

7pm Public Hearing on the Traffic and Parking Ordinance

**Select Board & Board of Assessors Meeting - Agenda
September 25, 2023 @ 7:00 p.m.
Fire Station Community Room, 86 River Rd.**

- 1. Call to Order**
- 2. Amendments to the Agenda**
- 3. Minutes of the previous meeting**
 - a. September 11, 2023
 - b. September 14, 2023
- 4. Public Comments on Items Not on the Agenda**
- 5. New Business**
 - a. Coastal Kids Pre-school
 - b. Town Fee Schedule
 - c. Shoreland Zoning
 - d. Town Manager Financial Report
- 6. Unfinished Business**
 - a. Traffic and Parking Ordinance
 - b. Deputy Town Clerk Appointment
- 7. Town Manager Report and Communications**
- 8. Fiscal Warrants**
 - a. FY24 Warrant: \$256,357.47
- 9. Executive Session**
 - 1 M.R.S.A. Section 405 (6) A – Personnel
- 10. Future Agenda Items**
- 11. Adjournment of Meeting**

Upcoming Events

Pumpkinfest! October 5-9th (with weigh in events on the September 30th and October 1st)
October 23 at 7PM — Select Board Meeting, Fire Station Community Room, 86 River Road
October 30 at 7PM – Joint Workshop with Damariscotta Select Board,
Fire Station Community Room, 86 River Road

Manager commentary for September 25th, 2023 Agenda packet items.

5. New Business Items: This location on the agenda is meant for items that have not previously been put before the Select Board. Ideally, they are placed here as an introduction and for in-depth discussion before a final draft is later presented as an Unfinished Business item at a future meeting. However, if the new item is time sensitive or the Select Board has no issue with the item as presented, the Board may choose to vote on the item.

New Business Item: **5A – Coastal Kids Pre-school**

Manager's Commentary: Coastal Kids Pre-school is one of nearly a dozen provider agencies that the Town budget currently supports. Board members Chrissy Wajer and Karen Mook, also residents of Newcastle, reached out to request some time for the organization to update the Select Board and discuss increasing their contribution for FY25 from \$2,000 to \$4,000. Please see the attached letter ([PAGE 12](#)) from their Executive Director and the information below that was shared with me. Additionally, I will have some handouts for the Select Board at the meeting.

Coastal Kids Preschool has been providing a high quality, developmentally appropriate preschool program for children of all incomes and abilities for 27 years. The school provides financial aid for families who qualify, reducing the barriers that so many working families face in securing quality care for their children. Our inclusive program also focuses on serving children with disabilities. We are the largest provider of preschool special needs educational services in midcoast Maine.

Each year, we serve nearly 100 children and their families. We are proud to hold accreditation from the National Association for the Education of Young Children (NAEYC) and to be a Maine Roads to Quality (MRTQ) Level 4 program - the highest designation offered by the state's early career and education professional development network. Tuition covers just 70% of our annual operating budget, with the remainder coming from private donations, town support, and grants.

Requested funds are used for programming costs including operations, facilities, classroom supplies, and financial aid. Last year there were fourteen Newcastle children who received services. Additionally, Coastal Kids employs multiple Newcastle residents as teaching staff.

As you probably know, our community needs more childcare and early childhood education resources for families. We're doing our part to serve as many local children as possible (our program has a waiting list), and our NAEYC accreditation and our particular focus on serving children with special needs make us unique in the community.

We work very hard to raise about \$350,000 each year. This year we will be asking towns to consider increasing their support for this vital community resource with increased contributions.

New Business Item: **5B – Town Fee Schedule**

Manager's Commentary: This came up as a part of the discussion on the Traffic and Parking Ordinance. The proposed ordinance includes the language "See Town Fee Schedule" under 12.2. Interestingly, as we dug into it, we were only able to locate the fee schedule referencing the Core Zoning Code and the Plumbing/Subsurface Wastewater Disposal System Permit. The first attachment for this agenda item is a fee schedule staff put together ([PAGE 13](#)). We'd appreciate your acceptance of these fees as this is what we've been charging for services (some of the items are state mandated amounts). As for the existing documents, the one tied to the Core Zoning Code that says it was revised on January 24, 2022 but I can not find minutes or an agenda reflecting such (last approved was April 12, 2021) so I'd ask for Select Board approval on the more recent version ([PAGE 15](#)). (The only difference between the two was the addition of utilities and

services at \$.10 per square foot). Second, the Plumbing/Subsurface Wastewater Disposal System Permit Fee Schedule which was likely accepted back in 2020 could benefit from you seeing it and accepting it again (unclear if we can change any of it – all items I hope to address as part of the budget process). ([PAGE 17](#))

A possible motion: ***“To approve the Town Fee Schedule, Core Zoning Code Fee Schedule, and the Plumbing/Subsurface Wastewater Disposal System Permit Fee Schedule as presented.”***

New Business Item: 5C – Shoreland Zoning

Manager’s Commentary: Another item on the top 10 priorities list. We’ve received feedback from the state DEP and we have reviewed the changes. My request to the Select Board is to ask the Planning Board for their recommendation.

Attached ([PAGE 19](#)) is an email from our planner, Michael Martone, followed by the ordinance and its proposed changes by the DEP ([PAGE 20](#)). My response to Michael on the first item was:

“Yes, the application would require a contractor that has their certification in order to get approval. The challenge / expectation is for Code Enforcement to 'swing by' when the work is being done to make sure the person with the certification is 'present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed.”

The second item has been passed on to our attorney for review/consideration. My only comment to Peter was that the process should match / reflect what we currently do for the Board of Appeals.

I would suggest sending it to the Planning Board tonight, asking them to review at their meeting in October, hold a public hearing in November, and make a recommendation for the modification to be addressed as part of a warrant article at a future Special Town Meeting. At this moment in time, we can hopefully address this and three other ordinance changes on December 11th.

A Possible motion: ***“To send the proposed amendments and legal advice on Section 16. Administration, Subsection H. Appeals to the Shoreland Zoning Code for the Planning Board’s consideration.”***

New Business Item: 5D – Town Manager Financial Report

Manager’s Commentary: See [PAGE 81](#) for the first draft of a monthly financial report that I’d like to start bringing to your attention. My goal is to create something that isn’t necessarily focused on the line by line but becomes a broad conversation about where we stand each month and becomes an effort to address budget challenges before they are budget emergencies. I am not necessarily wedded to this design, so I welcome your feedback and input.

6. Unfinished Business Items: Agenda items that have been brought before the Select Board previously in the current fiscal year. Ideally these are items that have been reviewed and are ready for vote, but the Select Board reserves the right for greater discussion, modification, or further postponement.

Unfinished Business Item: **6A – Traffic and Parking Ordinance**

Manager’s Commentary: This item was discussed at the August 14th meeting and the August 28th meeting. A public hearing was then scheduled for tonight to gather any additional input from the public. Under [Title 30-A Section 3009](#) of Maine State Statutes, the Select Board has the authority to enact this ordinance without taking it to a Town Meeting. Should the Select Board be comfortable with what is presented starting on [PAGE 82](#) and after taking public comment may choose to take a vote as presented or further amended.

A Possible motion: ***“To adopt the proposed Traffic and Parking Ordinance as (written /amended)”***.

