Coastal Zone
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STATE OF MAINE GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES

DECEMBER 15, 1973

Adopted by the Board of Environmental Protection and the Land Use Regulation Commission Pursuant to the Administrative Direction of the State Planning Office.

Maine. State Planning Office

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INTRODUCTION

The guidelines contained in the following pages were adopted by the Board of Environmental Protection (BEP) and the Land Use Regulation Commission (LURC), pursuant to the mandatory shoreland zoning and subdivision control act, Title 12 M.R.S.A. Sections 4811-4814, under the administrative direction of the State Planning Office.

Implementation of shoreland zoning would best be fulfilled by intensive examination and consideration of conditions at the local level by municipal officers and planning boards, with a maximum of citizen input. Recognizing the burden this may place on towns which have limited experience in planning or full-time personnel, BEP and LURC, under the direction of the State Planning Office, have prepared these guidelines in model ordinance form. A municipality could adopt this guideline ordinance to govern the 250-foot shoreland area. The reasons for putting the guidelines in ordinance format are:

1) The ordinance format is comparatively simple, relative to other alternatives;

2) It gives communities a clear and decisive indication of what the State expects in local ordinances, as well as the ordinance which would be imposed if a municipality failed to act; and

3) Towns which have had relatively little experience with ordinances can concentrate more heavily on the map portion of the ordinance, which includes dividing the shoreland area into the various districts.

The guidelines ordinance is the minimum ordinance that will be acceptable to the State in terms of fulfilling the purposes of the law. Communities may adopt more stringent ordinances, or ordinances which are completely different from the guidelines provided that such ordinances are equally or more effective in achieving the purposes of the law. Communities may want to go beyond the minimum, and are encouraged to do so. Examples of desirable provisions which could be added to the guidelines ordinance include:

1) A section on fees, to cover the costs of any hearings that may become necessary;

2) A list of conditions that could be attached to permits (see Section 12 B. 7, page 12);

3) A section on conflicts between the guidelines ordinance and any other ordinance, law, or regulation, stating that, where conflicts exist, the more stringent provisions would apply (such a provision would cover any future differences between the sanitary standards, Section 11 (J), page 7, and the State Plumbing Code, which is currently being revised); and

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4) A requirement that a report be prepared by a Registered Professional Engineer, relating to such soil properties as bearing strength, subsidence, and slope stability, for proposed commercial, industrial, or other intensive land uses (see Section 11 (L), page 9).

The State Planning Office-Southern Maine Regional Planning Commission Model Zoning Ordinance, and the Extension Service Model Zoning Ordinance, are good examples of models that contain some of the above provisions, as well as additional provisions which are not directly related to the purposes of the law, but which would improve the overall effectiveness of the local ordinance.

While the guidelines ordinance is a minimum ordinance, allowances will be made for changes aimed at fitting local conditions. For example, many communities may choose to establish several districts in place of or in addition to the 3 contained in this ordinance. The following are examples of additional changes that would be permissible, if justifiable reasons for such changes were submitted in writing to the State Planning Office. These changes would be subject to review by the BEP and LURC.

1) Permits could be issued by a board of appeals, rather than the planning board, particularly in those instances where a community did not have a planning board prior to September 23, 1971, and had not established one by ordinance or under charter provisions since that time.

2) Cities with substantial development in the flood plain may choose to establish flood proofing provisions, rather than to prohibit any additional construction or reconstruction in a flood plain area already committed to development. Communities with no flood plain area (i.e., no rivers which require shoreland zoning) may choose not to include flood plain standards in their ordinances.

3) Coastal communities may choose to maintain the existing character of harbor villages by not requiring a set-back, or permitting structures to be built upon wharves (this could be accomplished by putting such areas in a general development district, where the set-back provision does not apply, or by establishing a harbor district or similar district specifically designed for such areas).

4) Waterfront communities along the coast and on major rivers may choose to reduce the minimum lot requirement for areas served by public sewers, to allow planned unit developments or an apartment complex in limited areas where density already exceeds the lot standards for these sewered areas.

5) The wording of various sections of the ordinance may be changed if the modified version is equally effective in fulfilling the purposes of the law.

Additional questions concerning these guidelines may be directed to your regional planning commission, your municipal lawyers, the State Planning Office, or the Maine Municipal Association.

