

**ZONING ORDINANCE
OF THE
MUNICIPALITY OF PHILLIPS, MAINE**

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Zoning Ordinance of the Municipality of Phillips, Maine

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**ZONING ORDINANCE
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Section 1. Short Title

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Municipality of Phillips, Maine" and will be referred to herein as this "Ordinance."

Section 2. Purposes

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

This Ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of the necessity of complying with other applicable laws and regulations.

Section 3. Authority

This Ordinance has been adopted pursuant to Article VII-A of the Maine Constitution, Title 30-A M.R.S.A. Sec. 3001 and Title 38 M.R.S.A. Sec. 435, et.seq.

Section 4. Applicability

This Ordinance applies to all land areas in the Town of Phillips and within 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 freshwater wetlands; rated moderate or high value by the Maine Department of Inland Fisheries and Wildlife; within 75 feet, horizontal distance, of the upland edge of a fresh water wetland rate low value or not rated by the Maine Department of Inland Fisheries and Wildlife; and within 75 feet horizontal distance, of the normal high-water line of a stream and outlet stream. This Ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending below the normal high-water line of a water body or within a wetland.

Section 5. Effective Date of Ordinance and Ordinance Amendments

- A. This Ordinance was adopted by the municipal legislative body on June 30, 1992. Ordinance provisions relating to the shoreland area shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance or amendments, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection for approval. If the Commissioner of the Department of Environmental Protection fails to act on this Ordinance or amendments within forty-five (45) days of receipt of the Ordinance, it shall be deemed approved.

Any application for a permit in the shoreland area submitted within the forty-five (45) day period shall be governed by the terms of this Ordinance or amendments if the Ordinance or amendments is approved by the Commissioner of the Department of Environmental Protection.

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

- Section 18. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
- Section 21.B.9 in its entirety; and
- Section 23. Definitions, the definitions of "forest management activities," "residual basal area," skid trails" and "slash."

Section 6. Basic Requirements

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and uses of premises in the Municipality of Phillips, Maine, shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the District in which such building, structure, land or water area is located.

Section 7. Availability

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

Section 8. Severability

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

Section 9. 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, the more restrictive provision shall control.

Section 10. Amendments

A. Initiation of amendment

An amendment to this Ordinance may be initiated by:

1. the Planning Board provided a majority of the Board has so voted;
2. request of the Municipal Officers to the Planning Board; or

3. written petition of a number of voters equal to at least 10% of the number of votes cast in the Municipality at the last gubernatorial election.

B. Adoption of amendment

An amendment to this Ordinance may be adopted by:

1. a majority vote of the Governing Body if the proposed amendment is recommended by the Planning Board; or
2. 2/3 majority vote of the Governing Body if the proposed amendment is not recommended by the Planning Board.

- C.** In either case, the Planning Board shall hold a public hearing on the proposed amendment, Notice of the public hearing shall be posted in the Town Office at least fourteen (14) days prior to the public hearing and be published at least two (2) times in a paper having general circulation in Phillips, and the date of the first publication shall be at least fourteen (14) days prior to the hearing, and the second publication shall be at least seven (7) days prior to the hearing. In addition, the provision of Title 30-A, MRS Section 4352.10 shall be complied with.

Section 11. Repetitive Petitions

No proposed change in this Ordinance which has been unfavorably acted upon by the Governing Body shall be considered on its merits by the Governing Body within two years after the date of such unfavorable action unless adoption of the proposed change is recommended by unanimous vote of the Planning Board.

Section 12. Districts and Zoning Map

A. Official Zoning Map

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

- A. Resource Protection
- B. Limited Residential
- C. Elderly Residential
- D. Rural
- E. General Purpose

B. Location of Districts

Said districts are located and bounded as shown on the Official Zoning Map, entitled "Zoning Map of Phillips, Maine", and as amended, and on file in the office of the Municipal Clerk. The official map shall be signed by the Municipal Clerk and Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. Additional copies of this map may be seen in the office of the Municipal Officers.

C. Uncertainty of Boundary Location

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
4. Boundaries indicated as following railroad lines shall be construed to follow such lines;
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as being parallel to or extensions of features indicated in subsections (1) through (5) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map; and
7. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) above, the Board of Appeals shall interpret the District boundaries.

D. Division of Lots by District Boundaries

1. Where a zoning district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to the provisions of 12.D.2. below, provided that the other portion is not in the Limited Residential or Resource Protection Districts.
2. Extension of use shall be considered a conditional use, subject to approval of the Planning Board and in accordance with the criteria set forth in paragraph 22.J.4. "Factors Applicable to Conditional Uses".

Section 13. Rule of Precedence

Whenever a nonconforming use is superseded by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions of this Ordinance and the nonconforming use may not thereafter be resumed.

Section 14. Restoration of Unsafe Property

Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer.

Section 15. Land Use Requirements

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

Section 16. Non-conformance

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that legally existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

B. General

- 1 Transfer of Ownership: Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming 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 nonconforming uses and structures including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

C. Nonconforming Structures

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

Further Limitations:

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

2. Relocation: A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (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 nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

Within the shoreland area, 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

- a. Any nonconforming structure which is located less than the required setback from a water body, tributary stream or wetland and which is removed, or damaged or destroyed, regardless of 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 two years of the date of said damage or destruction from the same permitting authority as that for a new structure provided that such reconstruction or replacement is in compliance with the water body, tributary stream and water 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 nonconformity. 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 16(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 16(C)(2) above.

Any nonconforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer within 1 year.

- b. Any nonconforming structure which is located more than the required setback from the normal high water line of a water body, tributary stream or upland edge of a wetland and which is damaged or destroyed by fire, lightning, wind or other natural disaster, it may be rebuilt provided that construction is commenced within two years after the destruction of the building or structure and is substantially completed within three years after such destruction.

D. Nonconforming Uses

1. Expansion: Expansion of nonconforming uses, in all zones other than Shoreland zoning, are to be allowed provided the Planning Board after reviewing written application determines that no greater adverse impacts would occur as the result of the expansion as defined in Section 16.D.4. and the following:
 - a. The expansion of a nonconforming use will be in accordance with any applicable Performance Standards set forth in Section 20 of this Ordinance.
 - b. The expansions of the nonconforming use will not encroach further on the required water setback.
 - c. The expansion is permitted by Section 16.C.1
 - d. Nonconforming uses are not permitted to be expanded in the Shoreland Zoning district except for residential uses, which allow for a 30% expansion.
2. Resumption Prohibited: A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding two (2) years, or which is superseded by a conforming use, may not again be devoted to a nonconforming 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 year period.
3. Change of Use: An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 16.D.4.
4. Change in Use of a Nonconforming Structure: The use of a nonconforming structure may not be changed to another conforming use unless the Planning Board, after reviewing written application, determines that the new use is equally or more appropriate to the district than the existing use of the nonconforming structure and the impact on adjacent properties, water bodies and/or wetlands will have no greater adverse impacts than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and

safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, traffic volumes, impact upon adjacent properties, or other nuisances likely to result from the change of use.

The change in use shall comply with any applicable Performance Standards sets forth in Section 21 of this Ordinance.

E. Nonconforming Lots

1. Nonconforming Lots: A nonconforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to set back or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and *Subsurface Wastewater Disposal Rules* are complied with.

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

If two or more contiguous vacant lots or parcels are in single ownership of record at the time of adoption or amendments of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single parcel for the purposes of this Ordinance and no portion of said parcel shall be built upon or sold which does not meet the dimensional requirements of this Ordinance; nor shall any division of the parcel be made which creates any dimensional area below the requirements of this Ordinance.