Unfinished Business Item: **6B – Deputy Town Clerk Appointment**

Manager’s Commentary: On Wednesday, September 13th, Emma McKearney accepted my offer to join the Newcastle team! Emma was able to get started on September 18th and has just cannonballed in. We’re all very glad to have her on board and to create a little more space to tackle the many necessary tasks and special projects.

A Possible motion: ***“To confirm the appointment of Emma McKearney as Deputy Town Clerk for Newcastle.”***

Fiscal Warrants: **8A – FY24 Fourth Warrant**

Manager Commentary: This can be found starting on [PAGE 92](#).

A possible motion: ***“To approve the FY24 Fourth Warrant”***

Select Board & Board of Assessors Meeting - Minutes
September 11, 2023 @ 7:00 p.m.
Fire Station Community Room, 86 River Rd.

Present Board Members: Karen Paz, Tor Glendinning, Thomas Kostenbader, Rufus Percy, Joel Lind
Staff: Kevin Sutherland, Interim Town Manager

Minutes transcribed by Emma McKearney, Deputy Town Clerk

1. **Call to Order: Meeting started at 7:08pm**
2. **Amendments to the Agenda: On motion, Rufus made a motion to add supplemental tax assessment and abatement under new business 5F. Motion was seconded by Tor. Motion passed unanimously.**
3. **Minutes of the previous meeting: On motion, Joel made a motion to approve the minutes of the August 28, 2023, minutes as written. Motion was seconded by Tom. Motion passed unanimously.**
4. **Public Comments on Items Not on the Agenda: Mel requested rereading of map/lot number of the assessment to be discussed in New Business.**
5. **New Business**
 - a. **Core Zoning Code:** Interim Town Manager recommended that core zoning code ordinance be addressed in conjunction with the Planning Board to support historic and non-historic districts zoning codes. There were discussions about the process of having Planning Board make recommendations to the Select Board to then be approved for the Town Warrant. Interim Town Manager recommends a special town meeting and accompanying warrant for mid-November. Select Board recommends waiting for the town meeting and warrant until January 2024 due to the need for a 45-day notice. Maine Historic Preservation Association will be in consultation. **Tor made a motion to send amendment of Section 22, article 7 of the core zoning code to the Planning Board for consideration. Motion was seconded by Joel. Motion was passed unanimously.**
 - b. **Central Lincoln County School System (AOS 93):** Karen recommends that some Select Board members attend the meeting. Karen will call a special Select Board meeting on September 14th at 6:00p at the education barn at the Coastal Rivers Conservation Trust in Damariscotta. Interim Town Manager will support in having the public notified.
 - c. **Housing Committee:** Interim Town Manager recommends that Newcastle Select Board and Damariscotta Select Board meet to discuss joint priorities and Housing Needs Assessment. Lincoln County Regional Planning Commission will be presenting the Housing Needs Assessment in an upcoming meeting. Interim Town Manager recommended that Select Board participate in this meeting. Meeting dates proposed were October 25th or October 30th. Either proposed date was satisfactory. Tor recommends revisiting this topic when Town Planner has been with the town for a longer period and there is a full-time Town Manager. Select Board will participate in the presentation.
 - d. **Maine Municipal Association Convention and Annual Business Meeting:** Interim Town Manager will be in attendance for the Maine Municipal Association Convention and Business meeting. Town Manager will resister any Select Board members who are interested in attending. Schedule is available online at <https://www.memun.org>.
 - e. **Indigenous People's Day:** Interim Town Manager proposes canceling this scheduled Select Board meeting on October 9th and resuming business on the next scheduled meeting date of October 23rd with the understanding that the Newcastle and Damariscotta Select Boards will be meeting jointly later in the week or

the following week. Select Board was in agreeance to cancel the Select Board meeting scheduled for October 9th.

- f. Supplemental Tax Warrant, Supplemental Tax Certificates, and Tax Abatement:** Interim Town Manager explains that this property for the supplemental tax warrant and supplemental tax certificate has been unaccounted for in the TRIO system which was identified and now in the system. Regarding the tax abatement, property was temporarily not considered farm space due to the splitting of the property despite the owner owning both parcels. The abatement is to continue the property being considered farm space. **Joel made a motion to approve the Supplemental Tax Warrant, Supplemental Tax Certificates, and Tax Abatement. Motion was seconded by Tor. Motion was passed unanimously.**

6. Unfinished Business

- a. General Assistance Ordinance:** Interim Town Manager reports that this was approved by the Select Board in November 2022. However, there was no public hearing. Interim Town Manager Recommends a public hearing for October 23rd during the regularly scheduled Select Board Meeting. **Joel made a motion to schedule a public hearing scheduled for October 23rd regarding the General Assistance Ordinance and Updated Appendices. Motion was seconded by Rufus. Motion was passed unanimously.**
- b. General Assistance Updated Appendices:** Joel made a motion to schedule a public hearing scheduled for October 23rd regarding the General Assistance Ordinance and Updated Appendices. Motion was seconded by Rufus. Motion was passed unanimously.
- c. Undesignated Fund Balance Policy:** Joel made a motion to approve the undesignated fund balance policy as presented. Motion was seconded by Tor. Motion was passed unanimously.

- 7. Town Manager Report and Communications:** Interim Town Manager reviewed his report. Topics discussed were: planning for Hurricane Lee, Utility work on Pump Street scheduled to start next week (delayed due to the incoming storm), Historic Preservation ordinance public hearing scheduled for September 21st at the Fire Station Community Room, DR4719 – May Day Storm and clean-up, town fee schedule, Town Clerk Interviews.

8. Fiscal Warrants

- a. FY24 Fifth AP Warrant: \$98,900.18: Joel made a motion to approve the town AP Warrant for \$98,900.18. Motion was seconded by Tom. Motion was passed unanimously.**

- 9. Executive Session:** Joel made a motion to go into executive session regarding personnel. Motion was seconded by Tom. Motion was passed unanimously.

1 M.R.S.A. Section 405 (6) A – Personnel

- 10. Future Agenda Items:** None

- 11. Adjournment of Meeting:** Tom made a motion to adjourn the meeting at 9:05pm. Tor seconded this motion.

Upcoming Events

September 25 at 7PM — Select Board Meeting, Fire Station Community Room, 86 River Road

Manager commentary for September 11th, 2023 Agenda packet items.

5. New Business Items: This location for agenda items is meant for items that have not previously been put before the Select Board. Ideally, they are placed here as an introduction and for in-depth discussion before a final draft is later presented as an Unfinished Business item at a future meeting. However, if the new item is time sensitive or the Select Board has no issue with the item as presented, the Board may choose to vote on the item.

New Business Item: 5A – Core Zoning Code

Manager’s Commentary: In addition to the work currently underway with the Planning Board to review the Historic Preservation Ordinance, attached (PAGE 7) are some proposed amendments to Section 22 of Article 7 of the Core Zoning Code which addresses demolition of historic assets. The changes are relatively minor, but they extend the protection from covering whole structures to also address parts of structures. We left the cut off at 1900, which is what the code currently has but that or anything else can be changed as desired.

If you’re interested in pursuing this as well, I’d suggest sending it to the Planning Board tonight, asking them to review at their meeting next week, hold a public hearing in October, and make a recommendation for the modification to be addressed as part of a warrant article at a future Special Town Meeting (tentatively mid-November).

