur in accordance with Section 15(S).

## 18. Moorings

- a. Mooring placement shall be the responsibility of the property owner, provided that the mooring(s) shall be placed in the location specified by the Harbor Master. Leasing, subleasing or rental of moorings shall be prohibited.
- b. Mooring placement shall be the responsibility of the property owner. The owner of said mooring(s) and property shall be limited to one (1) mooring per fifty feet of shore frontage. However, no mooring shall be placed outside the area of the water safety zone, specifically two hundred (200) feet from any shore or one-third (1/3) the distance to the opposite shore, whichever is less, or in areas that will create a hazard to navigation to all watercraft. All moorings are prohibited in bodies of water commonly known as the Songo River and Crooked River. All moorings not located in the correct location shall be moved by the owner at his/her own expense in accordance with the instructions of the Harbor Master. In the event of the failure of the owner to comply with these instructions, the Harbor Master shall move or cause to have removed by a commercial operator the improperly located mooring at the expense of the assigned owner. Failure to move or remove a mooring at the order of the Harbor Master is a violation of the Mooring Regulations.
- c. Moorings must conform to all the specifications and permits required by this regulation and the State of Maine. This regulation shall not preclude those individuals who wish to "anchor" a boat temporarily for a period of time not to exceed twenty-four (24) hours without permission of the Harbor Master. Locating a temporary mooring outside the area designated by the Harbor Master is prohibited unless a permit is received from the Harbor Master prior to placement of the mooring. Any mooring located for longer than twenty-four (24) hours will constitute a mooring, which requires a permit from the Harbor Master in accordance with the procedure for registering mooring set forth in this regulation.
- d. Mooring Specifications:
  - i. All anchors shall be of stone, granite or cured, reinforced concrete or mushroom anchor without dangerous protrusions, or others as approved by the Harbor Master.
  - ii. The anchor line between anchor and buoy shall be chain of a size to fit boat, exposure and water depth. All moorings shall be white in color with a blue strip, as commercially available, on the upper white portion of the buoy as required by State Law.
  - iii. All moorings placed after the effective date of this ordinance must comply with the above specifications and applicable paragraphs of this regulation.
- e. Designated Mooring Area:

The Harbor Master may create a designated mooring field in any area where one or more residential property owners (the "owner" or "owners") have deeded rights to a common area or right of way. All moorings (the physical anchor) in a designated mooring field must be located in front of the common land or right of way. The only exception is if a neighboring property owner gives permission in writing to allow for moorings in front of their waterfront as part of the designated mooring field, then moorings may be placed in that location. When considering the establishment of a designated mooring field, the Harbor Master shall make sure that it will not interfere with navigation or unduly burden the rights of other property owners, and subject to the following criteria:

1. The owners shall submit a plan with the following criteria:
  - a. plan shall indicate the capacity of the field, respecting the water safety zone, which is 200 feet from any shore, or one third (1/3) the distance to the opposite shore, whichever is less;
  - b. plan shall indicate the number of boats, and the maximum length boat allowed on each mooring;
  - c. plan shall be to scale
  - d. failure to provide a plan that meets the requirements of the standards as listed, may lead to rejection of the plan by the Harbor Master, who may require a plan designed by a competent consultant to be paid for by the owners.
2. The owners shall designate one representative with decision-making authority who shall be the contact person with the Harbor Master regarding the mooring field, and the owners' representative shall provide annually a list of those eligible for a mooring in the mooring field. This list, including management of any waiting list, shall be the responsibility of the owners.

The list shall comply with plan laid out in Section 1 and include the total number of moorings and the following information:

- a. listing of each mooring number
  - b. person assigned to each mooring;
  - c. length of the boat owned by the person assigned to the mooring.
3. Owners are responsible for managing mooring field during changing water levels and mooring field will be designed to prevent boat damage. Any damage in mooring fields is responsibility of owners.
  4. An owner is not eligible for a mooring in the field if the owner can place a mooring off the owner's own frontage and if the field is or will be at

capacity from eligible owners with no frontage.

