OVERVIEW

A Shoreland Zoning Ordinance (SZO) is a complex legal document. It implements State regulation of coastal land use, development, and associated procedures. Each Maine shorefront municipality is required to adopt a SZO consistent with guidelines of the State Department of Environmental Protection (DEP).

Our Shoreland Zone is basically all land within 250 feet of a water body or 75 feet of a stream. Its precise definition is in the Definitions section of this document.

The word "district" in this document refers to a type of land use on a lot or lots. There are six districts in the Shoreland Zone:

- Resource Protection
- Limited Residential
- Commercial Fisheries/Maritime Activities
- Stream Protection
- Limited Commercial
- Fishing Home Business

The Fishing Home Business district was developed by the Cushing Planning Board to protect traditional fishing livelihoods in coastal areas of growing residential use.

Each district is defined in Section 13 of the SZO. Districts and lots are shown on the Official Shoreland Zoning Map, which is maintained and updated by the Planning Board.

Table 14.1 provides an overview of mainly state-imposed land use restrictions. It enables lot owners to compare what is allowed and what requires a permit in each district.

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1. Purposes

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

2. Authority

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

3. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, the upland edge of a coastal wetland, including all areas affected by tidal action, or the upland edge of a freshwater wetland, and to all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

4. Effective Date of Ordinance and Ordinance Amendments

A. This Ordinance was adopted by the municipal legislative body on December 15, 1991. This Ordinance and all subsequent Ordinance Amendments were approved by the Commissioner of the Department of Environmental Protection. Any Ordinance Amendment shall become effective on the date of its approval by the voters of the Town of Cushing, provided it is approved by the Commissioner. On approval, a certified copy of any Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for his approval. If the Commissioner fails to act on the Ordinance Amendment within forty-five (45) days of his/her receipt of the Ordinance Amendment, it shall be 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 un-amended Ordinance if the Amendment is not approved by the Commissioner, or by the Amended Ordinance if the Amendment is approved by the Commissioner.

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

When Section 15.O-1 becomes effective, current Table 14.1 references to standards and permitting for items 2, 3 and 25 shall be automatically superseded.

5. Availability

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

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.

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.

8. Amendments.

A. This Ordinance may be amended by majority vote of the Cushing legislative body at Town Meeting. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of 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.

B. Amendment of a zoning district designation on the Official Shoreland Zoning Map shall be initiated as set forth in Section 16.C.

9. Districts and Zoning Map

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

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. Commercial Fisheries/Maritime Activities
5. Stream Protection
6. Fishing Home Business

B. Scale of Map

The Official Shoreland Zoning map shall be drawn at a scale of not less than 1 inch = 200 feet. District boundaries shall be clearly delineated as accurately as possible, and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

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

D. Changes to the Official Shoreland Zoning Map

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

10. Interpretation of District Boundaries
[see Section 13 for description of Districts]

A. Boundary lines between the Limited Residential, Limited Commercial, Fishing Home Business and Commercial Fisheries/Maritime Activities Districts are property lines, within the Shoreland Zone, and are shown on the Official Shoreland Zoning Map.

The boundaries of Resource Protection Districts shall be depicted on application site plans as illustrated on the Official Shoreland Zoning Map. When a boundary is defined by a licensed professional as set forth below, that boundary shall also be depicted.

B. Where district boundaries are defined by reference to water features and wetlands, the Official Shoreland Zoning Map is illustrative rather than definitive, and subordinate to the District descriptions in Section 13.

Boundaries of the Shoreland Zone around waters and wetlands protected by Sections 3 and 13.A.4 shall be delineated and related to property lines in submittals as follows:

1. If the Planning Board finds that the Shoreland Zone boundary has no effect on an application, the boundary shall be depicted on its site plan as located on the Official Shoreland Zoning Map.

2. Upland edges of coastal wetlands, stream banks and wetland edges shall be located on-site by a professional trained in wetland delineation, using a recognized wetland classification system and utilizing soil profiles, composition of plant populations, and site hydrology to determine wetland boundaries.

3. These features, and any 75-foot or 100-foot restriction area, together with the site contours shall be plotted by a Professional Engineer or Surveyor licensed in the State of Maine on the site plan of any application to the Planning Board.

At the discretion of the Planning Board, for purposes of shoreland application review, the Code Enforcement Officer may be authorized to make a determination of the normal high water line of tidal waters.

C. The boundary of any flood zone is the contour line of the elevation shown on the FEMA flood insurance rate map. It shall be shown and identified on the site plan. An applicant may submit, or at its discretion the Board may require that an applicant submit, a plan by a Professional Engineer or Surveyor licensed in the State of Maine showing the flood

elevation contour on topography measured on the ground at contour intervals of two feet or less.

D. Approximate boundaries of areas defined in Sections 13.A.3 (slopes) are depicted on the Official Shoreland Zoning Map and are definitive unless more accurate data meeting the requirements of Section 10.D is submitted.

More accurate data defining these areas or their boundaries and their relation to property lines, may be submitted, or at the discretion of the Board, shall be required. To take precedence over boundaries on the Official Shoreland Zoning Map, such data shall be developed consistent with the following, as applicable:

1. Topography shall be surveyed and shown at contour intervals of two feet or less. Topography measured on the ground shall be used where evergreen vegetation predominates.

2. Steepness of slopes shall be expressed as grades as defined in Section 17. In determining the extent of contiguous slopes having grades of 20% or greater, grades shall be measured at right angles to contour lines.

3. Slope measurements and calculations of contiguous areas of sustained slopes having grades of 20% or greater shall be developed by a Professional Engineer or Surveyor licensed in the State of Maine. These areas shall be outlined on the site plan.

E. Approximate locations of areas defined in Section 13.A.5 (unstable soils) are depicted on the Official Shoreland Zoning Map. In these areas, a report shall be submitted by a Professional Engineer licensed in the State of Maine with training and experience in slope stability to assess the effect of any instability on proposed development, and to specify criteria for the safety of any proposed structures.

F. All costs associated with the professional services outlined in Section 10.B through 10.E shall be incurred by the applicant. These services may not be performed by a professional who has a monetary interest in the subject property or project, or by a professional in whose business an applicant or applicant's affiliate holds an ownership or monetary interest, unless any such interests are disclosed. The Board may at its discretion retain, at the applicant's expense, independent professional assistance to evaluate submittals.

G. An applicant shall bear the burden of proof with respect to any boundary determinations sought pursuant to Sections 10.B through 10.E.

11. Land Use Requirements.

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

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 this Section. 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.

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. Non-conforming Structures

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as 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) and (b) below

a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high water line of a water-body or tributary stream or the upland edge of a wetland, that portion of the structure may be expanded in floor area by only up to 30% and in volume by only up to 30% during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

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

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

In determining whether the building location meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wet-land and which is removed, or damaged or destroyed, regardless of 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 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the

reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it_is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream or wetland and which is removed 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 water setback to the greatest practical extent the Planning Board or its designee shall consider in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

4. Change of Use of a Non-conforming Structure: The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream or wetlands or on the subject or adjacent properties and resources than the existing use.