A Possible motion: ***“To send the proposed amendments to Section 22 of Article 7 of the Core Zoning Code for the Planning Board’s consideration.”***

New Business Item: 5B – Central Lincoln County School System (AOS 93)

Manager’s Commentary: On September 1st, Newcastle, along with six other towns received an invitation by the Central Lincoln County School System (AOS 93) to attend a short presentation on the restructuring plans and an open discussion of the issues it presents. See PAGE 9 for the email invitation. Peter Nielsen, Business Manager for Central Lincoln County School System / AOS 93 followed up with an email with a few links to news articles about the restructuring effort <https://lcnme.com/currentnews/aos-93-administrators-propose-exploring-district-structure-change/> and <https://lcnme.com/currentnews/all-aos-93-school-committees-approve-restructuring-exploration/> as well as a copy of the Strategic Vision 2025 document released publicly in April that is also included in the packet on PAGE 10.

This gathering will take place at 6:00 pm on Thursday, September 14 in the DMB Education Hall at Coastal Rivers Conservation Trust's Round Top Barn facilities in Damariscotta.

If the entire Select Board would like to attend; according to our [Select Board Bylaws](#) (Section 10, page 4), the Select Board Chair will need to call a special meeting. Either the Chair can call the meeting now, or by a request of a quorum of the select board members (since we’re here, a vote?) Then, at the event, call the meeting to order (record the time), and when the presentation and Q and A ends, assuming no motions to take action, a motion/second to adjourn (please record who makes motions, who seconds those motions, and for adjournment, the time).

If not a special meeting with a quorum of select board members (more than 2), I’d suggest the Select Board identify two members to attend on behalf of the body and at the 9/25 meeting provide a public report of the event as an agenda item.

A Possible motion: ***“To ask the Chair to call a special meeting for September 14th at 6pm at the DMB Education Hall at Coastal Rivers Conservation Trust’s Round Top Bar facilities in Damariscotta for a presentation and open discussion”***

OR *“To Appoint Select Board Members _____ and _____ to attend the Central Lincoln County School System / AOS 93 presentation and Q&A on behalf of the Select Board.”*

New Business Item: 5C – Housing Committee

Manager’s Commentary: The Planning Board, at their August 21st meeting, voted to formally recommend to the Select Board that the Housing Committee be reconstituted. There were a few points that the Planning Board discussed as part of the recommendation: it should be a joint committee with Damariscotta, three members from each community plus one seat that alternates on some regular basis (annually, semi-annually, etc.), and it should include one person from each town’s planning board; the location should alternate between the two towns each meeting/month; LCRPC and MCOG should be included as much as possible; At the outset, the committee should adopt formal by-laws and procedures and define and establish their specific purpose.

This week, I had a conversation with our Planner, Michael Martone (who also serves as the Planner in Damariscotta) as well as the Town Manager in Damariscotta, Andrew Dorr. Given where Damariscotta is in their comprehensive plan process and our Select Board’s current slate of priorities (which 4 of the 10 directly involve Michael), I am advising the Newcastle Select Board not move forward with this recommendation at this time and instead consider its significance after we review and update the Priorities again at the second meeting in October.

I’d also suggest we discuss joining the Damariscotta Select Board in a presentation from the Lincoln County Regional Planning Commission (LCRPC) on the [Housing Needs Assessment](#) from May of 2023. After the presentation and discussion on housing and ways we can work together to further address needs, this joint workshop could also be an opportunity to discuss other collaborative efforts. We’ve asked LCRPC to save both Wednesday the 25th of October and Monday, October 30th evening to see if either could work for a majority of both boards.

Additionally, I’ve informed the Chair of the Planning Board, Ben Frey of my recommendation. He may be in attendance to share the Planning Board’s decision to recommend.

New Business Item: 5D – Maine Municipal Association Convention and Annual Business Meeting

Manager’s Commentary: The [87th Annual Convention of MMA](#) is coming up! Wednesday October 4th and Thursday October 5th. I intend to attend the event and if any of the Select Board members would like to attend one or both days – it’s a great way to network with other elected and appointed municipal officials from around the state and attend some lectures and interesting presentations/trainings. It’s in Augusta, not too far. Let me know if you’re interested and I will sign you up. Additionally, attached is the Letter from MMA ([PAGE 18](#)) and information about the business meeting as well as a form ([PAGE 23](#)) I will bring for your signature. If any of you are interested, let’s get someone on there. I’d also be happy to represent Newcastle at the Annual Business Meeting.

New Business Item: 5E – Indigenous People’s Day

Manager’s Commentary: Indigenous People’s Day is Monday, October 9th, 2023. It also happens to be the second Monday of the month, which is one of your meeting nights. Our bylaws do not currently have a process for addressing this when it happens. Do you still want to meet that evening? Do you want to cancel that meeting and schedule a special meeting for Tuesday, October 10th instead? The first two item on Unfinished Business need scheduled Public Hearings. That could be 10/10 if you cancel 10/9 and set a special meeting, it could be on 10/23 if you choose to have just one meeting in October (although we may have a joint workshop with Damariscotta in October as well? So many options!) This decision process would be a similar situation to 5B above. The Chair either cancels the 10/9 meeting, cancels the

10/9 meeting and calls a special meeting for 10/10, or the Select Board takes a vote to tell the Chair to do something about it.

DRAFT

6. Unfinished Business Items: Agenda items that have been brought before the Select Board previously in the current fiscal year. Ideally these are items that have been reviewed and are ready for vote, but the Select Board reserves the right for greater discussion, modification, or further postponement.

Unfinished Business Item: **6A – General Assistance Ordinance**

Manager’s Commentary: Last November the Select Board approved an updated General Assistance Ordinance, however from what I can tell, there was no proper notification and public hearing as required by Title 22 of the Maine State Statutes. I’d ask that we take it up again this year ([PAGE 25](#)) and ensure this is tracked properly.

A Possible motion: ***“To schedule a public hearing for the 2022 updated General Assistance Ordinance for October __, 2023.”***

Unfinished Business Item: **6B – General Assistance Ordinance Updated Appendices**

Manager’s Commentary: Every year the State Department of Health and Human Services (DHHS) requires municipalities to adopt updated General Assistance Ordinance appendices. The attached appendices ([PAGE 139](#)) reflect an October 1, 2023 through September 30th, 2024 update. The maximums have increased from the prior year. For example, overall maximums for a 4-person household in Lincoln County will go from 1,463 to 1,582, an increase of \$119 or 8.1%. As part of the state statute, the Select Board will need to hold a public hearing before approving and signing the update.

A Possible motion: ***“To schedule a public hearing for the updates to the General Assistance Ordinance Appendices for October __, 2023.”***

Unfinished Business Item: **6C – Undesignated Fund Balance Policy**

Manager’s Commentary: Based on our conversation at the August 28th Select Board meeting and a brief conversation with our auditor this week, attached are both a revised red line ([PAGE 155](#)) and a clean ([PAGE 157](#)) version of the Undesignated Fund Balance Policy. Unassigned, Undesignated, and Unrestricted all refer to the same thing - the part of net position that can be used to finance day-to-day operations without constraints established by debt covenant’s enabling legislation or other legal requirements. Since the Policy approved previously utilized the term undesignated throughout, I am suggesting we modify the policy name to reflect that term (instead of unassigned as I had labelled it at the previous meeting).