In the event of the failure of the owners to comply with these instructions, the Harbor Master shall move or cause to have removed by a commercial operator the improperly located mooring(s) at the expense of the assigned owner. Failure to move or remove a mooring(s) at the order of the Harbor Master is a violation of the Mooring Regulations.

f. Abandoned Boats, Vessels, Wrecks, Etc:

Abandonment Prohibited. No person shall cause to be abandoned any watercraft or related equipment or appurtenances on the shores within Naples or on the waters of Naples, whether on a mooring or at anchor. Nor shall any person abandon or cause to be abandoned any boat, vessel, hull, or any raft at any wharves, docks or permanent floats within Naples waterways. No person shall abandon any boat, vessel, hull or watercraft upon unimproved shoreline, dock, float, mooring or at anchor except with the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master.

1. Presumption. Any boat, vessel, hull or raft left within the confines of Naples waterways and which has been unattended for a period of seven (7) days without the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master; shall be declared abandoned.
2. Disposal. Property deemed to be abandoned under this section shall be handled by the Town according to the procedures established in Title 25, Sections 3501 et seq. or title 33, Sections 1951 et seq. of the Maine Revised Statutes Annotated.
3. Penalty. A violation of this Ordinance may be prosecuted, and relief, fees, fines and penalties assessed, pursuant to the provisions of Title 30-a, Section 4452. Each day the violation is permitted to exist beyond the limits above described shall be considered a separate offense.
4. Impounding. If an abandoned watercraft is deemed to be a nuisance, a threat to navigation or a safety hazard, the Harbor Master may impound the watercraft at a site designated for this purpose. Impounding shall continue until such time as all procedures pursuant to Title 25, Section 3501 et seq. of the Maine Revised Statutes Annotated have been completed or the owner of the watercraft has paid all costs involved with the impounding as well as any fines, which have been assessed.

g. Mooring; Penalty for Neglecting to Remove or Replace:

In case of the neglect or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of different character, when so directed by the Harbor Master, the Harbor Master shall cause the mooring to be removed, or shall make such change in the character thereof as required, and shall collect from the master or owner of such boat or vessel the sum of one hundred dollars (\$100) for either of such services rendered. In addition, the owner of the mooring tackle shall be liable for all expenses incurred to comply with the Harbor Master Order.

h. Mooring Registration Fee:

Registration fee to be twenty dollars (\$20.00); Renewal fee to be ten dollars (\$10.00); Late fee to be ten dollars (\$10.00). Renewals shall be applied for prior to July 15<sup>th</sup> or the late fee shall apply. All subsequent fees to be set and altered by the Board of Selectpersons.

## 19. Marinas

To enhance the safety of the residents of and visitors to the Town of Naples in the Town and its surrounding waters, the mooring of watercraft in or adjacent to marinas is prohibited. A marina shall provide docks, permanent or temporary, for the docking of watercraft only. New and existing docks shall be permitted in an area measured along the frontage of the marina parcel and extending into the water a distance not to exceed one hundred fifty (150) feet from any shore or 1/3 distance to the opposite shore, whichever is less, not to be placed outside the safety zone. Existing docks extending into the water for a distance greater than two hundred (200) feet but not more than three hundred (300) feet may continue in place and normal maintenance shall be allowed, provided the marina possesses and is in compliance with all required State permits or leases, but such docks may not be enlarged. Docks shall be attached to the adjacent upland. Notwithstanding any limitations on the number of watercraft imposed by the Aquatic Structures Ordinance, the number and types of watercraft which may be present at the marina's dock or docks at any one time shall be limited to those that can be accommodated safely, as determined by the marina operator, subject to review by the Harbor Master and reviewed and approved by the Planning Board. Any required Shoreland Zoning or Department of Environmental Protection permit, or submerged lands lease required shall be obtained prior to construction of any dock. Marinas may choose to retain existing moorings; however, the number of moorings may not exceed the number in use during the 1996 boating season and no additional dock space is permitted.