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

D. Non-conforming Uses

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

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

3. Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA & FHB districts, than the former use, as determined by the Planning Board.

The determination of no greater adverse impact shall be made according to criteria listed in Section 12.C.4 above.

E. Non-conforming Lots

1. Lots not contiguous with any other lot in the same ownership

A non-conforming lot of record as of the date of adoption 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 lots with principal structures, in the same ownership,

If two or more contiguous lots or parcels are in a single or joint ownership of record as of the date of adoption of this Ordinance or amendment thereto, and 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.

3. A lot with more than one principal structure or use

If two or more principal uses or structures existed on a single lot of record as of the date of adoption 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.

4. Contiguous lots, vacant or partially built, in the same ownership

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance, 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.

13. Description of Districts
[See Section 10 for interpretation of District boundaries]

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, except that areas which are currently developed, and areas which meet the criteria for the Commercial Fisheries/Maritime Activities Districts are not included within the Resource Protection District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2006. 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.

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

2. Flood-plains defined by the 100-year flood-plain as designated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or defined by 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 having a grade of 20% or greater relative to the National Geodetic Vertical Datum of 1929 (NGVD 29).

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

Note: these areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

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

B. 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 or the Commercial Fisheries/Maritime Activities District.

C. Limited Commercial District

The Limited Commercial District includes areas of mixed light commercial and residential uses, exclusive of the Stream Protection District and Resource Protection District, which should not be intensively developed. 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. Commercial Fisheries/Maritime Activities District

The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

1. Shelter from prevailing wind and wave action;
2. Slope of the land within 250 feet horizontal distance of the shoreline;
3. Depth of water within 150 feet horizontal distance of the shoreline;
4. Available support facilities including utilities and transportation facilities;
5. Compatibility with adjacent upland uses.

E. Fishing Home Business District

Consistent with Title 38 Coastal Management policies giving preference to traditional water-dependent livelihood over other uses, the Fishing Home Business district includes coastal locations with both residential and resident-operated, for-profit, fishing, shellfishing or aquaculture uses on one lot.

F. Stream Protection District

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

14. Table of Land Uses

The Table shows, for each district, what is allowed, prohibited, and permitted subject to the Land Use Standards of Section 15.

The Table also shows whether the Code Enforcement Officer (CEO), Planning Board (PB) or Local Plumbing Inspector (LPI) issues a required permit.

District designations are shown on the Official Shoreland Zoning Map. District descriptions are located in Section 13.

Table 14.1

Land Uses	Principal Standards	Zoning Districts					
		SP	RP	LR	FHB	LC	CFMA
1. Non-intensive recreational uses not requiring structures, such as hunting, fishing & hiking; no structures	State	A	A	A	A	A	A
2. Forest management activities, defined in Sec. 17 except timber harvesting & land management roads		A	A	A	A	A	A
3. Timber harvesting, defined in Sec. 17	Sec. 15.O	CEO	CEO1	A 10	A 10	A 10	A 10
4. Clearing or removal of vegetation for activities other than timber harvesting	Sec. 15.P	CEO	CEO	CEO	CEO	CEO	CEO
5. Fire prevention activities		A	A	A	A	A	A
6. Wildlife management practices		A	A	A	A	A	A
7. Soil & water conservation practices		A	A	A	A	A	A
8. Mineral exploration	Sec. 15.M	A2	A2	A2	A2	A2	A2
9. Mineral extraction, including sand & gravel extraction	Sec. 15.M	N	PB3	PB	PB	PB	PB
10. Surveying & Resource Analysis		A	A	A	A	A	A
11. Emergency operations, defined in Section 17		A	A	A	A	A	A
12. Agriculture, defined in Section 17	Sec.15.N	A	PB	A	A	A	A
13. Principal Structures and uses	Sec.15.A, B						
a...One & Two-Family Residential, including driveways	Sec.15.A, B	PB5	PB9	CEO	CEO	CEO	N8
b. Multi-unit residential buildings, including driveways	Sec.15.A, B	N	N	PB	N	PB	N
c. Multi-unit rental apartments, including driveways	Sec.15.A, B	N	N	N	N	PB	N
d. Mobile home park		N	N	N	N	N	N
e. Fishing home business, including accessory structures used for lobstering, fishing & aquaculture	Sec.15.A, B	PB5	N8	PB	PB	PB	PB
f. Other aquaculture		PB	PB	PB	A	A	A
g. Boatyards & shops for construction, sale, repair, storage or maintenance of boats up to 50 feet in length	Sec.15.A, B	N	N8	N8	N	PB	PB
h. Marine commercial, defined in Section 17	Sec.15.A, B	N	N	N	N	PB	PB
i. Other commercial, defined in Section 17	Sec.15.A, B	N	N	N	N	PB	N
j. Industrial, defined in Section 17	Sec.15.A, B	N	N	N	N	N	N
k. Bed & breakfast, defined in Section 17	Sec.15.A, B	N	N	PB	PB	PB	N
l. Hotel & motel	Sec.15.A, B	N	N	N	N	N	N
m. Governmental & Institutional, defined in Sec.17	Sec.15.A, B	N	N	N	N	PB	N
n. Facilities 800 square feet or less for educational, scientific or nature interpretation purposes	Sec.15.A, B	PB5	PB	CEO	N	CEO	N
o. Expansions	Sec. 12	PB	PB	PB	PB	PB	PB
14. Structures Accessory to Allowed Uses	Sec. 15.B	PB5	PB	CEO	CEO	CEO	CEO
15. Portions of piers, docks, wharves, and bridges							
a. Structures thereon, as defined in Section 3	Sec. 15.C	PB	PB	PB	PB	PB	PB
b. Permanent structures, as defined in Section 17	Sec. 15.C	CEO	CEO	CEO	CEO	CEO	CEO-4
c. Temporary structures, as defined in Section 17	Sec. 15.C	CEO	CEO	CEO	CEO	CEO	CEO
16..Conversions of seasonal residences to year-round residences	Sec. 12	LPI	LPI	LPI	LPI	LPI	N
17. Home occupations-as defined in Section 17		A	A	A	A	A	A
18...Private sewage disposal systems for allowed uses	Sec. 15.K	LPI	LPI	LPI	LPI	LPI	LPI