Additionally, I took some liberty with the list of things that additional monies could be considered for. I hope for a little more conversation around this before the select board takes any action.

A Possible motion: ***“To approve the Undesignated Fund Balance as presented / modified.”***

8. Fiscal Warrants

Fiscal Warrant: **8A – FY24 Fifth AP Warrant**

Manager Commentary: This can be found starting on [PAGE 159](#).

A possible motion: ***“To approve the FY24 Fifth AP Warrant”***

Select Board & Board of Assessors Special Meeting – Minutes
September 14, 2023 @ 6:00 p.m.

DMB Education Hall, Coastal Rivers Conservation Trust Round Top Barn, Damariscotta, ME

Present Board Members - Karen Paz, Tor Glendinning, Thomas Kostenbader, and Rufus Percy

Minutes transcribed by Emma McKearney, Deputy Town Clerk

1. **Call to Order: Meeting opened at 6:05pm**

2. **Presentation from Central Lincoln County School System (AOS # 93)**

All Select Board Members of the 7 towns in the CLCSS are invited to a short presentation on the restructuring plans and an open discussion with School System administrators.

3. **Adjournment of Meeting: On motion, Tor/Thomas moved to adjourn at 7:24pm**

DRAFT



Coastal Kids Preschool

Providing an inclusive, developmentally appropriate education for preschool children of all incomes and abilities

September 16, 2023

BOARD OF DIRECTORS

Karen Mook
President

Gail Page
Vice President

Karen Moran
Secretary

Normand Saucier
Treasurer

Jennifer Brennan
John Bristow
Karen Filler
Abi Iverson
Joel Russ
Chrissy Wajer

EXECUTIVE DIRECTOR

Dr. Caer Hallundbaek

EDUCATION DIRECTOR

Jenn Caron



Coastal Kids Preschool is a 501(c)(3) nonprofit organization, EIN 22-3126832, and an Equal Opportunity Employer.

Town of Newcastle
4 Pump Street, PO Box 386
Newcastle, ME 04553

Dear Select Board,

Thank you so much for your continuing support of Coastal Kids Preschool, currently in our 28th year of providing a high quality, developmentally appropriate preschool program for children of all incomes and abilities. Each year, we serve close to 100 children and their families. We provide financial aid for families who qualify, reducing barriers that so many working families face in securing quality care for their children. Our inclusive program also focuses on serving children with disabilities. We are the largest provider of preschool special needs educational services in midcoast Maine, and we generate tangible, successful outcomes. We hold accreditation from the National Association for the Education of Young Children (NAEYC) and are a Maine Roads to Quality (MRTQ) Level 4 program – the highest designation offered by the state’s early career and education professional development network.

Answers to your funding application questions are as follows:

- a. Requested funds will be used for programming costs including operations, facilities, classroom supplies, and financial aid.
- b. Fourteen Newcastle children received services in the past year, or fifteen percent of the school. Also, Coastal Kids employs multiple Newcastle residents as teaching staff and leadership.
- c. Operational support of Coastal Kids allows us to provide our preschool program and high-quality childcare for the Newcastle families who entrust their children to our care.
- d. Our community needs more childcare and early childhood education. We’re doing our part to serve as many local children as possible (our program has a substantial waiting list), and our NAEYC accreditation and our particular focus on serving children with special needs make us unique in the community.
- e. Coastal Kids does not currently have endowment, contingency, and/or investment portfolios; tuition covers just 70% of our annual operating budget, with the remainder coming from private donations, town support, and grants.

This year we are seeking a \$4,000.00 contribution from the Town of Newcastle. I’m grateful to you for helping us continue to provide an inclusive, developmentally appropriate education for preschool children of all incomes and abilities.

Sincerely,

Caer Hallundbaek
Executive Director

Newcastle Fee Schedule

Category	State Fee	Town Fee	Total	Additional Information
ATVs				
Resident	\$70.00	\$1.00/\$2.00	\$71.00/\$72.00	All fees are yearly unless stated otherwise *As of 10/25 Town fees for will be \$5.00 Agent fee is 2.00 for new registrations & 1.00 for renewals
Non-Resident	\$115.00	\$1.00	\$116.00	
Non-Resident 7-day	\$110.00	\$1.00	\$111.00	
Sales Tax	Varies	\$0.00	Varies	
Boats				
	Varies by size	Excise tax/Agent Fee		Excise tax amounts vary and are set by the State. Agent fee is 2.00 for new registrations & 1.00 for renewals
Sales Tax	Varies	\$0.00	Varies	5.5% Set by the State
Certified Copies of Vital Records				
1st Copy	\$2.00	\$13.00	\$15.00	
Additional copies purchased the same day	\$0.40	\$5.60	\$6.00	Fee is for each additional copy
Land Use				
See Core Zoning Code Fee Schedule				
Licenses				
Fishing License -Seasonal Resident	\$25.00	\$2.00	\$27.00	
Fishing License - Resident 1 Day	\$11.00	\$2.00	\$13.00	
Fishing License - Seasonal Non- Resident	\$64.00	\$2.00	\$66.00	
Fishing License - Non-Resident 1 Day	\$11.00	\$2.00	\$13.00	
Fishing License - Non-Resident 3 Day	\$23.00	\$2.00	\$25.00	
Fishing License - Non-Resident 7 Day	\$43.00	\$2.00	\$45.00	
Fishing License - Non-Resident 15 Day	\$47.00	\$2.00	\$49.00	
Hunting/Fishing Combo Resident	\$43.00	\$2.00	\$45.00	
Hunting/Fishing Combo Non-Resident	\$150.00	\$2.00	\$152.00	
Liquor License	Varies	None		License fees set by the State
Marriage License	\$36.00	\$4.00	\$40.00	

Newcastle Fee Schedule

Category	State Fee	Town Fee	Total	Additional Information
Mooring Fees				All fees will be changing next year
Local	\$0.00	\$40.00	\$40.00	
Non-Resident	\$0.00	\$50.00	\$50.00	
Dingy Sticker Only	\$0.00	\$35.00	\$35.00	
Motor Vehicle Registrations				
Vehicle Registration base fee	\$35.00	\$6.00/\$5.00	Varies	Plate fees vary and are set by the State. Higher town fee is for new registrations
Motorcycles	\$21.00	\$6.00/\$5.00	Varies	Higher town fee is for new registrations
Title	\$33.00	\$0.00	\$33.00	Set by the State
Excise Tax	\$0.00	Varies	Varies	Excise is based on a milrate & the MSRP price of the vehicle
Sales Tax	Varies	\$0.00	Varies	5.5% Set by the State
Trailers	Varies	\$6.00/\$5.00	Varies	Higher town fee is for new registrations
Misc Fees				
Cemetery Plots - Glidden Street Only	\$0.00	\$500.00	\$500.00	
Copies per page	\$0.00	\$0.50	Varies	
Copies per page - color	\$0.00	\$1.00	Varies	
Copies of Maps	\$0.00	\$2.00	Varies	
Notary Public Service per Signature	\$0.00	\$5.00	Varies	Fee assessed per customer
Postage	\$0.00	\$1.00	\$1.00	Fee is for standard mailings at customers request
Tax List	\$0.00	\$75.00	\$75.00	Fee is for substantial tax listings
Plumbing Permit	25% of total	75% of total	Varies	See Plumbing/Subsurface Wastewater Disposal Fee Schedule
Snowmobiles Registrations				*As of 10/25 Town fees for will be \$5.00
Resident	\$56.00	\$1.00/\$2.00		Higher town fee is for new registrations
Antique	\$33.00	\$1.00/\$2.00		Higher town fee is for new registrations
Non-Resident	\$120.00	\$1.00		
Non-Resident 3 Day	\$75.00	\$1.00		
Non-Resident 10 Day	\$100.00	\$1.00		
Subsurface Permit	25% of total	75% of total	Varies	See Plumbing/Subsurface Wastewater Disposal Fee Schedule