Section 17. Establishment of Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas, except that areas which are currently developed and areas in other districts need not be included.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, or 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, 2008 and areas within 75 feet, horizontal distance, of the upland edge of freshwater wetlands, rated low or not rated by the Maine Department of Inland Fisheries and Wildlife. For the purposes of this paragraph "wetlands associated with great ponds and rivers"

shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

2. Floodplains within two hundred and fifty (250) feet, horizontal distance, of the normal high water line along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils and/or local knowledge.
3. Areas within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line along rivers and great ponds of two or more contiguous acres with sustained slopes of 20 percent or greater.
4. Areas within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line along rivers, great ponds and two hundred and fifty (250) feet of the upland edge of a freshwater wetland rated moderate or high value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not surficially connected to a water body during the period normal high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.
6. Areas within seventy-five (75) feet of the normal high-water line of a stream and outlet stream as defined.
7. Other areas in which land uses would adversely affect water quality, productive habitat, biological systems, or scenic and natural values and to discourage development in unsafe and unhealthful areas.

B. Limited Residential District

The Limited Residential District includes 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 wetland suitable for residential and recreational development which comply with the performance standards contained herein.

C. Elderly Residential District

The Elderly Residential District provides for the development of housing for the elderly which is compatible with surrounding land uses and which does not produce any adverse impact on community facilities and services. It is bounded on the north by Seward Avenue, on the east by Pleasant Street, on the west by Dodge Road and on the south by the Phillips-Avon townline.

D. Rural District

The Rural District includes all of the Town's land area except the area in Resource Protection, Limited Residential, Elderly Residential and General Purpose. It is the purpose of this district to allow a variety of land uses.

E. General Purpose District

The General Purpose District is comprised of the existing built-up portion of Phillips and areas suitable for future development due to proximity of municipal services. Its purpose is to allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by imposing minimum controls on those uses which, by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors or auto, truck, or rail traffic) could otherwise create nuisances or unsafe or unhealthy conditions.

Section 18. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses shall conform with all of the applicable performance standards in Section 20. The district designation for a particular site shall be determined from the Official Zoning Map.

Key to Table 1:

Yes: Allowed (Building Permit and Plumbing Permit required in accordance with Section 22. B & C and the use must comply with all applicable land use standards.)

No: Prohibited

CU: Requires a conditional use permit issued by the Planning Board

CEO: Requires permit issued by the Code Enforcement Officer

LPI: Requires permit issued by the Local Plumbing Inspector

Abbreviations:

RP: Resource Protection

LR: Limited Residential

ER: Elderly Residential

R: Rural

GP: General Purpose

LAND USES

LAND USES	DISTRICTS					
	RP	LR	ER	R	GP	Performance Standards Section
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	yes	yes	yes	yes	yes	
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes	
4. Timber harvesting	CU ¹	yes	yes	yes	yes	21.B.9
5. Clearing or removal of vegetation for activities other than timber harvesting.	CEO ¹	yes	yes	yes	yes	21.B.10
6. Fire prevention activities	yes	yes	yes	yes	yes	
7. Wildlife management practices	yes	yes	yes	yes	yes	
8. Soil and water conservation practices	yes	yes	yes	yes	yes	
9. Mineral exploration	no	yes ²	yes	yes	yes	21.B.7
10. Mineral extraction, including sand and gravel extraction	no ³	CU	no	yes	yes	21.A.5
11. Surveying and resource analysis	yes	yes	yes	yes	yes	
12. Emergency operations	yes	yes	yes	yes	yes	
13. Agriculture/gardening	CU	yes	yes	yes	yes	21.B.8
14. Residential Uses						
A. One and two family residential, including driveways	no ⁴	CU	no	CU	yes	
B. Multi-unit residential/cluster/planned unit development	no	CU	CU	CU	CU	21.A.9
C. Mobile/manufactured home parks	no	no	no	CU	CU	21.A.7
D. Elderly housing	no	no	yes	CU	CU	21.A.15
15. Commercial						
A. Less than 2,500 sq. ft. floor area and 40,000 sq. ft. lot area	no	no	no	CU ⁹	yes ⁸	
B. Commercial greater than 2,500 sq.ft. and 40,000 sq.ft. lot area	no	no	no	no	CU	
C. Commercial requiring shore front location	no	no	no	CU	CU	

LAND USES	DISTRICTS					
	RP	LR	ER	R	GP	Performance Standards Section
D. Sale of produce & plants raised on premise or seasonal sales of produce not raised on premises	no	CU	no	yes	yes	
16. Industrial						
A. Less than 2,500 sq.ft. gross floor area	no	no	no	CU	yes	
B. 2,500 sq.ft. or more gross floor area	no	no	no	no	CU	
C. Auto grave yards/junk yards	no	no	no	CU	CU ¹⁰	
D. Waste processing or disposal facility	no	no	no	CU ¹⁰	CU ¹⁰	
17. Governmental/Institutional						
A. Church, parish house, rectory, other	no	no	no	CU	yes	
B. Public/private schools	no	no	no	no	yes	
C. Public buildings/libraries, museums, civic centers	no	no	no	CU	yes	
D. Cemeteries	no	no	no	yes	yes	
F. Utilities/sewage collection - treatment	no	no	no	CU	CU	
18. Accessory uses/structures allowed uses	CU	CEO	yes	yes	yes	
19. Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland						
A. Temporary	CEO ¹²	CEO ¹²	CEO ¹²	CEO ¹²	CEO ¹²	21.B.4
B. Permanent	CU	CU	CU	CU	CU	
20. Conversions of seasonal residences to year-round residences	no	CU	no	LPI	LPI	
21. Home occupations	CU	CU	CU	CU	CEO	21.A.6
22. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	21.A.12
23. Essential services	CU ⁵	CU ⁵	yes	yes	yes	21.B.6
A. Roadside distribution lines (34.5kV and lower) in the shoreland area	CEO ⁵	Yes ¹³	Yes	Yes	Yes ¹³	
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland area	CU ⁵	CU ⁵	Yes	Yes	CEO	
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland area	CU ⁵	CU ⁵	Yes	Yes	CU ⁵	

LAND USES	DISTRICTS					
	RP	LR	ER	R	GP	Performance Standards Section
D. Other essential services in the shoreland area	CU ⁵	CU ⁵	Yes	Yes	CU ⁵	
24. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	21.B.7
25. Public and private recreational areas involving minimal structural development	CU	CU	CU	CU	CU	
26. Individual, private campsites	CEO	CEO	no	CU	CEO	21.A.16
27. Campgrounds	no	CU	no	CU	CU	21.A.3
28. Road construction ¹¹	no ⁷	CU	CEO	CEO	CEO	21.B.5
29. Land Management Roads	CU	yes	yes	yes	yes	
30. Parking facilities	no ⁶	CU	CEO	CEO	CEO	
31. Filling and earthmoving <10 cubic yards	yes	yes	yes	yes	yes	
32. Filling and earthmoving >10 cubic yards	CU	CU	CU	CU	CU	
33. Signs (new or replacement)	yes	yes	yes	yes	yes	21.A.13
34. Uses similar to allowed uses	yes	yes	CEO	CEO	CEO	
35. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	
36. Uses similar to uses requiring a CU permit	CU	CU	CU	CU	CU	
37. Uses similar to prohibited uses	no	no	no	no	no	
38. Public & private recreation facilities including parks, playgrounds, golf courses, driving ranges and swimming pools	no	no	no	CU	yes	
39. Meteorological Towers	no	CU	CU	CU	CU	21, 22J*
40. Type 0 Micro Wind Energy Facility	no	CU	CU	CU	CU	21, 22J*
41. Type 1 Small Wind Energy Facility	no	CU	CU	CU	CU	21, 22J*
42. Type 2 Intermediate Wind Energy Facility	no	no	CU	CU	CU	21, 22J*

LAND USES	DISTRICTS					
	RP	LR	ER	R	GP	Performance Standards Section
43. Type 3 Large/Commercial Wind Energy Facility	no	no	CU	CU	CU	21, 22J*

¹ In RP not permitted within 75 feet horizontal distance of the normal high water line of great ponds, except to remove safety hazards.

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

³ In RP not permitted in areas so designated because of wildlife value.