Land Uses	Principal Standards	Zoning Districts					
		SP	RP	LR	FHB	LC	CFMA
19. Essential Services	Sec. 15.L						
a. Roadside distribution lines (34.5kV and lower)	Sec. 15.L	CEO	CEO	A 10	A 10	A 10	A 10
b. Non-roadside or cross-country distribution lines involving ten poles or fewer in the Shoreland Zone	Sec. 15.L	PB	PB	CEO	CEO	CEO	CEO
c. Non-roadside or cross-country distribution lines involving eleven poles or more in the Shoreland Zone	Sec. 15.L	PB	PB	PB	PB	PB	PB
d. Other essential services	Sec. 15.L	PB	PB	PB	PB	PB	PB
20. Service drops, defined in Sec.17, to allowed uses		CEO	CEO	CEO	CEO	CEO	CEO
21. Public & private recreational facilities involving minimal structural development	Sec. 15.A	PB	PB	PB	N	CEO	N
22. Individual private campsites	Sec. 15.E	CEO	CEO	CEO	CEO	CEO	CEO
23 Campgrounds	Sec. 15.D	N6	N6	PB	N	PB	N
24. Road construction	Sec. 15.H	PB	N7	PB	PB	PB	PB
25. Land management roads, defined in Section 17		PB	PB	A	A	A	A
26. Parking areas	Sec. 15.G	N	N6	PB	PB	PB	PB4
27. Marinas	Sec. 15.A, B	PB	N6	PB	PB	PB	PB
28. Filling & earthmoving of less than 10 cubic yards.		CEO	CEO	A	A	A	A
29. Filling & earthmoving of more than 10 cubic yards.		PB	PB	CEO	CEO	CEO	CEO
30. Signs	Sec. 15.I	A	A	A	A	A	A
31. Uses similar to allowed uses		CEO	CEO	CEO	CEO	CEO	CEO
32. Uses similar to uses requiring CEO permit		CEO	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring PB permit		PB	PB	PB	PB	PB	PB

Land use table abbreviations

CFMA = Commercial Fisheries/Maritime Activities
FHB = Fishing Home Business
LR = Limited Residential
LC = Limited Commercial
RP = Resource Protection
SP = Stream Protection
A = Allowed. No permit required but the use must comply with land use standards of Section 15.
N = Prohibited
PB = Allowed subject to the land use standards of Section 15 with permit issued by the Planning Board.
CEO = Allowed subject to the land use standards of Section 15 with permit issued by the Code Enforcement Officer.
LPI = Allowed subject to the land use standards of Section 15 with permit issued by the Local Plumbing Inspector.

Land Use Table notes

1. In RP not allowed within 75 feet horizontal distance of normal high-water line of great ponds, except to remove safety hazards.
2. Requires permit from CEO if more than 100 square feet of surface area, in total, is disturbed
3. In RP not allowed in areas so designated because of wildlife value.
4. Functionally-dependent water uses and uses accessory to such water-dependent uses only.
5. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
6. Except when an area is zoned RP based on flood plain, in which case a PB permit is required.
7. Except as provided in Section 15.H.4.

8. Except that all uses existing on the effective date of this Ordinance are conforming.
9. Single family residential structures may be allowed by special exception only according to the provisions of Section 16.E. Two-family residential structures are prohibited.
10. Permit not required but must file a written "Notice of Intent" with CEO 30 days prior to commencing the on-site activity.
11. The Code Enforcement Officer may refer any item to the Planning Board.

General notes

A person performing any of the following activities shall require a permit from the Dept. of Environmental Protection, pursuant to Title 38 R.M.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 de-watering;
c. Filling, including adding sand or other material to a sand dune; or,
d. Any construction or alteration of any permanent structure.

Review of applications for cluster, multi-unit or commercial use

Standards and submittal requirements in the Town of Cushing Subdivision Regulations will also apply. The Board may require a groundwater extraction impact assessment.

15. Land Use Standards

All land use activities within the Shoreland Zone shall conform with the following provisions, if applicable:

A. Minimum Lot Standards*

1.	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
Residential and Fishing Home Business, per dwelling unit:		
a. Within the Shoreland Zone Adjacent to Tidal Areas	40,000	150
b. Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
Governmental, Institutional, or Commercial per principal structure:		
a. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive Of those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
b. Within the Shoreland Zone Adjacent to Tidal Areas zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
c. Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
Public and Private Recreational Facilities Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

* The zoning district designation of a lot shall reflect the use of land and structures thereon, irrespective of whether structures are within or without the Shoreland Zone. For example, a lot would be Limited Residential even though the dwelling is outside the Shoreland Zone.

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

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

4. The minimum width (dimension parallel to the waterline) of any portion of any lot within one hundred (100) feet horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

5. If more than one residential dwelling unit, principal governmental, institutional, or commercial 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 or principal structure or use, except in the Fishing Home Business district.

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, or the upland edge of a wetland. Additionally, the setback distance shall be sufficient to preclude the location of any new structure within the 100-year flood hazard areas described in Section 13.A.2. In the Commercial Fisheries/Maritime Activities District there shall be no minimum setback for water-dependent structures and uses. In the Fishing Home Business district, the setback shall not apply to fishing-related accessory structures. In the Resource Protection district the setback shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, in which case the setback requirements specified above shall apply.

In addition:

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

b. The Planning Board may increase the required setback of a proposed structure, as a condition of approval, if necessary to accomplish the purposes of this ordinance. Instances where greater setbacks may be appropriate include, but are not limited to areas of steep slopes, shallow or erodible soils, or where an adequate vegetative buffer does not exist.

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

d. On a non-conforming lot of record on which only a residential structure exists, and it isnot possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be

located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

e. Where a tributary stream, either perennial or intermittent, is present within the Shoreland Zone, setback standards from that tributary stream are applicable.

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; however, other Town regulations may apply.

For all buildings, the minimum distance between a new building wall and any property line abutting another lot shall be not less than five feet.

3. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) 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 or later version of the Floodplain Management Ordinance, accessory structures may be placed in accordance with its standards, and need not meet the elevation requirements of this paragraph.

4. The total area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed twenty (20) percent of the lot or a portion there of, located within the Shoreland Zone, including land area previously developed, except in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent, and in the Fishing Home Business District, where lot coverage shall not exceed thirty-five (35) percent.

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

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

C. Piers, Docks, Wharves, Bridges and Other structures and Uses extending Over or Beyond the Normal high-water line of a body or within a wetland.

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

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

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

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

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

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

7. No existing 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 be converted to residential dwelling units in any district.

8. Except in the Commercial Fisheries/Maritime Activities district, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

D. Campgrounds

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

1. Campgrounds shall contain a minimum of five thousand (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 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.

E. Individual-Private Campsites

Individual, private campsites for use for no more than seven (7) months per year and not associated with campgrounds are allowed provided the following conditions are met:

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

2. Campsite placement on any lot, including the area intended for 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.

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

4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.

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

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

F. Commercial Uses

The following new commercial 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 storage on same property as use occurs and except for storage and sales associated with marinas
11. Photographic processing
12. Printing

G. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities district, parking areas shall be set back at least twenty-five (25) feet horizontal distance from the shoreline. The setback requirement for parking areas serving public boat launching facilities in districts other than the Commercial Fisheries/Maritime Activities district 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 location satisfying the district setback exists.