## 20. Enforcement

The Harbor Master shall be responsible for enforcing the Mooring Section. A violation of the Mooring Section may be prosecuted, and relief, fees, fines and penalties granted and assessed pursuant to the provisions of Title 30-A, Section 4452. The failure to obey the lawful order of a harbor Master shall be punished as a Class E crime pursuant to Title 12, Section 7803(3).

The Harbor Master may deny privileges to any person who fails to pay any fee, charge for services, forfeiture or penalty, including but not limited to any costs assessed to the owner of a mooring if the Harbor Master moves or causes to be moved an improperly located mooring pursuant to Section A.2 of this regulation.

### D. Watercraft

For any residential lot abutting a lake, pond, river or stream, in no case shall the maximum number of motorized watercraft docked, moored, or otherwise accommodated therein exceed a total density of one (1) motorized watercraft for every twenty-five (25) feet of shoreline frontage measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high-water elevation. This limit shall not apply to motorized watercraft of transient visitors, which remain for less than twenty-four (24) hours.

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

State licensed campgrounds located in Naples as of November 18, 1988 (Licensed by the Division of health Engineering, Department of Human Services):

<b>CAMPGROUNDS</b>	<b>LOCATION</b>	<b>SITES</b>
Bay of Naples Family Camping	Route 11/114	150
Brandy Pond Camps	Songo School Rd	28
Brandy Pond Park	Route 302	77
Colonial Mast Campground	Kansas Road	79
Four Seasons Camping Area	Route 302	115
Loon's Haven Campground	Route 11/114	125
The Quinby's	Thompson's Point	20

1. Campgrounds shall contain a minimum of five thousand (5000) 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 a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

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

1. One campsite per lot existing on the effective date of this Ordinance, or one campsite per thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
3. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
4. Only one recreational vehicle shall be allowed on a campsite. The recreational 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.
5. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.



- b. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
  - c. 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.
- G. Commercial and Industrial Uses: The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:
- 1. Auto washing facilities
  - 2. Auto or other vehicle service and/or repair operations, including body shops
  - 3. Chemical and bacteriological laboratories
  - 4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
  - 5. Commercial painting, wood preserving, and furniture stripping
  - 6. Dry cleaning establishments
  - 7. Electronic circuit assembly
  - 8. Laundromats, unless connected to a sanitary sewer
  - 9. Metal plating, finishing or polishing
  - 10. Petroleum or petroleum product storage and/or sale except for storage on same property as use occurs and except for storage and sales associated with marinas
  - 11. Photographic processing
  - 12. Printing
  - 13. Medical Marijuana Cultivation
- H. 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:
    - i. 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.
    - ii. Internal travel aisles: Approximately twenty (20) feet wide.
- I. Roads and Driveways: The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features:

1. Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of or transport of phosphorus to 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 percent (20%) the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above twenty percent (20%).

Section 15.I.1. does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses.

Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15.I.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 that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District 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.R.
5. Road and driveway grades shall be no greater than ten percent (10%) except for segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage

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

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

J. Storm Water Runoff

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

K. Septic Waste Disposal

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

L. Essential Services

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

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

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

- M. Mineral Exploration and Extraction: Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as 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 the procedures to be undertaken to fulfill the requirements of Section 15.M.3 below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland.

Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.

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.

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

- b. The final graded slope shall be two and one-half to one (2 1/2:1 slope or flatter.
    - c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary, to complete the stabilization project.
  4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

#### N. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

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

4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

O. Timber Harvesting: State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone.

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

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water mark, except to hazard trees as described in Section 15(Q).