⁴ The Planning Board may issue a permit for a single-family residence in the RP District provided the applicant demonstrates that all the criteria in Section 21.A.19 are met.

⁵ See further restrictions in Section 21.A.7.

⁶ Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁷ Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB

⁸ Facilities having less than 2,500 sq.ft. of gross floor area and less than 40,000 sq.ft. of lot area and employing less than 6 full-time employees or equivalent thereof; but excluding facilities offering food and beverages prepared on the premises and auto service stations or repair garages.

⁹ Commercial and industrial uses may be allowed in the Rural District provided: (a) conditional uses shall conform to all dimensional and other applicable requirements of this district; (b) Facilities housing any Commercial and Industrial Uses shall not exceed 2,500 sq.ft. of gross floor area; and (c) Landscaping, in the form of fencing or screening, either by use of evergreen shrubs, trees, fences, walls or beams of any combination thereof, forming a visual barrier not less than six feet in height may be required.

¹⁰ Not allowed within 250 feet, horizontal distance of the normal high water line along rivers or great ponds and 250 feet of the upland edge of a freshwater wetland.

¹¹ Driveway entrance permit issued by the Road Commissioner is required.

¹² Excluding bridges and other crossings not involving earthwork, in which case no permit is needed.

¹³ Permit not required, but must file a written "notice of intent to construct" with CEO.

*Must also meet standards in the Town of Phillips, Maine, Wind Energy Facility Ordinance.

Section 19. Dimensional Requirements

Lots in all Districts shall meet or exceed the following minimum requirements.

- A. All new lots in the General Purpose District and located within a shoreland area, as defined shall meet the following minimum lot size and shore frontage standards:
 - 1. Lots intended for commercial or industrial uses shall have a minimum of 60,000 sq.ft. of lot area, and a minimum of 300 feet of shore frontage.
 - 2. Lots intended for residential uses, or for public or private recreation facilities, shall have a minimum of 40,000 sq.ft. of lot area, and a minimum of 200 feet of shore frontage.

No existing lot in a General Purpose District and located within a shoreland area, as defined, may be further subdivided except in conformity with Section 19.A.1 & 2.

Zoning District	Minimum Lot Size (sq.ft.)		Minimum Frontage (feet)	
	With Sanitary Sewers	Without Sanitary Sewers	Street/Road	Shore
Resource Protection	40,000	40,000	200	200
Limited Residential	40,000	40,000	200	200
Elderly Residential	43,560	43,560	100	NA
Rural	40,000	40,000	200	200
General Purpose	20,000	20,000	100	100

NOTES TO TABLE:

- a. If more than one principal building is constructed on a single lot, all dimensional requirements shall be met separately for each such principal building.
- b. 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 lots shall not be included toward calculating minimum lot area.
- c. 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.
- d. The minimum width of any portion of any lot within 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.

Section 20. Yard and Height Standards (feet)

A. Yard Standards

Zoning District	Front Yard Road/Street ¹	Side Yard ²	Rear Yard	From Normal High-Water Line upland edge of wetland	Maximum Lot Coverage (percentage)
Resource Protection	60	10	20	100	15
Limited Residential	60	10	20	100	15
Elderly Residential	70	10	20	NA	20
Rural	60	10	20	100	15
General Purpose	60	10	20	100	50

NOTES TO TABLE:

¹Measured from the centerline of a public road except on numbered State highways 50 feet from the edge of the right-of-way.

²Combined width of both side yards shall be at least 30 feet.

³Buildings or structures in existence prior to June 1974 may be exempt from the front setback requirement, provided that any addition or alteration requiring land use shall not decrease the existing front setback and other provisions of this ordinance are met. (March 1979)

⁴No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

⁵Visibility at Corner Lots. All corner lots shall be kept free from visual obstructions for distance of 25 feet measured along the intersecting street lines.

⁶The 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. Building Height

No building shall exceed 2 1/2 stories or 35 feet in height. Features of buildings and structures such as chimneys, towers, ventilators, and spires may exceed 35 feet in height, but shall be setback from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance.

Section 21. Performance Standards

A. Subsections 21.A.1. - 21.A.-18 shall apply to all districts.

1. Accessory Buildings

- a. No garage or other accessory building shall be located in a required front yard. When located to the rear of the main building, the accessory building shall be set back at least 10 feet from the side or rear lot lines, provided that all accessory buildings shall be set back at least 100 feet from the normal high water elevation of a water body or upland edge of a freshwater wetland.

2. Agriculture

- a. All spreading or disposal 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).

- b. Agricultural practices shall be conducted to minimize soil erosion, sedimentation, contamination and nutrient enrichments of ground and surface waters.
- c. Agricultural practices not in conformance with these standards may be allowed by Conditional Use Permit.

3. Campgrounds

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

- a. Recreational vehicle and tenting areas containing approved water carried sewage facilities shall meet the following criteria:
 - (1) Each recreational vehicle, tent or shelter site shall contain a minimum of 5,000 sq.ft., not including roads and driveways.
 - (2) A minimum of 200 sq.ft. of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent or shelter site.
 - (3) Each recreational vehicle, tent or shelter site shall be provided with a picnic table, trash receptacle and fireplace.
- b. Wilderness recreational areas without water-carried sewage facilities shall contain a minimum of 20,000 sq.ft., not including roads and driveways, for each recreational vehicle, tent or shelter site.
- c. The area intended for placement of the recreational vehicle, tent or shelter and utility and service buildings, shall be set back a minimum of 100 feet from the exterior lot lines of the camping area and 100 feet from the normal high water elevation of any water body or upland edge of a freshwater wetland.
- d. All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than 25 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six feet in height.

5. Filling, Grading, Lagooning, Dredging or Other Earth-Moving Activities

- a. General: The following provisions shall apply to filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock and other mineral deposits. Filling, grading, lagooning, dredging, and other earth-moving activity which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life is prohibited.
- b. Earth-Moving Not Requiring a Conditional Use Permit: The following earth-moving activity shall be allowed without a Conditional Use Permit authorization from the Planning Board:
 - (1) the removal or filling of less than 10 cubic yards of material from or onto any lot in any one year;
 - (2) the removal or filling of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental thereto; and
 - (3) the removal, filling or transfer of material incidental to construction, alteration or repair of a public or private way or essential services.

All other earth-moving, processing and storage shall require a Conditional Use Permit authorized by the Planning Board.

- c. Application for Conditional Use Permit: Application for a Conditional Use Permit from the Planning Board for excavation, processing and storage of soil, loam, sand, gravel, rock and other mineral deposits shall be accompanied by a plan prepared by a Registered Land Surveyor or Registered Professional Engineer which shall show:
- (1) the name and current address of the owner of the property involved;
 - (2) the location and boundaries of the lot or lots for which the permit is requested;
 - (3) the existing contours of the land within and extending beyond the above boundaries for 200 feet at intervals not to exceed 5 feet referred to Mean Sea Level;
 - (4) the contours as proposed following completion of the operation at intervals not to exceed 5 feet referred to Mean Sea Level;
 - (5) the location of all proposed access roads and temporary structures;
 - (6) the proposed provision for drainage and erosion control, including drainage calculations; and
 - (7) other information necessary to indicate the physical characteristics of the proposed operation.
- d. Conditions of Permit: The Planning Board may authorize a Conditional Use Permit providing the following conditions shall be met:
- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
 - (2) Temporary ground cover such as mulch shall be used. The Planning Board shall set a specific date by which permanent ground cover shall be planted.
 - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
 - (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
 - (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
 - (6) Fill shall not restrict a floodway, channel or natural drainageway.
 - (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
 - (8) No below-grade excavation except for drainage ways shall be allowed within 50 feet of any lot line or public road.