Minimum Shoreland Zoning Ordinance

Shoreland Zoning Ordinance for the Town of _____

Section 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

Section 2. Applicability

The Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high water mark of any pond, river or salt water body as defined.

Section 3. Effective Date

The effective date of this Ordinance is _____. A certified copy of this Ordinance shall be filed with the County Register of Deeds, according to the requirements of State law.

Section 4. Validity and 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 this Ordinance.

Section 5. Amendments

This Ordinance may be amended by a majority vote of the governing body. The State Planning Office shall be notified by Certified Mail, of amendments to this Ordinance, prior to the effective date of such amendments. A file of return receipts from such mailings shall be maintained as a permanent record.

Section 6. Districts and the Zoning Map

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

1. Resource Protection District
2. General Development District
3. Limited Residential-Recreational District

The Official Shoreland Zoning Map, and all future amendments thereto, is hereby made part of and incorporated into this Ordinance.

Section 7. Interpretation of District Boundaries

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

Section 8. Non-Conforming Uses

A. Any lawful use of building, structures, premises, land or parts thereof existing at the effective date of this Ordinance or amendments thereto and not in conformance with the provisions of this Ordinance shall be considered to be a non-conforming use.

B. Any non-conforming use may continue and may be maintained, repaired and improved. No such non-conforming use may be expanded, changed to another non-conforming use, or renewed after it has been discontinued for a period of 12 calendar months or more, without a permit from the Planning Board in accordance with the provisions of Section 12-B subsection 6, paragraphs a-i of this Ordinance.

C. Any non-conforming lot of record existing before the effective date of this Ordinance and not adjoined by other land of the same ownership may be used in accordance with State law and section 10 of this Ordinance.

Section 9. Criteria for Establishing Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values. This district shall include:

1. Inland or coastal wetlands as defined in Section 13, and specifically areas rated as moderate to high-value waterfowl areas by the Department of Inland Fisheries and Game, as of January 1, 1973.

2. Flood plains as defined by the 100 year flood or the flood of record or, in the absence of these, by soil types identifiable as recent flood plain soils.

3. Areas having sustained slopes greater than 25%, or unstable soil subject to slumping, mass movement, or severe erosion, when these areas are two acres or more in size.

This District may also include:

4. Other significant wildlife habitat;

5. Natural sites of significant scenic or esthetic value.

6. Areas designated by Federal, State or municipal governments as natural areas of significance to be protected from development; and

7. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance.

B. General Development District

The general development district includes the following types of areas:

1. Areas of two acres or more devoted to intensive residential, recreational, commercial or industrial activities or combinations of such activities, including, but not limited to:

   a. Transportation rights of way;
   b. Communication and utility rights of way;
   c. Areas used for the extraction or processing of mineral resources;
   d. Areas devoted to: manufacturing, fabricating, wholesaling, warehousing or other commercial activities;
   e. Areas devoted to retail trade and service activities;
   f. Areas devoted to intensive recreational development and activities;
   g. Areas devoted to residential dwelling units at a density of 3 or more per two acres.
   h. Areas devoted to mixed or combined patterns of a through g above.

2. Areas otherwise discernable as having patterns of intensive residential, recreational, commercial, or industrial uses.

C. Limited Residential-Recreational District

The Limited Residential-Recreational District includes areas other than those included in the Resource Protection District, and which are used less intensively than those included in the General Development District.

Section 10. Uses

Land Uses permitted in each District, in conformance with the land use standards of this Ordinance, are shown below:

KEY: Yes - Allowed (no permit required)
No - Prohibited
BP Permit - Requires permit issued by the Planning Board
CEO Permit - Requires permit from Code Enforcement Officer
* - Subject to specific Land Use Standards, Section II

	DISTRICT		
Land Uses	Resource Protections	Limited Residential-Recreational	General Development
1. Non-intensive recreational uses not requiring structures, such as hunting, fishing and hiking	yes	yes	yes
2. Motorized vehicular traffic on roads and trails, and snowmobiling	yes	yes	yes