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

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

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

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

H. Roads and Driveways

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

1. Roads and driveways shall be located, constructed and maintained in such manner that minimal erosion hazard results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

2. 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 location satisfying the setback exists as determined by the Planning Board. If no such location exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet horizontal distance upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts be placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15.H.2 does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing temporary access to permitted structures within the setback area shall comply fully with the requirements of 15.H.2 except for that portion of the road or driveway necessary for direct access to the structure.

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

4. 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 upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District, 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.

5. 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.Q.

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

7. 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 of at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water 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.

8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strip 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
11-16	60-45
21+	40

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

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

9. 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.

I. Signs

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

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

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

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

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

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

6. No sign shall extend higher than eight (8) feet above the ground.

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

J. Storm Water Runoff

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

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

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

K. Septic Waste Disposal

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

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

L. Essential Services

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

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

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

M. Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

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

2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, 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 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.

NOTE: The State of Maine Solid Waste Laws, Title 38, Maine Revised Statutes Annotated, Section 1310 and Chapter 404 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. Top soil or loam shall be retained to cover all disturbed land areas, which shall be re-seeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

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

N. Agriculture

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

2. Manure shall not be stored or stockpiled within one hundred (100) feet, 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 twenty thousand (20,000) square feet in surface area, within the Shoreland Zone shall require a Conservation Plan to be filed with the Planning board. Non-conformance with the provisions of said plan shall be considered to be a violation of this ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; or 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 on hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue; provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

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

a. Within the strip of land extending 75 feet horizontal distance inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.

b. Beyond the 75 foot strip referred to in Section 15.O.1.a above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

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

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

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

ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal computed as basal area.

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

c. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

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

i. Surface waters are frozen; and

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

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

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

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

O-1. Timber Harvesting – Statewide Standards [See effective date in Section 4.B]

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

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

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

b. Adjacent to great ponds, rivers and wetlands:

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

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

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

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

i. Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

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

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

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

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

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

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

c. Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

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

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

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

c. Setbacks:

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

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

5. Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15.O-1'7 of this rule.

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

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

ii. 50 feet, horizontal distance, from the normal high-water line of streams; and

iii. 25 feet, horizontal distance, from the normal high-water line of tributary streams

b. The minimum 100 foot setback specified in Section 15.O-1.5.a.i above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15.O-1.5.a.ii above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

c. On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

d. New land management roads are not allowed in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the Shoreland Zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

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

f. Road closeout and discontinuance. Maintenance of the water control installations required in Section 15.O-1.5.e must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to

avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

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

h. Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15.O-1.5.a if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

i. Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

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

a. Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15.O-1: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

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

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

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

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

i. a map showing the location of all proposed permanent crossings;
ii. the GPS location of all proposed permanent crossings;
iii. for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
iv. a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

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

i. concentrated water runoff does not enter the stream or tributary stream;
ii. sedimentation of surface waters is reasonably avoided;
iii. there is no substantial disturbance of the bank, or stream or tributary stream channel;
iv. fish passage is not impeded; and,
v. water flow is not unreasonably impeded.

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

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

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

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

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

iii. Culverts utilized in river, stream and tributary stream crossings must:
1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap
or other suitable means to reasonably avoid erosion of material around the culvert.

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

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

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

i. Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section15.O-1.6.i below.

ii. Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

iii. River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately

stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

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

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

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

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

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-Sectional area at least 3 1/2 times the cross-Sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected

7. Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15.O-1, but in no case shall be less than shown in the following table.

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

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 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district, and as shown on the site plan, noted as Limits of Disturbance.

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

a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

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 4-1/2 feet Above ground level (inches)	Points
2-4 in.	1
>4-12 in.	2
>12 in.	4

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

Note: As an example adjacent to a great pond, if a 25-foot x50-foot plot contains) four (4) trees between 2 and 4 inches in diameter, five (5) trees between 4 and 12 inches in diameter, and four trees over 12 inches in diameter, the rating score is:

$$(4x1)+(5x2)+(4x4)=30 \text{ points}$$

Thus, the 25-foot by-50 foot plot contains trees worth 30 points. Trees totaling 6 points (30-24=6) 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 (4-1/2) 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 40% of the total volume of trees four (4) inches or more in diameter, measured at 4-1/2 feet above ground level may be removed in any ten (10) year period.

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

d. Pruning of tree branches, on the bottom 1/3 (one-third) of the tree is allowed.

e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15.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 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 permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas exceed in the aggregate 25% of the lot area within the Shoreland Zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared, except that in the Fishing Home Business district, a total of fourteen thousand (14,000) s.f. of aggregated cleared openings is allowed on lots up to 56,000 s.f. This provision shall not apply to the Commercial Fisheries/Maritime Activities district.

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. Erosion and Sedimentation Control

1. Submittals for approval of all activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall include a soil erosion and sedimentation control plan conforming to *Maine Erosion & Sediment Control Best Management Practices,* consisting of:

a. a written plan, and site locations and details of provisions for mulching and re-vegetation of disturbed soils, temporary runoff control features, and permanent stabilization structures; or

b. at the discretion of the Board, a statement that the activities will conform to Maine Erosion & Sediment Control BMPs and site locations of provisions for mulching and re-vegetation of disturbed soil, temporary runoff control features such as hay bales, silt fencing or diversion ditches, and permanent stabilization structures such as retaining walls or riprap.

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

3. For resource protection, the minimum width buffer between a building and a resource protection area line shall be:

- five (5) feet, undisturbed by runoff controls or construction equipment, where the resource protection area supports trees over 4" diameter at breast height, and the following width shall be added to accommodate construction activity:
- ten (10) feet where the intervening grade change is less than one (1) foot;
- fifteen (15) feet where the intervening grade change is two (2) feet or less;
- twenty (20) feet where the intervening grade change is three (3) feet or less; and
- five (5) feet more for each additional foot of increase in the intervening grade change.

Finish grades in this area shall not exceed 1 vertical to 3 horizontal. Proposed Limits of Disturbance shall be shown on plans and so staked in the field.

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 twine or other suitable method may be required to maintain the mulch cover.

c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales an/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 rip-rap.

R. 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 or other similar intensive land uses, shall require a soils report based on on-site investigation, prepared by professionals certified to provide services in Maine. Certified preparers may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and others who have training and experience in the recognition and evaluation of soil properties. The report shall be based on analysis of the characteristics of the soil, and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other data the evaluator deems appropriate. The report should include recommendations that would enable the proposed use to cope with any soil limitations.

S. 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.

T. 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 Planning Board 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 Planning Board. The Planning Board shall consider comments received from the Commission prior to rendering a decision on the application.