- (9) Topsoil or loam shall be restored to a depth of not less than four inches.
 - (10) Applicant shall submit written approval from the appropriate Soil and Water Conservation District.
 - (11) No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
- e. Optional Conditions of Permit: The Planning Board may impose other reasonable conditions to safeguard the neighborhood and the Municipality which may include those relating to:
- (1) methods of removal or processing;
 - (2) hours of operation;
 - (3) type and location of temporary structures;
 - (4) routes for transporting material;
 - (5) area and depth of excavations;
 - (6) provision of temporary or permanent drainage;
 - (7) disposition of stumps, brush and boulders; and
 - (8) cleaning, repair and/or resurfacing of streets used in removal activity which have been adversely affected by said activity.
- f. Surety and Terms of Permit: No permit shall be issued without a bond or other security to insure compliance with such conditions as the Planning Board may impose. No permit shall be issued for a period to exceed three years, although such permit may be renewed for additional periods in the same manner.
- g. Existing Operations: Any operation involving the excavation, processing or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this Ordinance becomes effective may operate for a period of three years from the effective date. Discontinuance of any existing operation for a period of more than one year shall require application for a new permit. Continuation of any existing operation for more than three years shall require a permit from the Planning Board.
6. Home Occupation
- a. Home occupation shall be carried on wholly within the principal building or within building or other structure accessory to it.
 - b. Not more than two persons outside the family shall be employed in the home occupation.
 - c. There shall be no exterior display, no exterior sign (except as permitted by the provisions of this Ordinance), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
 - d. No nuisance, waste, discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation shall be generated.

7. Mobile Homes and Mobile Home Parks
 - a. Mobile homes not in a mobile home park: Mobile homes not in a mobile home park shall meet all of the requirements of this Ordinance for single-family dwellings.
 - b. Mobile Home Parks: Mobile home parks shall meet State requirements for mobile home parks and all of the following criteria:
 - (1) Mobile home parks shall meet all requirements for a residential subdivision and shall conform to all applicable State laws and local ordinances.
 - (2) The minimum area of land within the park shall be ten acres.
 - (3) A continuous natural landscaped buffer area not less than 25 feet in width shall be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.
8. Modifications to Existing Structures
 - a. No external modification or additions to any structure subject to flood damage are permitted unless such modification will not increase the flood damage potential of the structure and will not cause the structure to increase the degree of obstruction to flood flows.
 - b. Any internal modification of an existing building may be permitted if such modification will not endanger human lives or increase the flood damage potential of the Regional Flood.
 - c. All construction will utilize materials and techniques which will minimize the potential for flood damage.
9. Multi-family Dwelling Units
 - a. Two-family dwelling units. Lots for two-family units shall meet all of the dimensional requirements for single-family dwelling units.
 - b. Multi-family dwelling units. Multi-family (3 or more) dwelling units shall meet all of the following criteria:
 - (1) Lot area and shoreline frontage shall be equal to that required for the equivalent number of single-family dwelling units.
 - (2) The minimum road frontage shall be 200 feet.
 - (3) Lots for multi-family dwelling units shall meet all other dimensional requirements for single-family dwellings.
 - (4) No building shall contain more than ten dwelling units.
 - (5) All multi-family dwellings shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.
 - (6) All multi-family dwelling units shall be connected to a public sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance.
 - (7) No parking area shall be located within the required yard areas.

10. Off-Street Parking and Loading Requirements

- a. Basic Requirements: In any district where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged unless there is provided for such extension, construction or enlargement, off-street automobile parking space within 300 feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements. An area of 200 sq.ft. appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space. No required parking space shall, for the purposes of this Ordinance, serve more than one use. No off-street parking facility shall have more than two entrances and exits on the same street, and no entrance or exit shall exceed 26 feet in width. Parking areas with more than two parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.
- b. Schedule of Minimum Off-Street Parking Requirements
 - (1) Two spaces per dwelling unit;
 - (2) One space for each sleeping room in a tourist home, boarding or lodging house, motel or hotel;
 - (3) One space for each recreational vehicle, tent or shelter site in a campground;
 - (4) One space for each two beds in a hospital or sanitarium;
 - (5) One space for each four beds for other institutions devoted to the board, care or treatment of persons;
 - (6) One space for each 150 sq.ft. or fraction thereof, of floor area of any retail, wholesale or service establishment or office or professional building;
 - (7) One space for each three seats, permanent or otherwise, for patron use for restaurants, and other places serving food or beverage and for theaters, auditoriums and other places of amusement or assembly;
 - (8) One space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial or other permitted uses;
 - (9) Adequate spaces shall be provided to accommodate customers, patrons and employees at automobile service stations, drive-in establishments, open air retail businesses and amusements and other permitted uses not specifically enumerated.
- c. Off-Street Loading: In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way.
- d. Landscaping: Required parking and loading spaces for non-residential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, beams, or any combination thereof forming a visual barrier not less than six feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

11. Planned Unit Development and Cluster Development

- a. Purpose: The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed.
- b. Basic Requirements: Planned unit developments and cluster developments shall meet all of the following criteria:
 - (1) All planned unit developments and cluster developments shall meet all requirements for a residential subdivision.
 - (2) The minimum area of land in a planned unit development or cluster development shall be ten acres.
 - (3) Any lot abutting a public road shall have a frontage and area no less than that normally required in the District. On other than public roads, lot area and road frontage may be reduced by not more than 30 percent from the requirements of the District in which the proposed development is located provided that:
 - (a) No building lot shall have an area of less than 10,000 sq.ft.
 - (b) All lots except those abutting a circular turn-around shall have a minimum frontage of 75 feet. The frontage of lots abutting a circular turn-around may be reduced to 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet.
 - (4) In no case shall frontage be reduced below the minimum shore frontage normally required in the District.
 - (5) Lots in a planned unit development or cluster development shall meet all other dimensional requirements for the District in which they are located.
 - (6) The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.
 - (7) Every building lot that is reduced in area below the amount normally required shall abut such commonland for a distance of at least 50 feet.
 - (8) All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by a trust or association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Municipality.
 - (9) Further subdivision of common land or its use for other than noncommercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land.
 - (10) Where a planned unit development or cluster development abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
 - (11) All dwelling units in a planned unit development or cluster development shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.

- (12) All structures with required plumbing in a planned unit development or cluster development shall be connected to a public sanitary sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance.
- (13) Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development.

12. Sanitary Provisions

- a. Purpose: To promote health, safety and general welfare and to protect ground and surface waters and public and private water supplies from contamination or nutrient enrichment, the following provisions shall be applicable to the installation of sanitary waste disposal facilities in all Districts.
- b. Connection to Public Facilities: All plumbing shall be connected to public collection and treatment facilities when such facilities are available.
- c. Subsurface Sewage Disposal:
 - (1) Soil Conditions
 - (a) No Plumbing Permit shall be issued for a subsurface sewage disposal system unless the application is accompanied by a soils report prepared by a qualified soil scientist or agency based on an on-site investigation identifying the soils boundaries and names upon a plan of the lot in accordance with the USDA Soil Conservation Service National Cooperative Soil Survey.
 - (b) No Plumbing Permit shall be issued for a subsurface disposal system unless there are soils rated "good" or "fair" for the proposed use by the Soil Suitability Guide for Land Use Planning in Maine, in sufficient quantity to accommodate the proposed system, and in a location meeting the setback requirements of this Ordinance. In no case shall a Plumbing Permit be approved unless the area of such soils is greater than 1,000 sq.ft.
 - (c) Within 250 feet of the normal high water elevation of all water bodies, no Plumbing Permit shall be issued for a subsurface sewage disposal system in any soils rated "poor" or "very poor" for such use by the Soil Suitability Guide for Land Use Planning in Maine.
 - 1) In all other areas, a Conditional Use Permit may be issued for subsurface sewage disposal facilities located in soils rated "poor" for such use provided that:
 - a) A plan to construct an adequate absorption area in conformance with the requirements of the State Subsurface Sewage Disposal Rules is prepared by a Registered Engineer and submitted for Planning Board review.
 - b) Any system approved by the Planning Board under this section is supervised by the Local Plumbing Inspector during installation.
 - c) The distance from the outer edges of the total constructed area to the nearest lot line shall be a minimum of 50 feet.
- d. Privies: Privies may be permitted in areas not served by community sewer facilities and where other means of sewage disposal are not feasible, under the following conditions.