DISTRICT - cont'd

Land Uses	Resource Protection	Limited Residential-Recreational	General Development
3. Forest management activities except for timber harvesting	yes	yes	yes
4. Timber harvesting *	CEO permit	yes	yes
5. Fire prevention activities	yes	yes	yes
6. Wildlife management practices	yes	yes	yes
7. Soil & water conservation practices	yes	yes	yes
8. Mineral exploration *	yes	yes	yes
9. Surveying and Resource analysis	yes	yes	yes
10. Emergency operations as defined	yes	yes	yes
11. Harvesting of wild crops	yes	yes	yes
12. Agriculture *	PB permit	yes	yes
13. Principal structures *			
Residential dwelling units	no	PB permit	PB permit
Commercial structures	no	no	PB permit
Industrial structures	no	no	PB permit
14. Structures accessory to permitted uses	CEO permit	CEO permit	yes
15. Road construction *	PB permit	yes	yes
16. Small non-residential facilities for educational, scientific or nature interpretation purposes	PB permit	yes	yes
17. Public and private parks and recreation areas involving minimal structural development	PB permit	yes	yes
18. Campgrounds	no	PB permit	PB permit
19. Piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 ft. in length, and uses projecting into water bodies.			
Temporary	CEO permit	CEO permit	CEO permit
Permanent	PB permit	PB permit	PB permit
20. Clearing for approved construction	CEO permit	yes	yes
21. Essential services accessory to permitted uses	yes	yes	yes
22. Private sewage disposal systems	no	CEO permit	CEO permit
23. Public utilities, including sewage collection & treatment facilities	PB permit	PB permit	PB permit
24. Signs *	yes	yes	yes
25. Filling or other earth-moving activity of less than 10 cubic yds	CEO permit	yes	yes
26. Filling or other earth-moving activity of more than 10 cubic yds	PB permit	CEO permit	CEO permit
27. Uses similar to permitted uses	CEO permit	CEO permit	CEO permit
28. Uses similar to uses requiring a CEO permit	CEO permit	CEO permit	CEO permit
29. Uses similar to uses requiring a PB permit	PB permit	PB permit	PB permit

Section 11. Land Use Standards

All land use activities shall conform to the following applicable land use standards:

A. Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Guidelines for Manure and Manure Sludge Disposal on Land" published by the University of Maine and the Maine Soil and Water Conservation Commission, in July 1972 or subsequent revisions thereof.

2. There shall be no tilling of soil within 50 feet of the normal high water mark of any lake or pond whose shorelands are covered by this Ordinance.

3. Where soil is tilled in a Resource Protection District, or where soil in excess of 20,000 sq. ft. lying either wholly or partially within the area covered by this Ordinance is tilled in a General Development District or a Limited Residential-Recreational District, such tillage shall be carried out in conformance with the provisions of a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission, and is approved by the appropriate Soil and Water Conservation District. The number of the plan shall be filed with the Planning Board. Nonconformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.

B. Beach Construction

Beach construction on any great pond or coastal wetland shall require a permit from the Department of Environmental Protection. Beach construction on any river, stream, or brook capable of floating watercraft shall require approval from the Commissioner of the Department of Inland Fish & Game, as required by law.

C. Campgrounds

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

1. Camping areas shall contain a minimum of 5,000 square feet of suitable land, not including roads and driveways, for each site.

2. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of 75 feet from the normal high water mark of any pond, river, or salt water body as defined.

D. Clearing

Clearing of trees and conversion to other vegetation is permitted for approved construction and landscaping. Where such clearing extends to the shoreline, a cleared opening or openings not greater than 30 feet in width for every 100 feet of shoreline (measured along the normal high water mark) may be created in the

strip extending 50 feet inland from the normal high water mark and paralleling the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.

E. Erosion and Sedimentation Control

Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner to prevent to the maximum extent possible, erosion and sedimentation of surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of "Environmental Quality Handbook Erosion and Sediment Control", published by the Maine Soil and Water Conservation Commission.

F. Mineral Exploration

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. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations.

G. Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges over 20 feet in length, and Uses Projecting into Water Bodies.

In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:

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

2. The location shall not interfere with developed beach areas.

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

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

H. Residential Lot Standards

1. Lots shall meet or exceed the following minimum requirements:

Without Sanitary Sewers	With Sanitary Sewers
20,000 square feet	10,000 square feet

2. If more than one residential dwelling unit is constructed on a single parcel, the minimum lot size requirement shall be met for each additional dwelling unit.

3. A lot abutting a lake, pond, river, stream or tidal water shall have a minimum shore frontage of 100 feet, measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

4. Structures shall not cover more than 20% of any lot.

I. Road Construction

1. Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters. All roads shall be located, constructed and maintained in conformance with the erosion prevention provisions of "Permanent Logging Roads for Better Woodlot Management" published by the Division of State and Private Forestry, Forest Service Northeastern Area, U.S. Department of Agriculture in 1973 or subsequent revisions thereof.