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

16. Administration

A. Administering Bodies and Agents

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

2. A Board of Appeals shall be created in accordance with the provisions of State law.

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

B. Permits Required. After the date of adoption of this ordinance no person shall, without first obtaining a permit, (a) initiate or commence any activity or use of land or structure identified in Table 14.1 as requiring a permit in the district in which such activity or use would occur, or (b) expand, change or replace an existing use or structure; or renew a discontinued non-conforming use; nor shall any principal or accessory structure be built, constructed, set, installed, established, expanded, substantially altered or relocated without a permit. Repairs and interior renovations and alterations which do not involve expanding floor area do not require a permit. 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 not longer than 75 feet; and

c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the 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. Zoning district changes

1. A change in the zoning district designation of a property requires amendment of the Official Shoreland Zoning Map.

2. The Planning Board may recommend an amendment to the Selectmen, and shall schedule a public hearing on the amendment prior to any voting date set by the Selectmen.

3. On receipt of a complete application at a regularly scheduled meeting to change a property's District designation, the Planning Board shall

a. require the applicant to notify abutting property owners by registered return-receipt-requested mail on a form provided by the Board that an application for a zoning district change has been submitted, specifying the district designation sought, and to provide the Board with the receipts; and

b. within thirty-five (35) days, or within any other time limit which may be mutually agreed upon by the Board and applicant, make a finding that the property does or does not conform to the requirements of the proposed District, and shall within ten (10) days thereafter inform the applicant of the finding.

4. On finding that the property and its use conform to the District requirements of Sections 13 and 15, the Planning Board shall within ten (10) days recommend the proposed amendment to the Selectmen, and shall subsequently schedule a public hearing on it prior to any voting date set by the Selectmen.

5. On receipt of a finding that the property does not conform to the requirements of Sections 13 and 15, the applicant may petition the Selectmen for the proposed amendment.

6. An application for a permit that requires a zoning district change shall not be accepted until an amendment of the Official Shoreland Zoning Map has been approved.

D. Applications

1. Every applicant shall submit to the Town Clerk a written application on a form provided by the municipality, together with eight (8) copies of a scaled site plan, and any scheduled fee or escrow deposit. Both the form and the plan shall be dated.

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. The Town Clerk shall note on an application form and site plan the date and time of their receipt by the Town, and shall provide the applicant a receipt for any fees and escrow deposit received.

4. The Code Enforcement Officer shall determine whether an application form is complete before issuing a dated receipt for a complete application.

5. The Code Enforcement Officer shall inspect the site and maintain a digital photographic record of site conditions before Board review, during approved work, and after its completion.

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

No building permit shall be issued for any structure or use involving the construction, installation or alteration of sewage disposal facilities unless a sewage disposal permit for such facilities has been secured by the applicant or his authorized agent, according to the requirements of this Ordinance.

E. Fees and escrow funds

1. The Planning Board may, following a public hearing and approval by the Selectmen, adopt a schedule of fees and escrow funds for administrative procedures. All fees collected shall be applied to Planning Board expenses and enforcement of land use ordinances and regulations. Fees and deposits shall be made to the Town clerk, payable to the Town of Cushing.

If a required fee or escrow deposit is not received prior to a meeting at which the application is listed on the agenda, the application shall be tabled. If that required fee or deposit is not received within fourteen (14) days after that meeting, the application shall be considered to have been withdrawn.

2. Each escrow deposit shall be placed in an account held solely for a given application.

a. Funds held in escrow shall be used to defray the cost of independent consulting services required by the Board for review of technical or legal aspects of an application; and for costs of notice, mailing, and copying of documents or maps.

b. The original deposit shall be restored whenever the balance of the account goes below 25% of the original deposit. Whenever the balance in an escrow account is drawn down by 75%, the Board shall notify the applicant of the amount of funds to be deposited to restore the scheduled deposit.

c. The Board shall furnish the applicant a record of the nature and amount of any expenditure made from the account. Unused funds shall be returned to the applicant within thirty (30) days after the later of final Board action on the application, or satisfaction of escrow obligations.

F. Procedure for Administering Permits

1. Permits shall be issued by the reviewing authority noted in Table 14.1 or designee.

a. Within 35 days of the Town Clerk's receipt of a written application, the Code Enforcement Officer shall notify the applicant whether the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

b. Within 35 days of receiving a complete application, the reviewing authority shall act to approve, approve with conditions, or deny the application, and shall communicate its decision to the applicant in writing. However, if the Planning Board has a list of waiting applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held, provided the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

c. All materials which require Planning Board review shall be submitted to the Town Clerk at least fourteen days in advance of a regular or special meeting, to allow sufficient time for consideration by the Planning Board. The Town Clerk shall note the date and time of their receipt on all such submittals.

2. The applicant has the burden of proving that the proposed land use activity is in conformity with the purposes of this ordinance. The Application Packet contains a Completeness Checklist that lists submittals and Ordinance sections that require them. Submittals shall provide required information such as the following:

- Location of property on the Official Shoreland Zoning Map
- Boundary survey at 1"=30' to 1"=50', with topo at 2' or 5' interval as determined by the Board; roads; driveways; easements and utility corridors; delineation of wetlands, resource protection areas, and flood plains; 75', 100' and 250' setbacks associated with protected waters; existing and proposed buildings; and septic system improvements
- Acreage of site, wetlands, and disturbed areas
- Lot coverage as a percent
- Sewage permit or approved Evaluation & plan
- Soil suitability report
- MHPC report on archaeological/historical features
- MDIFW report on significant wildlife habitat
- MDEP report on protected natural areas
- Stormwater management plan
- Erosion control plan
- Fire protection plan
- Required State/Federal permit needs
- Additional information for commercial, cluster and multifamily applications
- A statement on the plan that the lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) 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 review of applications for cluster, multi-unit or commercial use, the Town of Cushing Subdivision Regulations standards and submittal requirements for these uses will also apply, and the Board may require a groundwater extraction impact assessment.

• Such other items as the Board may require.

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

a. Will maintain safe and healthful conditions;
b. Will not result in water pollution, erosion, or sedimentation to surface waters;
c. Will adequately provide for the disposal of all wastewater;
d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
e. Will conserve shoreland vegetation and visual (as viewed from public facilities), as well as actual, points of access to inland and coastal waters;
f. Will protect archaeological and historic resources as designated in the comprehensive plan;
g. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
h. Will avoid problems associated with flood plain development and use; and
i. Is in conformance with the provisions of Section 15, Land Use Standards.

4. If a permit is denied, or approved with conditions, the reasons for the denial 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. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within 30 days of the approval or denial.

G. Special Exceptions

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

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

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

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

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

b. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the

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

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

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

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

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

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

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

J. Appeals

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

a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Planning Board in the administration of this Ordinance, and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance, or in the enforcement of this Ordinance.

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

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

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

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

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

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

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

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

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

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

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

3. **Administrative Appeals**

When the Board of Appeals reviews a decision of the Code 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 records of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. **Appeal Procedure**

a. Making an Appeal

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may extend the thirty (30) day requirement by an additional thirty (30) days.