The privy shall meet the requirements of the State of Maine Subsurface Wastewater Disposal Rules and the following:

- (1) No plumbing of any kind shall be connected to or discharged into the privy pit. A gray water system is required.
- (2) The privy shall be located at minimum horizontal distance of:
 - (a) 25 feet from the nearest property line;
 - (b) 100 feet from the normal high water elevation of a water body; and
 - (c) 100 feet from a private well.
- (3) The bottom of a privy pit shall be at least two feet above bedrock and the ground water table at its highest point or have a watertight vault.
- (4) Privies shall not be permitted in areas subject to frequent flooding.

e. Holding Tanks

- (1) Holding tanks for sanitary wastes may be permitted in all Districts as a Conditional Use only after approval by the Planning Board and the Maine Department of Human Services Division of Health Engineering. The terms of the Conditional Use Permit shall specify that:
 - (a) A contract or other arrangement shall be made for the periodic and continuing removal of wastes from the tank from the time of installation of the tank.
 - (b) The waste is disposed of at a municipal sewage treatment plant or other facility approved by the Planning Board and the Maine Department of Environmental Protection.
 - (c) The holding tank and connection are completely watertight.
 - (d) Construction is of impervious material.
 - (e) The tank is not located in an area subject to frequent flooding or in soils subject to severe frost action.
- (2) The setback from a shoreline for a holding tank, where permitted, shall be equal to that of the principal building, but shall in no instance be less than 100 feet.

f. Other Systems: Other systems of sanitary waste disposal may be permitted in all Districts as a Conditional Use only after approval by the Planning Board.

- (1) Alternative systems shall be presented to the Planning Board on a plan prepared by a Registered Engineer and shall be subject to review and approval of the Maine Department of Environmental Protection and/or the Maine Department of Human Services.

g. Setbacks

- (1) In all Districts, the minimum setback for underground sewage disposal facilities from the normal high water elevation of a water body shall be at least equal to that of the principal building. In no case, shall the setback from any shoreline be less than 100

horizontal feet. Where daily sewage flow exceeds 2,000 gallons, minimum setback shall be 300 feet from any shoreline.

- (2) Except as required in Section 21.12.c.a., underground sewage disposal facilities, where permitted, shall be subject to the following additional setback provisions measured in feet:

Components	Daily Sewage Flow Less Than 2,000 Gallons		Daily Sewage Flow In Excess of 2,000 Gallons	
	Septic Tank	Disposal Area	Septic Tank	Disposal Area
Property Line	10	10	20	20
Buildings	8	20	20	40
Well or spring used as a domestic water supply	100	100	100	100
Well or spring used as a domestic water supply with a daily water use in excess of 2,000 gallons	100	300	100	300
Water supply line	10	10	10	25

- (3) Setbacks from shorelines and water supplies for all subsurface sewage disposal facilities shall not be reduced by variance.

13. Signs

a. General: The following provisions shall apply to signs in all Districts where permitted.

b. Size, Location and Illumination: No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording, the sign may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or devise or otherwise constitute a hazard to pedestrian or vehicular traffic.

(1) Flashing, moving or animated signs are prohibited.

(2) No sign shall be erected adjacent to any public way unless it meets State specifications.

(3) No sign shall be located within three feet of a street line or lot line except signs protruding from a commercial structure which may not extend beyond the street line.

c. Types of Signs

(1) Public traffic and directional signs:

Public traffic and directional signs and signs designating public or semi-public activities shall be allowed.

- (2) Residential signs:
 - (a) One sign not to exceed 10 sq. ft. identifying the premises or the occupation of the tenants.
 - (b) Signs up to 20 sq. ft. may be used to identify public and non-profit buildings such as churches, schools, libraries, clinics and other similar residentially-related uses.
 - (c) Projecting signs shall not extend beyond the property lines.
 - (d) All signs shall be stationary and may be externally lit by a shaded, non-flashing light.

- (3) Signs in Resource Protection and Limited Residential Districts
 - (a) Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed 6 sq. ft. in area and shall not exceed two signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.
 - (b) Name signs shall be permitted, provided such signs shall not exceed two signs per premises.
 - (c) Residential users may display a single sign not over 3 sq.ft. in area relating to the sale, rental or lease of the premises.
 - (d) Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed 2 sq.ft. in area.
 - (e) Signs relating to public safety shall be permitted without restriction.
 - (f) No sign shall extend higher than 20 feet above the ground.
 - (g) Signs may be illuminated only by shielded, non-flashing lights.

- (4) Commercial Signs
 - (a) No commercial sign shall exceed 25 feet in height above the ground level of land upon which it is located.
 - (b) If a sign is affixed to or is part of a building, the sign shall not extend more than 10 feet above the roof of the building.
 - (c) The total area of all signs shall not exceed 60 sq. ft. in area per business and not exceed 4 signs per business.

- (5) Other Signs
 - (a) Signs not exceeding two per premises and not over 6 sq.ft. in area relating to the sale, rental or lease of the premises, shall be allowed.
 - (b) Signs relating to trespassing, hunting and spraying must be conspicuously posted.
 - (c) Signs relating to seasonal goods and services sold on the premises shall be allowed, provided such signs do not exceed two per premises and a cumulative total of 60 sq.ft. in area.

14. Water Quality Protection: No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that runoff, seep, percolate or wash into surface or ground waters so as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.
15. Elderly Residential District Standards
 - a. For the purpose of this District, elderly housing shall mean dwelling units that are occupied by elderly and/or handicapped persons as a residential shared living environment. Permitted uses shall include but not be limited to individual apartments, shared community spaces, housekeeping services, personal care and transportation assistance.
 - b. Permitted uses shall conform to all dimensional requirements and other applicable requirements of this District. A Building Permit shall be required for all buildings and uses according to the provisions of this ordinance.
 - c. Permitted Uses
 - (1) Rural
 - open space use
 - agriculture and gardening
 - (2) Residential
 - elderly housing
 - accessory uses and structures, including a community room, for such functions as recreation, socialization, meetings, lectures, health programs, family visits and senior's programs
 - home occupations
 - signs
 - d. Buildings or structures in existence prior to June, 1974, may be exempt from the front setback requirement provided that any addition or alteration requiring land use shall not decrease the existing front setback.
 - e. No more than ten dwelling units shall occupy one acre of lot size. For the purpose of this District, a structure may contain a maximum of seven dwelling units. Maximum gross floor area per dwelling unit shall not exceed 800 sq.ft.
 - f. No building shall exceed 2 1/2 stories or 35 feet in height.
 - g. For the purpose of this District, one off-street parking space shall be provided for each dwelling unit. An area of 200 sq.ft. appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space. No off-street parking facility shall have more than two access points, on the same street, and no access point shall exceed 26 feet in width. Parking areas with more than two parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.
16. Individual Private Campsites: Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

- a. 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 area, whichever is less, may be permitted.
- b. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one **hundred** (100) feet, horizontal distance, from the normal high-water line of a great pond, 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.
- c. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- d. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- e. 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.
- f. 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.

17. Apartment Conversions

- a. Purpose: The purpose of these standards are to provide less expensive rental units to the housing stock; make housing units available to lower income households who might otherwise have difficulty finding housing in Phillips and to protect property values and traditional residential characteristics.
 - (1) General Requirements: The conversion of existing residences which otherwise would not meet dimensional requirements and/or parking requirements to multiple unit housing may be allowed by a permit granted by the Planning Board, provided that the following are met:
 - (a) Such conversion shall not create more than three (3) dwelling units in any structure.
 - (b) The converted apartments shall be designed so that the appearance of the building remains that of a single-family dwelling, with the exception of a second floor emergency egress.
 - (c) The design of the apartment conforms to all applicable standards in the building and other codes.
 - (d) Adequate off-street parking shall be provided.
 - (e) Adequate provisions shall be made for the disposal of sewage, waste and drainage generated by the apartments.
 - (f) Subsurface sewage disposal shall comply with all provisions of the State of Maine Subsurface Wastewater Disposal Rules.