Town of Newcastle

Core Zoning Code Fee Schedule

Types of Development Review	Application Fee
Small Scale Project Plan	\$25
Large Scale Project Plan	\$250
Master Plan	\$1000
Residential Companion Use	\$0
Subdivision Plan	\$50/unit
Plan Revision	
Small Scale Plan	\$0
Large Scale Plan	\$250
Expanded Use Permit	\$50
Use Permit /Change of Use	\$100
Special Permit	\$100
Additional Review	
Shoreland Zoning	\$50
Resource Protection	\$50
Timber Harvesting	\$50
Floodplain	\$50
Demolition Delay	\$50
Wireless Communications	\$500
Erosion Control	\$50
Seasonal Conversion	\$50
Mobile Home Park	\$50
Tourist Rental License	\$100
Utilities & Services	\$.10/sqft

New Construction Building Type	Permit Fee
Residential	
Single Unit	\$100
Multi-Unit	\$250
Accessory	\$75
Commercial	
Single Unit	\$250
Multi-Unit	\$250
Accessory	\$100
Mixed Use	\$250
Additional Structures	\$75
Building Addition	\$25
Massing Components	\$25/component
Architectural Components	\$25/component
Decks (including porches or patios)	\$25
Temporary Structures	\$25

New Road, Driveway, and Entrance	Permit Fee
Road	
Private	\$50
Public	\$100/100 ft of length
Driveway	\$0
Entrance	\$25
Parking Lot	\$25/parking space (\$50 min)

Appeals Board Review	Review Fee
Variance	\$100
Administrative Appeal	\$300
Zoning Amendment	\$200

Plumbing/Subsurface Wastewater Disposal System Permit Fee Schedule

Disposal System Components	Fee	State Share (25%)	DEP Surcharge
1. Complete Non-Engineered System	\$250.00	\$62.50	\$15.00
2. Primitive / Limited System (graywater & alt toilet)	\$100.00	\$25.00	\$15.00
3. Alternative Toilet	\$50.00	\$12.50	NA
4. Non-Engineered Treatment Tank	\$150.00	\$37.50	NA
5. Holding Tank	\$100.00	\$25.00	\$15.00
6. Non-Engineered Disposal Field	\$150.00	\$37.50	NA
7. Separated Laundry System	\$35.00	\$8.75	\$15.00
8. Complete Engineered System	\$200.00	\$50.00	NA
9. Engineered Treatment Tank (only)	\$80.00	\$20.00	NA
10. Engineered Disposal Field (only)	\$150.00	\$37.50	NA
11. Pre-Treatment	NA	NA	NA
12. Miscellaneous Components	\$30.00	\$7.50	NA
First-Time System Variances	\$20.00	\$5.00 *	NA
Replacement System Variances	NA	NA	NA
Seasonal Conversion Permit	\$50.00	\$12.50	NA

Internal Plumbing Permits

Minimum fee, includes up to 4 fixtures/hook-ups	\$40.00	\$10.00
Individual fixtures, each, over 4	\$10.00	\$2.50
Mobile or Modular Home – factory components	\$40.00	\$10.00
Hook up to public sewer	\$10.00	\$2.50
Hook up to existing subsurface system	\$10.00	\$2.50
Piping relocation with no new fixtures	\$10.00	\$2.50
Permit transfer	\$10.00	\$2.50

* The State only receives a 25% share of variance fees for *first-time system variances requiring state and local plumbing inspector approval.*

Plumbing/Subsurface Wastewater Permits – Payments to State SSWW Program

Tips and Reminders

1. **Please try to submit your permits to us on a monthly schedule – or at least quarterly.** This will better ensure accuracy on both ends and make it easier for us to identify issues that might arise from our reconciliation of permits and fees.
2. **All plumbing and subsurface wastewater permit submittals received in our office must be accompanied by appropriate payment of the State’s 25% share of fees collected.** Likewise, checks for the State’s 25% share of permit fees must be accompanied by copies of the corresponding permits. Checks received without corresponding permits, or permits received without accompanying payment (if payment is due), will be returned to the originating municipal office immediately.

We understand that there will be occasions when this is not possible. In these instances, please contact our office to make us aware of the situation. These exceptions will be granted on a case-by-case basis.

Municipalities have the option of submitting copies of permits electronically. Scanned copies of permits can be emailed to our office, with remittance to follow (sent via USPS). Municipalities that wish to take advantage of this option should contact our office to establish a procedure that meets the Town or City’s needs as well as our requirements. We will not accept emailed permits without a prior understanding.

3. **Some municipalities include a summary of their submission, listing permits and fees.** This is not required; however, if you do choose to enclose a summary, we ask that...
 - a. Permit numbers are noted *as they appear on the permit documents*;
 - b. Each permit in the listing is noted to indicate Internal (plumbing) or External (subsurface wastewater), and
 - c. Full standard State fees are indicated.
4. **Please be sure permits are complete, accurate, and legible.**
 - a. Signatures from both the issuing LPI and the property owner/applicant are required; unsigned permits will be considered INVALID and will be returned to the issuing Town office.
 - b. All fields on a permit should be addressed. If a field or question on a permit is not relevant to the work being described, it should be so noted ('NA').

Remember: these are also legacy documents intended, in part, to serve as an accurate record of fees and property improvements.

5. **When correcting permits, please do not cross-out, scribble-out, or over-write notations.** Instead, use a white correction product to make these adjustments.
6. In the event an **updated permit** is submitted with no additional fee, please remember to note “REVISED” clearly on the permit.

7. **The water quality surcharge** (a.k.a. DEP fee/surcharge) is a \$15.00 fee over and above the fee charged for a permit. It should be applied to all *non-engineered systems* (line items 1, 2, 5, and 7 on the SSWW permit application). The water quality surcharge is not applicable to any of the other disposal system components. (The entire amount of the surcharge is remitted to the State; it is not figured into the State's 25% share of permit fees.)
- Permit fees and water quality surcharges must be remitted on separate checks.** They can be mailed together in one envelope, and we will forward the water quality surcharges along to the appropriate agency.
8. **All payments should originate from the issuing municipality.** Do not forward personal checks from LPs, private property owners or applicants.
9. **Variance fees** should only be factored-in to the State's 25% share for *first time systems requiring State approval*; the State does not receive a share of fees collected for replacement system variances.
10. Municipalities are not required to report **double fees** as part of the State's share. Also, municipalities are not required to report **additional fees applied per local rule or ordinance**. Only standard minimum fees should be reported. Revenues over and above the State's 25% share of standard fees may be kept by the municipality.
11. **While municipalities do have the latitude to waive their portion of permit fees**, such as for work done at municipal or non-profit facilities, the State is still due 25% of the value of the permit as determined by the approved fee schedule.
12. **Permit transfers should be presented separately from the original permit**, with only a \$10.00 fee (State share \$2.50). No additional fixtures should be noted on a permit transfer.
13. **Receipts for permit fee remittances are automatically sent to municipalities that provide at least one valid email address.** Paper receipts for permit submittals will only be provided when specifically requested.
14. **Contact information, mailing addresses, etc.:**
- For any questions regarding plumbing/SSWW permit fees, please contact the Subsurface Wastewater Program – email subsurface.wastewater@maine.gov or phone (207) 287-2070.
 - Checks for permit fees should be **mailed to**:

Maine DHHS/CDC
Division of Environmental and Community Health
286 Water Street, 3rd Floor
11 State House Station
Augusta, ME 04333-0011

(Checks should be made **payable to Treasurer, State of Maine**)

Online:

- Subsurface Wastewater Program:
<https://www.maine.gov/dhhs/mecdc/environmental-health/plumb/index.htm>
- Drinking Water Program: www.medwp.com
- DWP on Facebook: <https://www.facebook.com/MaineCDCDWP/>



Town Manager <townmanager@newcastlemaine.us>

Shoreland Zoning Ch. 1000 Update

Michael Martone <planner@newcastlemaine.us>
To: Town Manager <townmanager@newcastlemaine.us>

Tue, Sep 19, 2023 at 4:02 PM

Hi Kevin,

Attached is the redlined version of Newcastle's draft Shoreland Zoning Ordinance, updated per State DEP direction. There are two outstanding questions that we need to address before we can finalize a draft for the adoption process. Both are fairly minimal.

Just to note, all of the red in the doc is new content from DEP.

1) One outstanding item is regarding local enforcement of contractor certification. I do not see any reason to take on more than that municipality has to, given our limited capacity and resources. But the following optional text does not seem to be much of a burden unless I am missing something. Seems like we would just need to have an applicant produce the certification of their contractor/whomever they hire.

Under **Section 16. Administration, Subsection C. Permit Application:**

NOTE: If a municipality intends to take independent enforcement actions related to the contractor certification requirements of 38 M.R.S.A. Section 439-B, they should insert the following into the application requirements of their ordinance:


(5) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state, and federal employees engaged in projects associated with that employment.

2) The other item that needs to be addressed relates to **Section 16. Administration, Subsection H. Appeals** and as far as I can tell can be solved by having an attorney review the ordinance--at least the administrative section--and weigh in on the appellate vs de novo question.

The note from DEP reads: *Whether an administrative appeal is decided on an "appellate" basis or on a "de novo" basis, or whether an enforcement decision is appealable to the board of appeals, shall be the decision of the municipality through its specific ordinance language. The Department is not mandating one alternative over the other. If a municipality chooses appeals procedures different from those in Section 16(H), it is recommended that assistance be sought from legal counsel to ensure that the adopted language is legally sound.*

Best,

Michael Martone
Town Planner
Town of Newcastle
O: (207) 563-3441
C: (201) 341-4030

 [DRAFT] Shoreland Ord. Ch. 1000 Compliance Update.pdf

Shoreland Zoning Ordinance

Town of Newcastle

Approved: November 3, 2020

Effective: January 1, 2021

1. Purposes.

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

2. Authority.

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

3. Applicability.

This Chapter applies to all land areas within two-hundred-fifty (250) feet, horizontal distance, of the

- normal high-water line of any great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,

and all land areas within seventy-five (75) feet, horizontal distance, of the normal highwater line of a stream.

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

4. Effective Date.

This Chapter, which was adopted by the municipal legislative body on September 29, 2020, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Chapter, or Chapter Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Chapter or Chapter Amendment, within forty-five (45) days of his/her receipt of the Chapter, or Chapter Amendment, it shall be automatically approved.

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

Effective Date of Sections 15(O) and 15(O-1).

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

5. Availability.

A certified copy of this Chapter 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 Chapter shall be posted.

6. Severability.

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

7. Conflicts with Other Chapters.

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

8. Amendments.

This Chapter may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. Districts and Zoning Map**A. Official Shoreland Zoning Map.**

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

- (1) Resource Protection
- (2) Limited Residential
- (3) Limited Commercial
- (4) Maritime Activities
- (5) Stream Protection

B. Scale of Map.

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

C. Certification of Official Shoreland Zoning Map.

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

D. Changes to the Official Shoreland Zoning Map.

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

10. Interpretation of District Boundaries.

Unless otherwise set forth on 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 the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

11. Land Use Requirements.

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

12. Non-conformance.**A. Purpose.**

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

B. General

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

C. Non-conforming Structures

- (1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.
 - (a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.
 - (i) Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
 - (ii) Expansion of an accessory structure that is located closer to the normal highwater line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
 - (iii) For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
 - (iv) For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.
- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are 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 reestablished. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

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

- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Chapter. 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 12(C)(1) above, as determined by the nonconforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

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

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

D. Non-conforming Uses

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, 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 (5) year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Chapter or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Chapter except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Chapter, if all or part of the lots do not meet the dimensional requirements of this Chapter, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on April 2, 1994, and recorded in the registry of deeds, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Chapter.

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on April 2, 1994, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

13. Establishment of Districts

A. Resource Protection District.

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

- (1) Areas within 250 feet, horizontal distance, of the upland edge of, salt marshes and salt meadows, wetlands associated with great ponds and rivers, coastal wetlands 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 freshwater wetlands are included in the resource protection district. 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 along rivers and floodplains along artificially formed great ponds 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 floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

- (5) Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- (6) Certain other land areas which have been recommended for protection in the Comprehensive Plan for the Town of Newcastle because they represent important wildlife habitat or natural sites of significant scenic and esthetic value deserving of protection from development, all as noted on the Town of Newcastle's Official Shoreland Zoning Maps.

B. Limited Residential District.

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries/Maritime Activities District.

C. Limited Commercial District.

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. General Development I District. The General Development I District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial, or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, racetracks, and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial, or recreational uses.

E. General Development II District.

The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

F. Maritime Activities District.

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

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

The Town of Newcastle identifies the Maritime Activity District, as established by the Newcastle Land Use Ordinance Chapter IXC (3), as a Maritime Activities District. This District is that area on the river side of Pleasant Street, at Map 11, Lots 40 and 40-A only that comprises the land of Riverside Boat Company.

G. Stream Protection District.

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

H. Village Center District.

The Town of Newcastle also identifies the Village Center District, as established in the Newcastle Land Use Ordinance Chapter IXC(3), which is that part of the Village Business District that is located on the southerly side of Main Street along the Damariscotta River shore from the Park to the Damariscotta River Bridge.