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

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

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

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

4. 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, and shall issue a written decision on all appeals.

b. Decision by Board of Appeals

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

2. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter in which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

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

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

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

5. **Appeal to Superior Court**. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

6. **Reconsideration**. In accordance with 30-A M.R.S.A. Section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

K. Enforcement

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

2. **Code Enforcement Officer**

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

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

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

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

4. **Fines**. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts an activity in violation of any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. Section 4452.

NOTE: Current penalties include fines of not less than $100 ~~nor~~ more than $2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to $5000 (38 M.R.S.A. Section 4452).

17. Definitions

Accessory structure or use: A use or structure which is incidental and subordinate to the principal use or structure (e.g. garages, woodsheds, and fish houses). 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 structures, except those that require direct access to the water, must also meet all setback requirements. A guest house without kitchen facilities for preparing, cooking and storing food is an accessory structure. With such facilities, it is a dwelling unit.

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

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.

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 4.5 feet above ground level and inclusive of bark.

Bed and breakfast: A single-family, proprietor-occupied dwelling in which lodging or lodging and meals are offered to guests for compensation, consisting of no more than six (6) bedrooms for lodging purposes.

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

Bureau: State of Maine Department of Conservation's Bureau of Forestry.

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

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

Coastal wetland: All tidal and sub-tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which the activity is proposed as identified in tide tables published by the National Oceanic and Aeronautic Administration (NOAA). Coastal wetlands may include portions of coastal sand dunes.

Note: All areas below the highest tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Commercial use: The use of lands, buildings, or structures, other than a "home occupation" or "fishing home business", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, including multifamily rental apartments. This use does not include the sale or rental of dwelling units in multi-unit residential buildings or in one- and two-family 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.

Day: A calendar day.

DBH: The diameter of a standing tree measured 4.5 feet from ground level.

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

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

Disability: any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; also including 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.

District (as used in this Ordinance, a zoning district): A sub-area of the Shoreland Zone listed in Section 9, differing from other such areas in characteristics and boundaries defined in Sections 10 and 13.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two lots or less.

Emergency operations: Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement,

and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services: Gas, electrical or communication facilities; stream, 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 tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

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

Expansion of use: An increase of one or more months to a use's operating season, or the use of more floor area or ground area devoted to a particular use.

Family: One or more persons occupying a premises and living as a single housekeeping unit.

Fishing home business: Fishing, lobstering clamming or aquaculture business, including the storage and maintenance of boats and gear used in a business conducted from a home on the same lot, and which employs no more than two (2) persons other than family members residing in the home.

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

Floor area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. Floor area includes areas with both a ceiling height of six feet or more, and more than 50% of its volume above original ground level.

Forest management activities: Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber 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 wetlands: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately 20 feet) or taller.

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

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

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

2. Inundated or saturated by surface or ground water at a frequency and for 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.

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 which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, *excluding recreational boat storage buildings*, fin fish and shell fish selling, processing and storage and retail and wholesale fish marketing facilities, water front dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters. (Note: Italicized Section above, imposed by State law).

Grade: The slope of a surface, such as a lot or road, with a vertical rise or fall expressed as a percentage of the horizontal distance; e.g., a 3 percent upgrade means a rise of 3 feet per 100 feet horizontal distance. [Source: American Congress on Surveying and Mapping, *Definitions of Surveying and Associated Terms.*]

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 Title 38 Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined are 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.

Height of a structure: The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Home occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the

residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

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 are not 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, boat engine repair and service, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Marine commercial: The use of lands, buildings, or structures, other than a home occupation or fishing home business, the intent and result of which activity is the production of income from the buying and selling of marine goods an/or services, including marinas.

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

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

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

Minimum lot width: the closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland Zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential building: A residential structure containing three (3) or more dwelling units owned individually.

Multi-unit rental apartment: A residential structure under single ownership containing three (3) or more dwelling units for rent.

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, did not meet the area, frontage, or width requirements of the district in which it is located.

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

Non-conforming use: Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

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

Note: Adjacent to tidal waters, setbacks are measured from the upland edge of the Coastal Wetland.

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

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

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

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

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

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

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

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

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

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

Recreational vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pickup 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.

Residual basal area: The sum of the basal areas of trees remaining in a given area of tree harvesting. See the definition of basal area above.

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

Residential dwelling unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and

rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not residential dwelling units..

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

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

River, stream or brook: A channel between defined banks. A channel is created by the action of surface water and has two or more of the following characteristics:
a. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
b. It contains or is known to contain flowing water continuously for a period of at least three months of the year in most years.
c. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water
d. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
e. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

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 salt marsh cord grass (Spartina alterniflora). More open areas often support widgeon grass, eel grass, and Sago pond weed.

Salt meadow: Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of 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.

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

1. In the case of electric service

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

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

2. In the case of telephone service

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

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

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

Shore frontage: The width 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 75 feet, horizontal distance, of the normal high-water line of a stream.

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

Skid road or skid trail: a route repeatedly used by forwarding machinery or 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.

Slope: The inclined surface of a hill, mountain, plateau, plain, or any part of the surface of the earth. [Source: American Congress on Surveying and Mapping, *Definitions of Surveying and Associated Terms.*]

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

Substantial alteration: Any change in shape, size or design of a structure at a cost of one thousand ($1,000) or more.

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

Subsurface sewage disposal system; any system designed to dispose of waste or waste water on or beneath the surface of the earth; including, but ~~is~~ not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. Section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system

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

Tidal waters: all waters affected by tidal action during the maximum spring tide.

Timber harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland Zone on a lot that has less than two (2) acres within the Shoreland Zone shall not be considered timber harvesting. Such cutting and removal of trees shall be regulated pursuant to Section 15.P, *Clearing and 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.

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

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

Note: Water setback requirements apply to tributary streams within the Shoreland Zone.

Upland edge of a wetland: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the tide level for the year in which the activity is proposed as identified by tide tables published by NOAA, 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) foot) 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 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. Volume includes areas with both a ceiling height of six feet or more, and more than 50% of its volume above original ground level.

Water body: Any great pond, river, stream or tidal area.

Water crossing: Any project extending from one bank to the opposite bank of a river or stream whether under, through, or over the watercourse. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as

maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland: A Freshwater Wetland or Coastal Wetland. See definitions above.

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

Woody vegetation: live trees and woody, non-herbacious shrubs.

Certificate of adoption

I hereby attest that this is a true copy of the Town of Cushing Shoreland Zoning Ordinance, duly adopted by the legislative body of the Town of Cushing, Maine, on December 15, 1991, and amended March 17, 1992, March 16, 1993, March 18, 1997, March 16, 1999, March 20, 2001, February 22, 2007, November 14, 2007, June 9, 2009, September 16, 2009, and November 2, 2010.

Lisa M. Young 11/2/2010

Town Clerk Date

Town of Cushing
Shoreland Zone Application Packet

The Subdivision Regulations and Shoreland Zoning Ordinance are available at the Town Office. This packet contains forms and references needed by applicants.