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

2. Except in areas as described in Section P.1, above, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - a. There shall be no cleared opening greater than two hundred fifty (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 or shrub. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
  - b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15.P.2.b., a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system:

Diameter of Tree at 4 ½ Feet Above Ground Level (inches)	Points
2 – <4 inches	1

4 – <8 inches	2
8 - <12 inches	4
12 inches or greater	8

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

[Note: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two (2) trees between 4 and 8 inches in diameter, three (3) trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

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

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

The following shall govern in applying this point system:

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

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

Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15.P paragraphs 2 and 2.a above.
- d. Pruning of tree branches on the bottom ⅓ of the tree is allowed.

- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 15(Q), below, unless existing new tree growth is present.
- f. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).

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

- 3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty percent (40%) of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

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

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

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

- 1. Hazard trees and dead trees in the shoreland zone may be removed with a permit from the Code Enforcement Officer if the following requirements are met:
  - a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement



trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

- b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  - c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  - d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree or dead tree can be removed within the shoreland zone.
  - e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
2. Storm-damaged trees in the shoreland zone may be removed with a permit from the Code Enforcement Officer if the following requirements are met:
- a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - ii. Stumps from the storm-damaged trees may not be removed;
    - iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

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

R. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A. section 465-A.
6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

- b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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

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

#### S. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
  - a. All trees and saplings removed must be replaced with native noninvasive species;
  - b. Replacement vegetation must at a minimum consist of saplings;

- c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - d. No one species shall make up 50% or more of the number of trees and saplings planted;
  - e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
- a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  - c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

T. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require Planning Board approval shall also require a written soil erosion and sedimentation control plan. The plan 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. All activities described above in subsection 1 that require Planning Board approval shall require that the Erosion and Sedimentation Control Plan be reviewed and approved by the Cumberland County Soil and Water Conservation District.
3. 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.
4. 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.
5. 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 twin 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.
6. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined with riprap.

U. 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.

V. 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.

W. 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.

X. Residential and Campground Common Area Frontage and Campground Density

1. The shorefront common area shall have a minimum of fifty (50) feet of shoreline frontage for each residential dwelling unit, which has access to the shorefront. No rights of use shall be granted to persons other than owners of residential dwelling units.
2. The shorefront common area of a campground shall have a minimum shoreline frontage of twelve and on half (12.5) feet per campsite, with a minimum of nine hundred (900) feet total. The campground shall contain a minimum of five thousand (5,000) square feet for each campsite, excluding roads, driveways, wetlands and land below the normal high-water line.

**Section 16. Administration**

A. Administering Bodies and Agents

1. Code Enforcement Officer: A code Enforcement Officer shall be appointed in accordance with the provisions of State Law.
2. Planning Board: A Planning Board shall be created in accordance with the provisions of State Law.
3. Board of Appeals: A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A., section 2691.

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 nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

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;
  - b. The replacement culvert is no longer than 75 feet; and
  - c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
  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.
2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
5. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

D. Procedure for Administering Permits

Within forty-five (45) 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 the 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 forty-five (45) 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 thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within forty-five (45) days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with flood plain development and use;
8. Is in conformance with the provisions of Section 15, Land Use Standards, and is not inconsistent with the policies set forth in the Town's Comprehensive Plan.

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

Expiration of Notice of Decision Notice of Decisions 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. One-year extensions may be granted by the Planning Board, in its sole discretion, only upon written application by the owner of the property.

E. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has



been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that the installation has been completed.

F. Appeals

1. Powers and Duties of the Board of Appeals:
  - a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board or Harbor Master 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 limitation set forth in this Ordinance.
  - c. Setback Reduction Appeals: To grant reductions from the requirements set forth in Section 15.A of this Ordinance for minimum setbacks of structures from lot boundary lines. Setback Reduction appeals shall not be used, and are not available, to reduce the minimum setbacks of structures from water bodies as provided in this Ordinance.
2. Variance Appeals: Variances may be granted 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:
    - i. The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
    - ii. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
      - a) That the land in question cannot yield a reasonable return unless a variance is granted;
      - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
      - c) That the granting of a variance will not alter the essential character of the locality; and
      - d) That the hardship is not the result of action taken by the applicant or a prior owner.
  - e) Notwithstanding Section 16.F.2.c.ii. above, the Board of Appeals, or the Code Enforcement Officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling

accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16.F.2.g and 16.F.4.b.iv, below.