14. Table of Land Uses.

All land use activities, as indicated in Table SS-1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

TABLE SS-1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>	<u>DISTRICT</u>						
	SP	RP	LR	LC	GD	VC	MA
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	yes	yes	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes	yes	no	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes	no	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes ²	yes ²	yes ²	yes ²	no	yes ²
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB	PB	no	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes	no	yes
14. Aquaculture	PB	PB	PB	yes	yes	no	yes
15. Principal structures and uses							
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO	CEO	no
B. Multi-unit residential	no	no	PB	PB	PB	PB	no
C. Commercial	Note ¹⁰	no ¹⁰	no ¹⁰	PB	PB	PB	PB ⁵
D. Industrial	no	no	no	no	PB	PB ⁵	PB ⁵
E. Governmental and institutional	no	no	PB	PB	PB	PB ⁵	PB ⁵
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO	CEO	PB ⁵
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO	yes	yes	yes
17. 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 ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
B. Permanent	PB	PB	PB	PB	PB	PB ⁵	PB ⁵
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	no	no
19. Home occupations	PB	PB	PB	CEO	yes	yes	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI	LPI
21. Essential services							
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²	yes ¹²	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO ⁵	CEO ⁵
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	no	CEO
25. Campgrounds	no	no ⁷	PB	PB	PB	no	No
26. Road construction	PB	no ⁸	PB	PB	PB	PB	PB ⁵
27. Land management roads	yes	PB	yes	yes	yes	yes	yes
28. Parking facilities	no	no ⁷	PB	PB	PB	PB	PB ⁵
29. Marinas	PB	no	PB	PB	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO	CEO
32. Signs	yes	yes	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB	PB

Key to Table SS-1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection GD General Development I and General Development II

LR - Limited Residential MA - Maritime Activities

LC - Limited Commercial SP - Stream Protection

Table SS-1 Notes

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

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

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

⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals.

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

⁶ See further restrictions in Section 15(L)(2).

⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸ Except as provided in Section 15(H)(3).

⁹ Single family residential structures may be allowed by special exception only according to the provisions of Chapter XI, Section A-1(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰ Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹² Permit not required but must file a written "notice of intent to construct" with CEO.

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

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

15. Land Use Standards.

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

A. Minimum Lot Standards

(1) The minimum lot standards are:	Minimum Lot Area in Square Feet	Minimum Shore Frontage in Feet
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
<p>Note: The Village Business District and Village Center District Standards in Chapter X of the Newcastle Land Use Ordinance provide for greater residential densities in those areas served by municipal water and sewer systems. It is the intent of this ordinance that in those districts, those standards shall apply.</p>		
(b) Governmental, Institutional, Commercial, or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Village Center, and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Village Center, and Maritime Activities	SEE Maritime Activities and Village Center District Standards in Chapter X of the Newcastle Land Use Ordinance	
(iii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Village Center and Maritime Activities	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non- Tidal Areas	40,000	200

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use except in Village Center District which shall meet the standards of Chapter X.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Village Center and Maritime Activities District there shall be no minimum setback, except for residential and other structures not associated with water dependent uses, which shall be set back seventy-five (75) feet from the normal high water mark. In the Resource Protection District, the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

- (c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
 - (d) The Planning Board is authorized to increase the required setback of a proposed structure, as a condition to permit approval, if necessary, to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
 - (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
 - (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers that do not flow to great ponds classified GPA, and in the Village Center and Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
 - (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

- (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
- (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization.

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.

- ~~(1)~~(2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- ~~(2)~~(3) The location shall not interfere with existing developed or natural beach areas.
- ~~(3)~~(4) The facility shall be located so as to minimize adverse effects on fisheries.
- ~~(4)~~(5) 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 in non-tidal waters shall not be wider than six feet for non-commercial uses.
- ~~(5)~~(6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- ~~(6)~~(7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
- ~~(7)~~(8) No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- ~~(8)~~(9) Except in the General Development Districts and Maritime Activities District, structures built on, over or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.
- (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
- (b) Revegetation must occur in accordance with Section 15(S).

D. Campgrounds.

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites.

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

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

(2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

~~(2)~~(3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal highwater line of other water bodies, tributary streams, or the upland edge of a wetland.

~~(3)~~(4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

~~(4)~~(5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

~~(5)~~(6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.

~~(6)~~(7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses.

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream, or wetland and where feasible, to retain all runoff on-site.

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

H. Roads and Driveways.

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

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream, or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon 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.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).

- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an un-scarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an un-scarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto un-scarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs.

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

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

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

K. Septic Waste Disposal

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

L. Essential Services

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

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

M. Mineral Exploration and Extraction.

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (b) All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (c) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (d) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary, to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.
 - (b) Beyond the 75-foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:

- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal highwater line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal highwater line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear-cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
- (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an un-scarified 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 un-scarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

O-1. Timber Harvesting - Statewide Standards [Effective on effective date established in Section 4(B)]

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams, and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1) (2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
- (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
- (b) Adjacent to great ponds, rivers, and wetlands:
- (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
- (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
- (a) Option 1 (40% volume removal), as follows:
- (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0-inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester, or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry for review and approval, which provides equal or better protection of the shoreland area than this rule.

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

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

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
 - (a) Equipment used in timber harvesting and related activities shall not use river, stream, or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
 - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
 - (c) Setbacks:
 - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
 - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches, and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream, or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.
- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
- (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
- (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an un-scarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
 - (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream, and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25-year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
- (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
- (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration, and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1) (6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
 - (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,

(v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

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

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

(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line.

Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

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

(iii) Culverts utilized in river, stream and tributary stream crossings must:

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

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

- (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed, and areas of exposed soil stabilized or upgraded to comply with the closeout standards for land management roads in Section 15(O-1) (6)(i) below.
 - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - (iii) River, stream and tributary stream channels, banks, and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

- (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25-year frequency water flows;
 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream, or tributary stream channel; or
 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream, or tributary stream.

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

(7) Slope Table

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

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

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

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove ~~safety hazard~~ s trees as described in section Q.

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

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

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

(b) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 < 4 in.	1
4 < 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.

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

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

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

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by 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 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

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

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation, or other similar activities which result in un-stabilized soil conditions, and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
- (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined with riprap.

R. Soils.

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

S. Water Quality.

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

T. Archaeological Site.

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.

U. Cluster Development.

The provisions for cluster development in Chapter V, Subdivisions, may be applied when appropriate in the Shoreland Zone.

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

(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

- (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height and be no less than two (2) inches in diameter. Stumps may not be removed.
- (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
- (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
- (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
- (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
- (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- (ii) Stumps from the storm-damaged trees may not be removed;
- (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
- (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

W. Exemptions to Clearing and Vegetation Removal Requirements

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

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;

- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
- (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
- (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

X. Revegetation Requirements

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

- (1) The property owner must submit a revegetation plan, prepared with, and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
- (a) All trees and saplings removed must be replaced with native noninvasive species;
 - (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five (5) years.

16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required.

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

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is no longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- (5) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state, and federal employees engaged in projects associated with that employment.]TM1]

D. Procedure for Administering Permits.

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

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (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 not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

E. Special Exceptions.

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

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.
- (4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream, or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit.

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

G. Installation of Public Utility Service.

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

H. Appeals^{TM2}

- (1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
- (a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance.
Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - (b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
- (2) Variance Appeals. Variances may be granted only under the following conditions:
- (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 - (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - (c) The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.

- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall, or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

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

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

(4) Appeal Procedure(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer, or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

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

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

I. Enforcement

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

(2) Code Enforcement Officer

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

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

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

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

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

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

17. Definitions

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. 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.

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

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

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

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

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

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

Bureau of Forestry - State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Expansion of a structure - an increase in the footprint or height of a structure, including all extensions such as, but not limited to attached decks, garages, porches, and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

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

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

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

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

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

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

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

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

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

- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

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

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

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

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

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

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

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

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

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

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

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

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

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

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

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

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

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

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

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

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

Native - indigenous to the local forests.