2. Additionally, all roads constructed shall conform with the following standards:

   a. Road crossings of watercourses shall be kept to the minimum number necessary;
   b. Bottoms of culverts shall be installed at streambed elevation;
   c. All cut or fill banks and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible; and
   d. Bridges or culverts of adequate size and design shall be provided for all road crossings of watercourses which are to be used when surface waters are unfrozen. The requirement for a bridge or culvert may be waived by obtaining a permit from the Planning Board.

J. Sanitary Standards

1. Subsurface Sewage Disposal

   A. Soil Conditions

      1. All subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size.

      2. All subsurface sewage disposal systems shall be located in soils having characteristics allowing them to be rated as having "slight" or "moderate" limitations for the proposed use in the current "Statewide Set of Maine Soil Descriptions and Interpretations" published by the U.S. Department of Agriculture, Soil Conservation Service.

      3. The determination of soil suitability shall be based on a soils report prepared by a State-certified soil scientist or geologist, based on an on-site investigation and soil observation to a minimum depth of five feet. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

B. Setbacks

The minimum setback for underground sewage disposal facilities from the normal high water mark of a waterbody shall be no less than 100 horizontal feet. Where daily sewage flow exceeds 2,000 gallons, the minimum setback shall be 300 feet from any shoreline. All other setback requirements of the State Plumbing Code shall be met in full. Setbacks from shorelines for all subsurface sewage disposal facilities shall not be reduced by variance.

2. Privies

Privies may be permitted in areas not served by community sewer facilities under the following conditions:

A. No plumbing of any kind shall be connected to or discharged into the privy pit.

B. The privy shall be located at a minimum horizontal distance of 100 feet from the normal high water mark of a waterbody.

C. The bottom of the privy pit shall be at least two feet above bedrock and the ground water table at its highest point during the year or have a water-tight vault.

D. Privies shall not be permitted on recent flood plain soils.

3. Other Systems

Other systems of sanitary waste disposal may be permitted after approval by the Maine Department of Health and Welfare, and after a permit has been issued by the Planning Board.

K. Signs

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

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

2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.

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

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

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

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

L. Soils

1. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report, prepared by a State-certified soil scientist or geologist based on an on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

M. Structures

1. All principal structures in the Resource Protection and Limited Residential-Recreational Districts shall be set back at least 75 feet from the normal high water mark of any pond, river, or salt water body as defined.

2. The first floor elevation or openings of all buildings and structures shall be elevated at least two feet above the elevation of the 100 year flood, the flood of record or, in the absence of these, the flood as defined by soil types identifiable as recent flood plain soils.

N. Timber Harvesting

1. No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water mark of any pond, river, or salt water body as defined. At distances greater than fifty (50) feet from the normal high water mark of such waters and extending to the limits of the area covered by this Ordinance, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground.

2. Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of any pond, river, or salt water body as defined. The width of this strip shall vary according to the average slope of the land as follows:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

3. Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.

4. Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained.

5. Harvesting activities shall not create single openings greater than seven thousand five hundred (7,500) square feet in the forest canopy.

6. In any stand, harvesting shall remove not more than forty (40) percent of the volume of trees in any ten (10) year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogeneous and distinguishable unit.

7. Timber harvesting operations not in conformance with 2, 4, 5, and 6 above may be allowed by the Planning Board upon approval of a permit granted in accordance with the provisions of Section 12-B subsection 6, paragraphs a-i upon a clear showing by the applicant that such an exception is necessary for proper timber management.

O. 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 run off, 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.

Section 12. Administration

A. Creation of Administering Bodies and Agents.

1. Code Enforcement Officer

A Code Enforcement Officer shall be appointed by the Municipal Officers.

2. Board of Appeals

There is hereby created the Board of Appeals of the Town of _____ pursuant to the provisions of State law.

B. Permits

1. Permits Required

After the effective date of this Ordinance no person shall engage in any use of land requiring a permit in the district in which it would occur, or expand or change an existing non-conforming use, or renew a discontinued nonconforming use without first obtaining a permit.

2. Permit Application

Applications for permits shall be submitted in writing. The Code Enforcement Officer or Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance.

3. Plumbing Permit Required Prior to Building Permit

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

4. Approval of Permits

Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. All permits shall either be approved or denied within 60 days of receipt of a completed application, including all information requested.