- f) 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.
- g) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to 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 is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

### 4. Setback Reduction Appeals

#### 1. Setback Reduction

The Code Enforcement Officer may allow for reductions from the minimum setback requirements set forth in Section 15(A) of this Ordinance according to the following criteria:

- a. Setback reduction requests are only available to reduce the minimum requirements for setbacks of structures from Lot boundary lines.
- b. Setback reduction may only be allowed and are only available for: 1) lots in existence as of the effective date of this ordinance; and 2) lots with a residential dwelling as the principal structure.
- c. The Code Enforcement Officer shall allow a setback reduction if the setback reduction will not result in unreasonable interference with the privacy interests of the abutting landowners.
- d. In allowing a setback reduction the Code Enforcement Officer may attach reasonable conditions as deemed necessary to serve the purposes of this ordinance.
- e. A setback reduction shall not be granted to enable the construction or renovation that will create additional dwelling units.
- f. A setback reduction shall be granted to enable the construction or expansion of a principal structure and accessory structures with no living space.
- g. No setback reduction appeal may be granted that will result in an impervious surface lot coverage of greater than thirty percent (30%).
- h. Setback reductions may only be granted the minimum extent necessary to accomplish the purpose of the request. Setbacks may not be reduced by request to less than the following absolute minimum setbacks:

Side Yard	10 feet
Front Yard	10 feet
Rear Yard	10 feet

## 2. Setback Reduction Procedure

- a. A complete application with request.
- b. A survey showing current structures located on land and setbacks
- c. A certified letter to abutter's describing proposed construction requesting any feedback or objections to project within 21 days of mailed notice.
- d. If negative feedback or objections to the project are received from mailed abutter(s) in writing, then Code Enforcement may not allow the reduction request the applicant may file the request with the Board of Appeals for a setback reduction.
- e. All approved requests must be filed with the Cumberland County Registry of Deeds with forms supplied by Code Enforcement Officer office before issuance of any building permit.

The Board of Appeals may grant reductions from the minimum setback requirements set forth in Section 15(A) of this Ordinance according to all of the following criteria:

- a. Setback reduction appeals are only available to reduce the minimum requirements for setbacks of structures from Lot boundary lines. Setback reduction appeals shall not be used, and are not available, to reduce required minimum setbacks of structures from bodies of water as provided in this ordinance.
- b. Setback reduction appeals may only be granted and are only available for:
  - 1) lots in existence as of the effective date of this ordinance; and

- 2) lots with a residential dwelling as the principal structure.
- c. The Board of Appeals shall grant a setback reduction appeal if the Board finds that granting the setback reduction will not result in unreasonable interference with the privacy interests of the abutting landowners.
- d. In granting a setback reduction the Board of Appeals may attach reasonable conditions which it may deem necessary to serve the purposes of this ordinance.
- e. A setback reduction appeal shall not be granted to enable construction or renovation that will create additional dwelling units.
- f. A setback reduction appeal shall not be granted to enable construction or renovation that will result in more than one garage on the lot that is the subject of the appeal.
- g. No setback reduction appeal may be granted that will result in an impervious surface lot coverage of greater than thirty percent (30%).
- h. Setback reduction appeals may only be granted the minimum extent necessary to accomplish the purpose of the appeal. Setbacks may not be reduced by appeal to less than the following absolute minimum setbacks:

Side Yard	10 feet
Front Yard	15 feet
Rear Yard	15 feet

## 5. Appeal Procedure

### a. Making an Appeal

- i. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement officer or the Planning Board, except for enforcement-related matters as described in Section 16.F.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 Appeals Board, upon 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:

- a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
- b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- c) 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.
- d) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

### b. Decision by Board of Appeals

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

- ii. The person filing the appeal shall have the burden of proof.
- iii. The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the of the hearing and shall issue a written decision on all appeals.
- iv. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decision of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

#### 6. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. section 2691.3.F, any aggrieved party who participated as a party during the 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.