I. The forms starting on page 2 provide a framework for information for the Board, and for its procedures and deliberations. They are usually used in the sequence shown. Most are used for each application. Those requiring the applicant's attention are starred***.

Packet page		last revised
P1	Introduction***	8.20.10
P1a-c	Erosion and Sediment Control overview***	8.20.10
P2-3	Permit Application***	8.20.10
P4	Schedule of Fees and Escrow Deposits***	8.20.10
P5	Use Permit Application Notice Requirement	8.20.10
P6	Notice To Property Owners***	8.20.10
P7	Notice of Incomplete Application (PB or CEO)	8.20.10
P8	Notice of Complete Application & Hearing Date	8.20.10
P9	Decision Notice	8.20.10
P10	Town Procedures for Forms	8.20.10

II. Sources referenced in the Subdivision Regulation are available at the Town Office:

Maine Erosion and Sediment Control Best Management Practices manual
Coastal Landslide Hazards map
Emery & Garrett map (areas likely to experience salt water intrusion)
USGS topographic maps
Shoreland Zoning Map (Resource Protection Districts and Land Use Districts)
Assessors maps (abutters and near properties)
FEMA flood insurance rate maps

III.Town office .....354-2375 (Code Enforcement Officer, Fire Chief, Addressing Officer, Road Commissioner, Rescue Squad Director)

Town of Cushing

Application for a Land Use Permit in the Shoreland Zone - page 1

39 Cross Road, Cushing, ME 04563 cushingme@roadrunner.com 354-2375 (T) 354-1375 (F)

Property owner_____Telephone_____

Owner's mailing address_____

Applicant_____Telephone_____

Applicant's mailing address_____

Location of project_____Map_____Lot_____

Zoning District_____Acreage_____ Part of a subdivision_____

Road frontage_____ Type of waste disposal_____Foundation type_____

Description of project_____

Square footages as applicable:

1st floor_____2nd Floor_____Detached garage_____Attached garage_____Decks_____

Porches_____Cellar (finished area)_____Buffer area cleared_____Lot coverage_____

Cellar height (ft.)_____

Code Enforcement Officer checklist (check items received or not applicable):

__HHE 200 Site evaluation __Needs Flood Hazard Development Permit __Needs DEP permit (Site, NRPA, etc.)

__CEO site photos __Needs subsurface sewage disposal permit __E-911 / Entrance permit

__Soil erosion control plan __Right, Title & Interest or letter of authority __Notice of Intent to Build form

__Zoning District change __Needs Board of Appeals action __Other_____

__Attached site plan drawing showing:

__property lines & dimensions __roads & driveways __Contours __water bodies including brooks, wetlands & ponds

__location, dimensions & setbacks of existing & proposed structures & additions __names of abutting property owners

__Flood plain line __location of existing & proposed well, septic tank & leach field __Storm water drainage patterns

__75', 100' & 250' setbacks from water features __North arrow __applications of Best Management Practices

__existing and proposed vegetation (tree drip lines, grass, shrubs, etc.) __bluffs & unstable soils

__Limits of Disturbance __Other submittals required by Section 15 of the Shoreland Zoning Ordinance

To the best of my knowledge, all information submitted for this application is correct. I agree to comply with applicable Town ordinances and State laws. I grant permission to the Code Enforcement Officer to make necessary inspections to ensure compliance, and to photograph the project site at any time.

Signature of applicant_____Date received by Town Clerk_____

Town Clerk's signature_____Date fee received by Town Clerk_____

Town of Cushing

Application for a **Land Use Permit** in the **Shoreland Zone** from the **Planning Board - page 2**

Applicant: check all uses you propose (use numbers are from Table of Land Uses in Section 14 of the Shoreland Zoning Ordinance)

___9 Mineral extraction, including sand & gravel extraction
__12 Agriculture, defined in Section 17
13 Principal structures & uses
__13a One and two family residential including driveways
__13b Multi-unit residential buildings
__13c Multi-unit residential apartments
__13e Fishing home business, including accessory structures for lobstering, fishing & aquaculture
__13f Other aquaculture
__13g Boatyards & shops used for construction, sale, repair, storage & maintenance of boats up to 50 feet
__13h Marine commercial, defined in Section 17
__13i Other commercial, defined in Section 17
__13k Bed & Breakfast, defined in Section 17
__13m Governmental & Institutional, defined in Section 17
__13n Facilities 800 square feet or less for educational, scientific or nature interpretation purposes
__14 Structures accessory to allowed uses
__15a Structures on portions of piers, docks, wharves, and bridges
19 Essential Services
__19b Non-roadside or cross-country distribution lines involving ten or fewer poles in the Shoreland Zone
__19b Non-roadside or cross-country distribution lines involving eleven or more poles in the Shoreland Zone
__19d Other essentia services
__21 Public & private recreational facilities involving minimal structural development
__23 Campgrounds
__24 Road construction
__25 Land management roads, defined in Section 17
__26 Parking aresa
__27 Marinas
__29 Filling & earthmoving more than 10 cubic yards
__33 Uses similar to uses requiring a Planning Board permit

Decision

__Because the application complies with the Standards of Section 15 and the criteria of Section 16.F.3, the following numbered land uses are approved_____
__with the conditions attached hereto. Violation of conditions of approval shall be a violation of the Shoreland Zoning Ordinance.

__The following numbered land use(s) is (are) denied_____
because of failure to meet __ the Standards of Section 15 __ the criteria of Section 16.F.3, as set out in the attachment.

__The application is referred to the Board of Appeals for the reason set out in the attachment.

Final permit will be issued by the Code Enforcement Officer

signed: Planning Board Chair _____Date_____

_____ _____

_____ _____

_____ _____

_____ _____

Town of Cushing

Schedule of Shoreland Zoning Ordinance Fees and Escrow Deposits

Processing fees

A processing fee payable to the Town of Cushing shall be submitted to the Town Clerk not less than 15 days before the meeting at which the item appears on the agenda.

Petition for a land use change	$1,000
Application or amendment for Planning Board review	$200/meeting

Escrow deposits

A deposit payable to the Town of Cushing shall accompany an application for Board review. Funds shall be held in a separate escrow account used only to defray the cost of reasonable and necessary independent consultant services. Funds shall be deposited with the Town Clerk and administered by the Town Treasurer.

If it becomes apparent that consultant billings will exceed 75% of the deposit, the Planning Board Chair shall request the Town Clerk to notify the applicant of the amount of additional funds the applicant must add to cover the cost of remaining services and to restore the amount of the initial deposit.

The initial deposit shall be:

Use or building permit	at the discretion of the Board, not to exceed	$1,000
Other	at the discretion of the Board, not to exceed	$1,000

Late fees and deposits

If required fees or escrow deposits are not received prior to a meeting at which the application is listed on the agenda, the application shall be tabled.