18. Backlots

Backlots may be developed for single-family use although they lack any frontage on a public or privately owned street if the development is in accordance with the following provisions:

- a. If a backlot is accessible only by a legally enforceable right-of-way, it may be used if the following conditions are met:
 - (1) The right-of-way must be conveyed by deed or other legal instrument registered in the County Registry of Deeds to the owner of the backlot and be a minimum of 50 feet in width.
 - (2) A legal description of the right-of-way by metes and bounds shall be attached to any building permit application for construction on the backlot.
 - (3) The right-of-way deed or other legal instrument must be recorded in the Franklin County Registry of Deeds before a building permit is issued.
 - (4) Creation of 50 foot right-of-way to serve the backlot shall not create a nonconforming front lot by reducing such lots required road frontage below the minimum, or, if the front lot is already nonconforming, reduce its road frontage at all. Where the right-of-way is conveyed by easement or irrevocable license, or some grant less than a fee interest, the land over which such servitude is placed may not be counted toward meeting road frontage requirements for the front lot.
 - (5) The right-of-way may serve only one single-family dwelling.
 - (a) No more than one right-of-way for backlot development may be created out of any single lot fronting on public or privately owned street unless each subsequent right-of-way is created out of at least 200 feet of frontage on a public or privately owned road frontage, and the center lines of the rights-of-way entrances are at least 200 feet apart.
 - (b) The shortest distance between the backlot and street shall be at least 250 feet.

19. Single Family Homes/Resource Protection District

Excepting structure setback requirements the Planning Board may issue a permit for a single-family residence in the Resource Protection District if the applicant demonstrates that all of the following criteria are met.

- a. There is no location on the property, other than a location within the Resource Protection District where the structure can be built.
- b. The lot on which the structure is proposed is undeveloped and was established and recorded in the Franklin County Registry of Deeds before the adoption of the Resource Protection District.
- c. All buildings, sewage disposal systems and other improvements are:
 - (1) Located on natural ground slopes of less than 20%; and
 - (2) Located outside the floodway of the 100--year floodplain along rivers based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above

the 100--year floodplain elevation; and the development is otherwise in compliance with the Floodplain Management Ordinance for the town of Phillips, Maine. 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 floodplain.

- d. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures located within the Resource Protection District is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- e. All structures, except functionally water-dependent structures, are set back from the normal high-waterline 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 floodplain and its proximity to moderate-value and high-value wetlands.
- f. Is in compliance with all other applicable provisions of this Ordinance.

B. Subsections 21.B. 1-12 shall apply only to land areas within 250 feet, horizontal distance, of the normal high-waterline of any great pond, the Sandy River; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland rated moderate or high waterfowl and wading bird habitat, including nesting and feeding areas by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department, as of December 31, 2008 (For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean 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); with 75 feet, horizontal distance, of the upland edge of a freshwater wetland rated low or not rated by MDIF&W and within 75 feet, horizontal distance, of the normal high-waterline of a stream or outlet stream.

1. Multiple dwelling/structures. If more than one residential dwelling unit principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.
2. Subdivisions adjacent to Sandy River. Proposed subdivision within 250 feet of the Sandy River zoned Resource Protection or Limited Residential shall comply with the following:
 - a. When lots in a subdivision have frontage on the Sandy River, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
 - b. To avoid circumventing the intent of Section 21.B.2.a. whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
3. Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

4. Piers, Docks, Wharfs, Bridges, and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.
 - a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 - b. The location shall not interfere with existing developed or natural beach areas.
 - c. The facility shall be located so as to minimize adverse effects on fish habitat.
 - d. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and, uses, of the area. A temporary pier, dock or wharf shall not be wider than six feet for non commercial uses.
 - e. 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 or wetland as an operational necessity.
 - f. 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.
 - g. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
5. Roads and Driveways: The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.
 - a. 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, and seventy-five (75) feet horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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.

This paragraph 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 access to permitted structures within the setback area shall comply fully with the requirements of Section 21.B.5(a) except for that portion of the road or driveway necessary for direct access to the structure.
 - b. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

- c. New roads and driveways are prohibited in a Resource Protection District except that the planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District upon 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.
- d. 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 subsection 21.B.11.
- e. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- f. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road 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.
- g. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:
 - (1) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

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

- (2) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (3) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (4) 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.

- h. 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.

6. Essential Services

- a. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- b. The installation of essential services, other than road side 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.
- c. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

7. Mineral Exploration

NOTE: This includes mining of topsoil and loam. For additional information see the definition of Mineral 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.

8. Agriculture

- a. All spreading or disposal 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).
- b. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland area must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- c. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland area shall require a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- d. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five 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.
- e. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within

seventy-five (75) feet, horizontal distance of other water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

9. Timber Harvesting

- a. Within the strip of land extending 75 feet 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. Except in areas as described in Paragraph a. above, timber harvesting shall conform with the following provisions:
 - (1) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. (See subsection c. of this section for an exception to the 40 percent standard). In addition:
 - (a) Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond, 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.
 - (b) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond, 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. For the purposes of these standards volume may be considered to be equivalent to basal area.
 - (2) No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
 - (3) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (a) Surface waters are frozen; and
 - (b) The activity will not result in any ground disturbance.
 - (4) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
 - (5) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon

completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

- (6) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.
- c. The Planning Board may issue a permit to exceed the 40 percent limitation upon a clear showing, including a Forest Management Plan signed by a Maine licensed Professional Forester, that such timber harvesting in excess of the 40 percent is necessary for good forestry management and is carried out in accordance with the purpose of this ordinance. The Planning Board shall notify the Department of Environmental Protection of any permits issued for timber harvesting in excess of the 40 percent within 14 days of approving such permits.

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

- a. 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.

- b. Except in areas as described in Paragraph 10.a, 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, 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:
 - (1) 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.

(2) 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 this section a "well-distributed stand of trees" adjacent to a great pond 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 - < 8 in.	2
8 -< 12 in.	4
12 in. or greater	8

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

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 is 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 21.B.10 (b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

- (3) 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 removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2.a. above.
- (4) Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- (5) 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.

The provisions contained in paragraph b. above shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- c. At distances greater than one hundred (100) feet, horizontal distance, from a great pond, 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 percent of the lot area within the shoreland area or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Purpose District.

- d. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

- e. Fields and other cleared areas which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

11. Erosion and Sedimentation Control

- a. All activities which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (1) Mulching and revegetation of disturbed soil.
 - (2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (3) Permanent stabilization structures such as retaining walls or riprap.
- b. 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.
- c. 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.
- d. 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:
 - (1) 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.
 - (2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- e. Natural and manmade drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year 24 hour storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

12. Archaeological Sites

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

Section 22. Administration

A. Enforcement: This Ordinance shall be enforced by a Code Enforcement Officer appointed by the Municipal Officers.

B. Building or Use Permit

1. All applications for Building or Use Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose.
2. Within seven days of the filing of an application for a Building or Use Permits, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for Conditional Use Permit, all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, he shall also provide a copy of this decision to the Planning Board.
3. No Building Permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent, until the proposed construction or alteration of a building or structure shall comply in all respects with the provisions of this Ordinance or with a decision rendered by the Board of Appeals or the Planning Board. Any application for such a permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on-site soils survey in accordance with the USDA Soil Conservation Service National Cooperative Soil Survey, the exact location and size of all buildings or structures already on the lot, the location of new buildings to be constructed, together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this Ordinance.
4. Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.
5. 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.
6. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not substantially completed within two years of the date on which the permit is granted.
7. 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.
8. 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.