#### 7. Reconsideration

In accordance with 30-A M.R.S.A. section 2691.3.F, the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the board to reconsider must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearings(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.

### G. Enforcement

- 1. Nuisances: Any violation of this Ordinance shall be deemed to be a nuisance.
- 2. Code Enforcement Officer:
  - a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
  - b. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable inspections to ensure compliance with all applicable laws and

conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

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

### 3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

### 4. Fines

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

## 17. Definitions:

**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.

**Accessory Structure.** 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.

**Accessory Use.** A subordinate use of a principal building, other structure or land, or a subordinate building or other structure:

- The use of which is customary in connection with the principal building, or other structure or use of land;
- The use of which is clearly incidental to the use of the principal building, other structure or use of land;
- Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot is in the same ownership or part of the same establishment.

**Agriculture** - the production, keeping or maintenance for sale or lease of plants 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 green-house products. Agriculture does not include forest management and timber harvesting activities or marijuana uses.

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

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

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

**Bedroom:** A room, whether or not combined with any functions, customarily used or dedicated for the purpose of sleeping for one or more individuals, it shall include rooms used as dens, lofts and the like.

**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 of Forestry** – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

**Campground** - An area devoted to overnight recreational or educational use where the land is divided into sites or lots for which a charge is made, either on a short term basis, by sale, rent, lease or condominium type of financing or ownership; and/or 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 Aquatic Structure:** Means an aquatic structure serving persons other than those owning or lawfully occupying the adjacent upland, or an aquatic structure, the use of which is sold, rented or leased for consideration of any kind whether on a short term or a long-term basis.

**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.

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

**DBH** – the diameter of a standing tree measured 4.5 feet from ground level.

**Designated Mooring Area.** A cluster of moorings in an area not subject to hazards of navigation and designated by the Harbor Master.

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

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

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

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

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

**Dwelling.** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal or temporary living quarters for only one family, including provisions for living, cooking and eating.

**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 footprint 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 footprint of a structure or ground area devoted to a particular use.

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

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

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.



**Footprint** - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**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.

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

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

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, 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.

**Frontage.** The linear distance between the sidelines of a lot, measures along the lot line that borders upon whatever right-of-way serves as legal access to the lot. The following ways shall constitute legal access to a lot along which frontage may be measured:

1. A way accepted by or established as belonging to the Town of Naples, Cumberland County or the State of Maine, provided access is not specifically prohibited;
2. A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan;
3. A way which has not been accepted by a governmental unit which was established prior to the effective date of the Maine Subdivision Act (September 22, 1971) and is documented in a plan or deed recorded in the Registry of Deeds; and
4. A private way created by a deeded right-of-way which is a minimum of twenty (20) feet in width, which serves no more than two (2) lots, neither of which shall be part of a subdivision which meets all of the requirements for the district in which it is located, and which meets the following standards for

improvement:

- a. The roadway shall be constructed with a minimum of twelve (12) inches of road gravel, shall have a minimum width of the surface of the travel way of sixteen (16) feet, and shall have adequate surface and subsurface drainage.
  - b. A private way shall not serve as access to any lot in a subdivision nor shall any private way created after the date of adoption of this section be offered to the Town for acceptance as a Town way until it is brought up to the standards of the Town of Naples.
5. In the case of a lot situated on a curve of a way or on a corner of two ways, the measurement of frontage may include the entire length of the property along such a way or ways.

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

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

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

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

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

**Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include

roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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

**Home occupation** - Accessory use conducted within a dwelling or accessory structure by the residents thereof, which is clearly secondary to the dwelling, used for living purposes and does not change the character thereof. A medical marijuana Registered Caregiver is not considered a Home Occupation.