5. Permits Issued by Code Enforcement Officer

The Code Enforcement Officer shall approve or deny those applications on which he is empowered to act as shown in Section 10. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

6. Permits Issued by Planning Board

The Planning Board shall approve or deny those applications on which it is empowered to act as stated in this Ordinance. The Planning Board may, after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the

information presented to it that, except as specifically exempted in this Ordinance, the proposed use:

a. Will not result in unsafe or unhealthful conditions;
b. Will not result in erosion or sedimentation;
c. Will not result in water pollution;
d. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
e. Will conserve shoreland vegetation;
f. Will conserve visual points of access to waters as viewed from public facilities;
g. Will conserve actual points of public access to waters;
h. Will conserve natural beauty;
i. Will avoid problems associated with flood plain development and use; and
j. Is in conformance with the provisions of Section 11, Land Use Standards.

7. Conditions

Permits granted under this Section may be made subject to reasonable conditions to ensure conformity with the purposes and provisions of this Ordinance.

C. Appeals and Variances

1. Variances

A copy of all variances granted by the Board of Appeals shall be submitted to the State Planning Office. The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of the Ordinance under the following conditions:

a. The strict application of the terms of this Ordinance would result in undue hardship to the applicant;
b. The hardship is not the result of action taken by the applicant or a prior owner; and
c. The Board of Appeals, based on clear and convincing evidence presented to it, makes a finding that the proposed use would meet the provisions of Section 12-B, subsection 6, paragraphs a-i.

A variance is authorized only for lot area, lot coverage by structures, and setbacks. A variance shall not be granted to permit a use or structure otherwise prohibited.

2. Appeals to Board of Appeals

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of this Ordinance. Such hearings shall be held in accordance with State laws. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.

3. Appeal to Superior Court

An appeal may be taken within thirty days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State law.

D. Enforcement

1. Nuisances

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

2. Code Enforcement Officer

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, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

4. Fines

Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to $100.00 for each violation. Each day such a violation is continued is a separate offense.

Section 13. Definitions

Terms not defined herein shall have the customary dictionary meaning. As used in this Ordinance, the following definitions shall apply:

Water Related Terms

A. Pond

Any inland body of water which has a surface area in excess of 10 acres, except where such body of water is man-made and in addition is completely

surrounded by land held by a single owner, and except those privately owned ponds which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

B. River

Any free flowing body of water from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

C. Normal High Water Mark of Coastal Waters

That line on the shore of tidal waters reached by the shoreward limit of the rise of the medium tides between the spring and the neap.

D. Normal High Water Mark of Inland Waters

That line on the shores and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups - water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups - upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

Forest Management Terms

E. Forest Management Activities

Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction or creation of roads.

F. Timber Harvesting

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Road Terms

G. Road

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Wetland Terms

H Coastal Wetland

Any swamp, marsh, bog, beach, flat or other land above extreme low water which is subject to tidal action.

I. Inland Wetland

Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including but not limited to swamps, marshes or bogs.

Structure Terms

J. Structure

Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind.

K. Principal Structure

The structure in which the primary use of the lot is conducted.

L. Accessory Structure

A structure of a nature customarily incidental or subordinate to that of the principal structure or the primary use to which the premises are devoted.

M. 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. The term shall include mobile homes.

N. Piers, Docks, Wharves,Breakwaters, Causeways,Marinas, Bridges Over 20 Feet in Length, and Uses Projecting Into Water Bodies.

Temporary: Structures which remain in the water for less than seven months in any period of twelve consecutive months.

Permanent: Structures which remain in the water for seven months or more in any period of twelve consecutive months.

O. Aggrieved Party

A person whose land is directly or indirectly affected by the grant 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 a group of five or more citizens of the municipality who represent an interest adverse to the grant or denial of such permit or variance.

P. Emergency Operations

Emergency operations shall include 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 and livestock from the threat of destruction or injury.

Q. Recent Flood Plain Soils

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

Alluvial land
Hadley silt loam
Limerick silt loam
Ondawa fine sandy loam
Podunk fine sandy loam
Rumney fine sandy loam
Saco silt loam
Suncook loamy sand
Winooski silt loam

R. Privy

A pit in the ground into which human excrement is placed.

S. Essential Services

Gas, electrical, communication facilities, steam, fuel or water supply, transmission, or distribution systems.

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