- C. **Plumbing Permit Required:** No Building Permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the sanitary provisions of this Ordinance.
- D. **Fee:** No building permit shall be issued without payment of a fee of \$5.00 for accessory buildings and \$10 for all other types. The Selectmen shall have the authority to revise fees after conducting a public hearing.
- E. Enforcement Officer**
1. 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 shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
 2. 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 affecting the shoreland area shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.
- F. **Legal Action and Violations:** When any violation of any provision of this Ordinance shall be found to exist, the Municipal Attorney, as designated by the Municipal Officers, either on his own initiative, or upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.
- G. **Fines:** Any person, including, but not limited to, a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452. The Selectmen are authorized to enter into a Consent Agreement and in such cases court action is not necessary.
- H. Appeals and Conditional Use Permits**
1. Procedure
 - a. All appeals or applications for Conditional Use Permits shall be based upon a written decision of the Code Enforcement Officer.
 - b. Administrative appeals and variance appeals shall be heard and decided upon by the Board of Appeals in accordance with the provisions of this Ordinance.
 - c. Applications for Conditional Use Permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.
 - d. Appeals shall lie from the decision of the Code Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court according to State law.
 - e. Conditional uses shall lie from the decision of the Code Enforcement Officer to the Planning Board and from the Planning Board to the Superior Court according to State law.

I. Board of Appeals

1. Establishment: A Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.
2. Appointment and Composition
 - a. The Board of Appeals shall be appointed by the Municipal Officers and shall consist of five members, all of whom shall be legal residents of the municipality, serving staggered terms of at least three and not more than five years. The Board shall elect annually a chairman and secretary from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of three members.
 - b. A Municipal Officer may not serve as a member.
 - c. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
 - d. A member of the Board may be dismissed for cause by the Municipal Officers upon written charges and after public hearing.
3. Powers and Duties
 - a. Administrative Appeals: To hear and decide administrative appeals ,on an appellate basis, where it is alleged by an aggrieved party there is an error in any order, requirement, decision or determination by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - b. Variance Appeals: To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. The term "undue hardship" shall mean:
 - (1) that the land in question cannot yield a reasonable return unless a variance is granted;
 - (2) that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (3) that the granting of a variance will not alter the essential character of the locality; and
 - (4) that the hardship is not the result of action taken by the applicant or a prior owner.

As used in this Ordinance, a variance is authorized only for height, area and size of structures or size of yards or open spaces. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning District or uses in adjoining Zoning

Districts. The Board of Appeals shall grant a variance only by concurring vote of at least four members and in so doing, may prescribe conditions and safeguards as are appropriate under this Ordinance.

- c. Notwithstanding Section 22.1.3.b 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.
- d. 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.
- e. A filing fee shall be required for each application for a variance in the amount of \$5.00 plus any expenses incurred. The Selectmen may revise the fee after holding a public hearing.
- f. Appeal Procedure
 - (1) In all cases, a person aggrieved by a decision of the Planning Board or Code Enforcement Officer shall commence his appeal within 30 days after a decision is made by the Planning Board or Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.
 - (2) Following the filing of an appeal, and before taking action on any appeal, the Board of Appeals shall hold a public hearing on the appeal within 30 days. The Board of Appeals shall notify the Code Enforcement Officer and the Planning Board, at least 20 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area.
 - (3) For appeals in the shoreland area a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to 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.
 - (4) In appeals involving the use of buildings or premises, the Board of Appeals shall notify by mail the appellant and owners of all property within 500 feet of the property involved at least ten days in advance of the hearing of the time and place of the public hearing. Except in the General Purpose District, notification of an appeal shall be by certified mail to owners of all property within 200 feet of the property involved.
 - (5) In the case of appeals involving space and bulk regulations or interpretation, the Board of Appeals shall notify by mail the appellant and only the owners of property

abutting the property for which an appeal is taken, at least 10 days in advance of the hearing, of the nature of the appeal and of the time and place of the public hearing thereon. For the purpose of this section, abutting properties shall include properties directly across a street or water body from the property for which the appeal is made.

- (6) The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
- (7) 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.
- (8) When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.
- (9) At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
- (10) The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs or other material he deems appropriate for an understanding of the appeal.
- (11) The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
- (12) Within 20 days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall inform, in writing, the appellant, the Code Enforcement Officer, the Planning Board and Municipal Officers of its decision and its reasons thereof.
- (13) Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a Building Permit in accordance with the conditions of the approval.
- (14) A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.
- (15) A copy of any variance decision concerning the shoreland area must be sent to the DEP within 7 days of the decision.

J. Conditional Use Permits

1. Authorization: The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits in accordance with State law and the provisions of this Ordinance.
2. Powers and Duties: The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use Permit is made in this Ordinance.
3. Application Procedure
 - a. A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose.
 - b. Following the filing of an application, and before taking action on any application, the Planning Board may hold a public hearing on the application within 30 days. Should a hearing be held, the Planning Board shall notify the Code Enforcement Officer, Municipal Officers, and the Board of Appeals, at least 20 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area.
 - c. The Board shall notify by mail, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of any hearing, of the nature of the application and of the time and place of the public hearing. Except in the General Purpose District, notification shall be by mail to the owners of property within 200 feet of the property involved.
 - d. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
 - e. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
 - f. The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Planning Board all plans, photographs or other material he deems appropriate for an understanding of the application.
 - g. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
 - h. Within 20 days of any public hearing, the Planning Board shall reach a decision on a Conditional Use and shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reasons, thereof.
 - i. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Building Permit.
 - j. A Conditional Use Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date on which the Conditional Use is authorized, and if the work or change is not substantially completed within two years.

4. Factors Applicable to Conditional Uses

- a. In considering a Conditional Use Permit, the Planning Board shall evaluate the immediate and long-range effects of the proposed use upon:
 - (1) The maintenance of safe and healthful conditions;
 - (2) The prevention and control of water pollution erosion on sedimentation;
 - (3) The control of building sites, placement of structures and land uses;
 - (4) The protection of spawning grounds, fish, aquatic life, bird and other wildlife habitat; and
 - (5) The conservation of shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

- b. The Planning Board shall also consider the following factors:
 - (1) The compatibility of the proposed use with adjacent land uses;
 - (2) The need of a particular location for the proposed use;
 - (3) Access to the site from existing or proposed roads;
 - (4) The location of the site with respect to floodplains and floodways of rivers or streams;
 - (5) The amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal systems;
 - (6) The impact of the proposed use on the land and adjacent water bodies and the capability of the land and water to sustain such use without degradation;
 - (7) Existing topographic and drainage features and vegetative cover on the site;
 - (8) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
 - (9) The impact of the proposed use on transportation facilities;
 - (10) The impact of the proposed use on location, population and community facilities; and
 - (11) The impact of the proposed use on local water supplies.

- c. Within the shoreland area, the Planning Board shall make positive finding that the proposed use.
 - (1) Will maintain safe and healthful conditions;
 - (2) Will not result in water pollution, erosion or sedimentation to surface waters;
 - (3) Will adequately provide for the disposal of all wastewater;
 - (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with floodplain development and use; and
- (8) Is in conformance with the provisions of Section 21. Performance Standards.

5. Conditions Attached to Conditional Uses

- a. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; location of piers, docks, parking and signs, type of construction; or any other conditions necessary to fulfill the purpose of this Ordinance.
- b. In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a Conditional Use Permit, the following information:
 - (1) A plan of the area showing contours at intervals to be determined by the Planning Board and referred to Mean Sea Level, high water elevation, ground water conditions, bedrock, slope and vegetative cover.
 - (2) A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accordance with the USDA Soil Conservation Service National Cooperative Soil Classification.
 - (3) Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and landscaping.
 - (4) Plans of buildings, sewage disposal facilities and water supply systems.
 - (5) Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance. In evaluating each application, the Planning Board may request the assistance of the Council, County Soil and Water Conservation District and any other State or Federal agency which can provide technical assistance.