Reimbursements

Unused escrow funds shall be returned to the applicant within 30 days after approval or denial of an application, provided current obligations for which they are provided have been satisfied.

Town of Cushing
Planning Board

RECEIPT OF APPLICATION FOR SHORELAND ZONE PERMIT & NOTICE REQUIREMENT

To [Applicant]_____,

The Planning Board has received your completed application form for [lot or project name]

_____.

You are required to send a copy of the *Town of Cushing Planning Board Notice to Property Owners*, return-receipt-requested, to the owners of properties abutting the subject property.

The receipts and a copy of the list of owners must be delivered to the Town Clerk.

_____

Planning Board Chair Date

c/Code Enforcement Officer

Town of Cushing
Planning Board

NOTICE TO PROPERTY OWNERS

Date:_____

To:_____

_____

_____

The Town of Cushing Shoreland Zoning Ordinance requires that owners of abutting property be notified when the Planning Board receives an application for a zoning district change.

The application may be viewed at the Town Office.

The Planning Board will begin to review the application when it is determined to be complete at a regularly scheduled Planning Board meeting. The Planning Board meets the first Wednesday of each month.

_____
Planning Board Chair

c/ Code Enforcement Officer

Town of Cushing
Shoreland Zone Use Permit

COMPLETENESS CHECKLIST

Here, Shoreland Zoning Ordinance (SZO) and Subdivision Regulation (SR) sections citing submittal requirements are listted. If you believe a requirement does not apply to your project, place 'N' in the left hand column. If you believe your application warrants a variance from the item, place 'V' in the left hand column. The column on the right is for the reviewer's use. Eight (8) copies of each item are required.

Submitted (S) Variance request (V) Not applicable (N)	Required Submittal items	Received (/) Not received (O) Not Applicable (N)
____	Application for a change of land use (SZO16.C.1)	____
____	Dated application and plans (SZO16.D.1, 16.F.2)	____
____	Official Shoreland Zoning Map amendment complete (SZO16.C.6)	____
____	Location map; map and lot numbers (SZO 16.1)	____
____	Names & addresses of abutting landowners to notify (SZO16.C.3)	____
____	Notice receipts in (SZO16.C.3)	____
____	Fee and escrow deposit (SZO16.E)	____
____	Evidence of legal interest; deed and restrictions (SZO16.D.2)	____
____	Sewage permit or approved Evaluation & plan (SZO16.D.6)	____
____	Special Exception data (SZO16.G)	____
____	Non-conformance data (SZO12)	____
____	Acreage of site, wetlands, disturbed area (SZO13.A.2, 3)(SZO15.P.3)	____
____	Lot frontage, minimum lot width (SZO15A)	____
____	Soil suitability report (SZO10.F)(SZO15.R)	____
____	Resource protection, flood, & high-water lines & setbacks (SZO10)	____
____	Plan statement assuring areas above flood level (SZO15.B.3)	____
____	Lot coverage (SZO15.B.4)	____
____	Current & Finish grades shown (SZO10.D)(SZO15.H.2, 5, 6) (SZO15.M.3)(SZO15.Q.3)	____
____	Limits of Disturbance shown (SZO 15.J.2)	____
____	Road access permit; road plan; easements (SZO 15.H}	____
____	MDIF&W & MDEP responses on significant wildlife habitat (SZO 12.1)	____
____	MHPC report on protected archaeological features (SZO 15.T)	____
____	MDEP response on protected natural areas (SZO 12.1)	____
____	DEP permit or need (SZO14)(SZO15.B.4, 5)(SZO15.C.6, 8)(SZO15.J.2)	____
____	Outline of vegetative cover types (SZO15.B.1.b)	____
____	Building square footages, dwelling dimensions (SZO12.C)	____
____	Storm water management plan (SZO15.J)	____
____	Erosion and sediment control plan (SZO15.Q)	____
____	Fire protection (SR VI.K)	____
____	Preliminary landscape plan (SZO12.C.2)(SR VI.F, Q)	____
____	Open space data (SR VI.C)	____
____	Cluster development data (SR VI.F)	____
____	Multi-unit building data (SR VI.N, P, Q.)	____
____	Commercial subdivision data (SR VI.O, P, Q)	____
____	Groundwater extraction impact assessment (SZO14.1 notes)	____

Town of Cushing
Planning Board

NOTICE OF INCOMPLETE APPLICATION

Date:_____

Application:_____

_____[Applicant/Correspondent]

_____

_____

On review on [date] _____, your application was determined to be incomplete. The following is needed to complete it:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Code Enforcement Officer

_____

Planning Board Chair

Form 11.26.07

Town of Cushing
Planning Board

NOTICE OF COMPLETE APPLICATION

Date:_____

Application:_____

_____[Applicant/Correspondent]

_____

_____

Dear _____

On [date] _____ your application was determined to be complete. A public hearing to review the application has been placed on the Planning Board agenda for _____.

_____
Planning Board Chair

c/ Code Enforcement Officer

Notice of Decision on Permit Application

Date:_____

To:_____

_____

_____

Dear_____

The Planning Board has acted on your application for (a) Shoreland Zone permit(s).

On [date], your application was determined to comply [to be not compliant] with the standards and criteria of the Ordinance, as follows [or (see attached)]:

_____

_____

_____

_____

Therefore, the Planning Board voted on [date] to [approve, deny] your application.

[Consistent with the purposes of the [Subdivision Regulations], [Shoreland Zoning Ordinance], the Planning Board has voted to impose the following conditions on approval of the permit(s):
1.
2.
etc.]

Sincerely,

_____

Chair of the Planning Board

c/ Code Enforcement Officer
Municipal Officers

Town of Cushing
Planning Board

Town procedures for forms

1. The digital file for each form is to be retained by the Town Clerk.

2. Any change to a form shall be approved in writing and re-dated by the Planning Board Chair. The new form date and packet date shall be recorded on the Subdivision Application Packet by the Town Clerk.

3. A file of at least six hard copies of each form shall be stored in the Planning Office (PO) or Town Office (TO) as shown in the table below.

4. The packet is given to an applicant by the CEO to assure the applicant is briefed and counseled.

5. Planning Office storage is required to assure that forms will be available to the CEO on Saturday and during Planning Board meetings.

Form		Initiated by	Storage
P1	Introduction	CEO/TO	TO
P1a-c	Erosion & Sediment Control overview	TO	TO
P2-2a	Permit application	TO	TO
P3	Schedule of Fees and Escrow Deposits	TO	TO
P4	Requirement of Notice	PB	TO
P5	Notice To Property Owners	PB	TO
P6	Completeness Checklist	Applicant	PO
P7	Notice of Incomplete Application	PB	PO
P8	Notice of Complete Application & Hearing Date	PB	PO
P9	Decision Notice	PB	PO
P10	Town Procedures for Forms	PB	PO