1. Home occupation or office will be managed by a member of the family residing within the dwelling unit. Up to two employees who are not members of the family may be employed in a home occupation, and;
2. The occupation or office will be located wholly within the principal or accessory structures, and;
3. Exterior displays, exterior storage of materials, and exterior indication of the home occupation will not be permitted except for daycares, preschools or the like with not more than 12 clients and home gardening, and;
4. Residential/Home Occupation will be allowed not more than one (1) sign of not more than three (3) square feet, and;
5. Noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare will not be detectable beyond property limits, and;
6. A home occupation shall apply to only the applicant only while the applicant resides at the property.

**Impervious Surface.** Structures and other man-made improvements to land and material covering the land, which substantially reduce the infiltration of water. Impervious surfaces shall include, but not be limited to, roofs, paved areas, parking lots and driveways, regardless of surface materials.

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

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

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

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

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

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

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

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

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

**Medical Marijuana Registered Caregiver:** A caregiver, as defined in 22 M.R.S. § 2422, that is required to registered with the state pursuant to 22 M.R.S. § 2425-A.

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

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

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

**Mooring.** Apparatus placed in the water consisting of an anchor connected to a mooring ball to which a boat can be attached.

**Mooring Ball.** A device designed to float, is anchored in water and colored white with a single blue horizontal band clearly visible above the water line.

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

**Municipal Aquatic Structure.** An aquatic structure that is owned by the Town of Naples.

**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 this Ordinance or subsequent amendment took effect.

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

**Non-conforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

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

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

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

**Point of Attachment:** Means the point on an aquatic structure where the structure is physically attached to an adjacent upland. If an aquatic structure is not attached to the land, the "point of attachment" shall mean the point on the structure closest to the adjacent upland.

**Primary or Legal Residence:** A building or dwelling being currently used by the owner as his/her main place of dwelling or home. A person may have only one primary or legal residence.

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

**Principal use** - The primary or predominant use. An activity that is conducted with the principle use and such activity that either constitutes only an incidental or insubstantial part of the total activity that takes place on a lot; or is commonly associated with the principal use and is integrally related to it, is regarded as "accessory to the principle use." An accessory to the principle use is regarded as "incidental or insubstantial" if it is both incidental and insubstantial in and of itself, and in relation to the principle use. Quantitative measures for consideration in this determination include the percentage and total amount of square footage attributed to the accessory to the principle use and sales or income derived from the accessory to the principle use.

**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 floodplain soils** - the following soil series as described and identified by the National Cooperative Soil Survey:

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

**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. Recreational vehicles are not residential dwelling units.

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

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

**Riprap** - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River** - a free-flowing body of water including its associated floodplain 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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**NOTE:** The portion of a river that is subject to tidal action is a coastal wetland.

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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, excluding a driveway as defined.

**Salt marsh** - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

**Salt meadow** - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

**Sapling** - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**Seasonal Dwelling:** A dwelling that is not used as a permanent place of residence and occupied continuously for not more than seven (7) months in any calendar year.

**Seedling** - a young tree species that is less than four and one half (4.5) feet in height above ground level.

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

(1) in the case of electric service

(a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

(b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service

(a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

(b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback-Land:** Setbacks are footage requirements for the installation of all structures from the front, rear and side property lines of all lots.

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

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

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

**Shoreline** - the normal high-water line, or upland edge of a freshwater or coastal wetland.

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

**Significant Wildlife Habitat:** Includes habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding area as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery area for Atlantic Sea Run Salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting and feeding and staging areas as defined by the Department of Inland Fisheries and Wildlife.

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

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

**Storm-damaged tree** - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

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

**Structure** – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

**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 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

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



**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

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

**Tree** - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream** - means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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**NOTE:** Water setback requirements apply to tributary streams within the shoreland zone.

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**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

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

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

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

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

**Water crossing** - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not

be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Watercraft Parking Facility:** Means a privately or publicly owned commercial aquatic structure designed to provide docking space for motorized and unmotorized watercraft on a short-term basis.

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

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

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs.

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