Section 23. Definitions

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

Agriculture: the production, keeping, or maintenance, for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry

and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

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.

Alteration: any change, addition or modification in construction or any change in the structural members of a building such as bearing walls, columns, beams or girders.

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

Automobile Graveyard: a yard, field or other area used as a place of storage for three or more unserviceable, discarded, worn-out or junked motor vehicles.

Auto Repair Garage: a place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating of automobiles.

Auto Service Station: a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame or fender straightening and repair.

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

Backlot: any lot or parcel of land that does not have frontage on a public or private road or lacks the minimum frontage as required under Section 19.

Basement: a portion of the building partly underground but having less than half its clear height below the average grade of the adjoining ground.

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

Boathouse: a nonresidential structure designed for the purpose of protecting or storing boats for noncommercial 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.

Building Height: the vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.

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.

Cellar: a portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.

Code Enforcement: a person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like, where applicable.

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

Conditional use: a use permitted only after review and approval of the Planning Board. A Conditional Use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purposes of this Ordinance. Such uses may be permitted if specific provision of such Conditional Use is made in this Ordinance.

Conditional use permit: a permit authorized by the Planning Board for a Conditional Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this Ordinance.

Conforming Use: a use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed: includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage and the like shall be considered a part of construction.

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; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

District: a specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

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

Dwelling: a fixed structure containing one or more dwelling units.

Dwelling Unit: a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles.

Earth: topsoil, sand, gravel, clay, peat, rock or other minerals.

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

Excavation: any removal of earth or earth material from its original position.

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

Expansion of use: the addition of weeks or months to a use's operating season; additional hours of operation; 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.

Filling: depositing or dumping any matter on or into the ground or water.

Flood: a temporary rise in stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.

Floodplain: the lands adjacent to a water body which have been or may be covered by the regional flood.

Flood Proofing: a combination of structural provisions, changes or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings.

Regional Flood: the maximum known flood of a water body; either the 100 year frequency flood or record.

Floodway: the channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream.

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, gross: the sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls.

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

Forested wetlands: are wetlands dominated by vegetation which is six (6) meters (19.7 feet) or taller. (They have the same hydrological and biological characteristics as freshwater wetlands).

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

Freshwater wetland: freshwater swamps, marshes, bogs and similar areas 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.

For the purposes of this ordinance, the upland edge (the shoreline) of a freshwater wetland is defined as the boundary line at which the hydrological and biological characteristics in item 2 above no longer occur or where the wetland becomes a forested wetland.

Although wetlands are shown on the official shoreland zoning map, the actual boundaries shall be determined by field investigation.

Frontage, street: the horizontal distance between the intersections of the side lot lines with the front lot line.

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, inland waters and which cannot be located away from these waters. The uses include, but are not limited to recreational fishing and boating facilities, waterfront dock facilities, boat yards and boat building facilities, excluding recreational boat storage buildings, navigation aides, industrial uses requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site.

Grade: in relation to buildings, the average of the finished ground level at the center of each wall of a building.

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 as great ponds.

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

Home occupation: an occupation or profession which is: customarily carried on in a dwelling unit or structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; and clearly incidental and secondary to the uses of the dwelling unit for residential purposes.

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

Individual private campsite: an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site

improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial: the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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

Junkyard: a yard, field or other area used as a place of storage for:

1. discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
2. discarded, scrap and junked lumber;
3. old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
4. garbage dumps, waste dumps and sanitary fills.

Lot: a parcel of land in single ownership, described on a deed, plot or similar legal document.

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

Lot, corner: a lot with at least two contiguous sides abutting upon a street.

Lot, coverage: the percentage of the lot covered by all buildings.

Lot, interior: any lot other than a corner lot.

Lot lines: the lines bounding a lot as defined below:

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

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

Side Lot Line: any lot line other than the front lot line or rear lot line.

Lot width: the horizontal distance between the side lot lines, measured at the setback line.

Lot of record: a parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds or in common use by city or county officials.

Lot, shorefront: any lot abutting a water body.

Lot, through: any interior lot having frontages on two, more or less parallel streets, or between a street and a water body, or between two water bodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and water bodies shall be considered frontage, and front yards shall be provided as required.

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

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

Meteorological Tower (MT): Tower constructed to mount instruments at one or more heights above grade for the purpose of collecting wind or other meteorological data.

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

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

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

Mobile home: a structure designed as a dwelling unit for location on a permanent foundation, and containing sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported after fabrication on its own wheels. A mobile home shall contain not less than 450 sq.ft. of gross floor area.

Mobile home park: a plot of land laid out to accommodate at least two mobile homes.

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

Native: indigenous to the local forests.

Net residential acreage: the gross acreage available for development, excluding the area for streets or access and the areas which are unsuitable for development.

Net residential density: the number of dwelling units per net residential acre.

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.

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

Nonconforming 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.

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

Normal high-water line: that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers 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.

Open space: a use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds or fish, aquatic life, bird and other wildlife habitat.

Outlet stream: any perennial or intermittent stream, as shown on the most recent edition of the 7.5 minute series or, if not available, a 15 minute series topographic map produced by the United States Geological Survey, that flows from a freshwater wetland.

Parking space: a minimum area of 200 sq.ft., exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

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

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

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

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

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

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

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

Principal 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.

Public utility: any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Recent floodplain 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 pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system: a system intended to replace:

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

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

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

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

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

Road [Shoreland Area]: 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.

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

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

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

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

Shoreland area: 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 75 feet of a stream or outlet stream; or within 250 feet horizontal distance of the upland edge of a freshwater wetland rated moderate or high value by the Maine Department of Inland Fisheries and Wildlife, and 75 feet, horizontal distance, of the upland edge of a freshwater wetland rated low value or not rated by the Maine Department of Inland Fisheries and Wildlife.

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

Sign: a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

Sign Area: The entire face of the sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

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.

Stream: a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within a shoreland area.

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, patios and satellite dishes.

Subdivision: the division of a tract or parcel of land into three or more lots, whether accomplished by sale, lease, development, building or otherwise, in any five year period. For the purpose of this Ordinance, the term subdivision shall include such developments as shopping centers, condominiums, mobile home parks and campgrounds where there are three or more units involved.

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

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

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

Timber harvesting: the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland area on a lot that has less than two (2) acres within the shoreland area shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Subsection 21 B(10) *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Trailer, Utility: a vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

Tributary stream: a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. 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 area of the receiving water body or wetland.

Type 0: Micro Wind Energy Facility: one or more wind turbines, each with a nameplate capacity of less than 1 kW and a turbine height (measured to the top of an upright blade) of 35 feet or less.

Type 1: Small Wind Energy Facility: a single wind turbine with a nameplate capacity of 10 kW or less and a turbine height (measured to the top of an upright blade) of 80 feet or less.

Type 2: Intermediate Wind Energy Facility: a single wind turbine with a nameplate capacity of less than 100 kW and or a turbine height (measured to the top of an upright blade) of 150 feet or less.

Type 3: Large/Commercial Wind Energy Facility: a single wind turbine with a nameplate capacity of 100 kW or a turbine height (measured to the top of an upright blade) of more than 150 feet. Or a WEF composed of two or more turbines each with a nameplate capacity of 1 kW or more. Or a WEF (of any size or number of turbines) 25% or more of whose power is intended for sale or use by entities or persons other than the generator.

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

Variance: a relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

Vegetation: all live trees, shrubs, and other plants including, without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

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

Water body: any great pond, river, stream or outlet stream.

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

Wetland: a freshwater wetland.

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

Yard: the area of land on a lot not occupied by the principal building.

Yard, front: the area of land between the front lot line and nearest part of the principal building.

Yard, side: the area of land between the side lot line and nearest part of the part of the principal building.

Yard, rear: the area of land between the rear lot line and nearest part of the principal building.