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

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

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

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

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

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

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

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

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

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

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

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

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

<u>Fryeburg</u>	<u>Hadley</u>	<u>Limerick</u>
<u>Lovewell</u>	<u>Medomak</u>	<u>Ondawa</u>
<u>Alluvial</u>	<u>Cornish</u>	<u>Charles</u>
<u>Podunk</u>	<u>Rumney</u>	<u>Saco</u>
<u>Suncook</u>	<u>Sunday</u>	<u>Winooski</u>

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

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

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

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

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

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

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

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

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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

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

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

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

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

(1) in the case of electric service

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

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

(2) in the case of telephone service

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Tidal waters - all waters affected by tidal action during the highest annual tide.

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

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

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

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

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

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

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

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

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

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

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

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

Wetland - a freshwater or coastal wetland.

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

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



Town of Newcastle

www.NewcastleMaine.us

Kevin L. Sutherland - Interim Town Manager

4 Pump Street

PO Box 386

Newcastle, ME 04553

Tel. (207) 563-3441

Fax. (207) 563-6995

5D

FROM: Kevin L. Sutherland, Interim Town Manager

TO: Newcastle Select Board

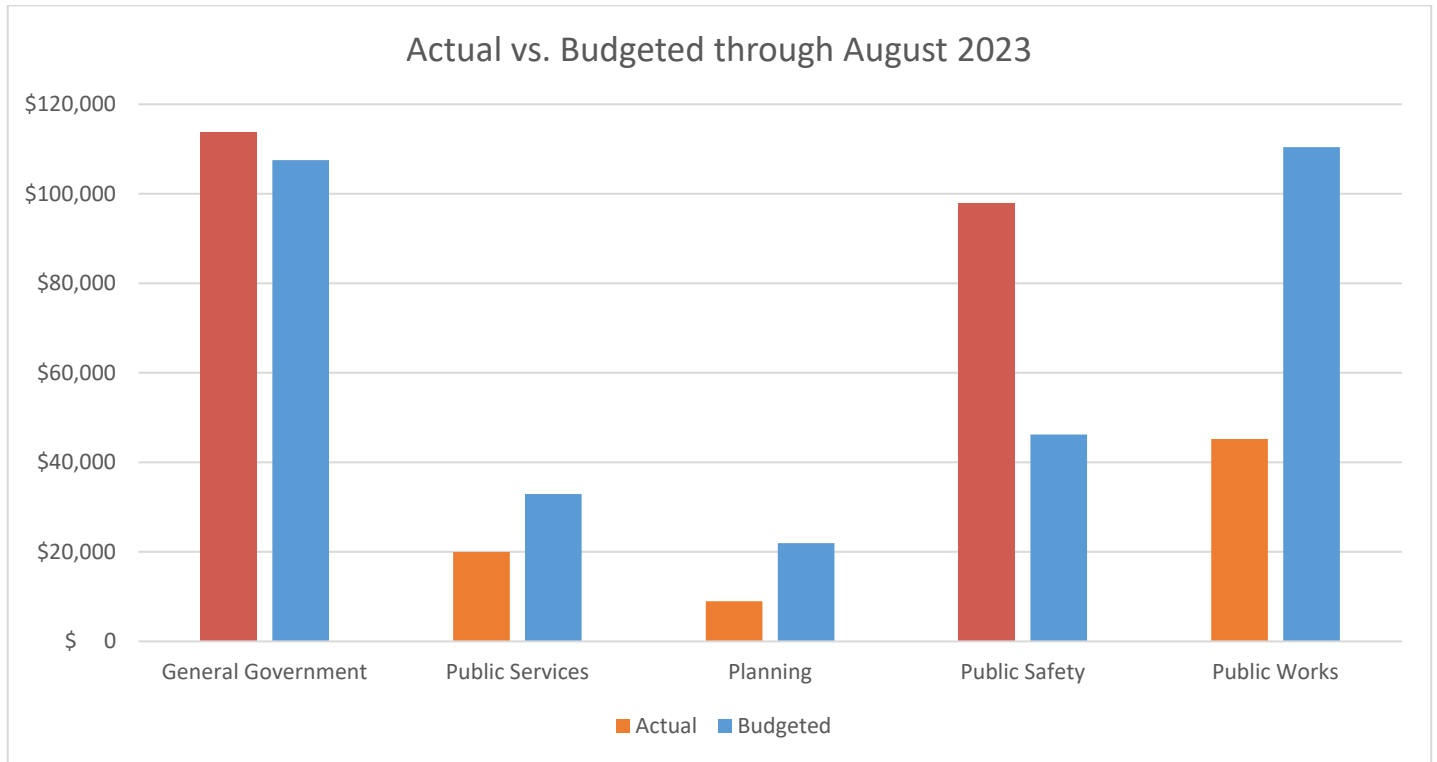
CC: Town Staff

DATE: September 25, 2023

RE: Town Manager Monthly Financial Report

We're now completely through two months of the fiscal year and to bring more transparency and understanding of the annual budget, I'd like to begin developing a monthly report to help show where we stand Actual compared to Budget.

After two months or 16.67% of the fiscal year (represented below in the blue bars for each of the spending categories), there are two categories where we're currently over budget (red bars) - General Government and Public Safety.



General Government

General Government is slightly over due to the final payout of the previous manager, the slightly higher actual for the current interim manager, and the early in the year payment for annual legal services.

Public Safety

Public Safety is well over as we've paid the full share of Newcastle's CLC ambulance service. This expense of \$74,200 represents roughly 26% of the entire public safety budget. If we were to only recognize two months of this expense, the Public Safety actual would only be 13% for the first two months. Below the budgeted 16.67%.



Town of Newcastle TRAFFIC & PARKING ORDINANCE

1 AUTHORITY

1.1 This ordinance is adopted pursuant to 30-A M.R.S.A. §3009, 29-A M.R.S.A. §2395 and §2388.

2 PURPOSE

2.1 This ordinance is designed to protect public health, welfare, and infrastructure by regulating the parking and operation of motor vehicles on public ways.

2.2 Restricting vehicle weight extends infrastructure life expectancy on town ways and bridges.

2.3 Reduces safety hazards and the risk of injury to the traveling public.

3 DEFINITIONS

3.1 The definitions contained in Title 29-A M.R.S.A. as amended through 2021 shall govern the construction of words contained in this Ordinance.

3.2 Any words not defined therein shall be given their common and ordinary meaning.

Town of Newcastle
TRAFFIC & PARKING ORDINANCE
Subsection A: Parking

4 SIGNAGE & MEDIA

- 4.1 It shall be the duty of the Town Manager, Road Commissioner, or their designee to erect appropriate signs giving notice of any parking time limit imposed or parking prohibition and no such regulations shall be effective unless said signs are erected and in place at the time of the alleged offense.
- 4.2 The notification of any prohibition may be immediate as determined by the Town Manager, Road Commissioner, or their designee. The notification does not require any public notification by means of public notice requirements or other advance warning or permission by the Select Board. This notice may or may not be published digitally by means of the town website or other social media platforms.
- 4.3 The winter parking ban is a notice and does not require street signage. This parking ban will remain in effect annually.

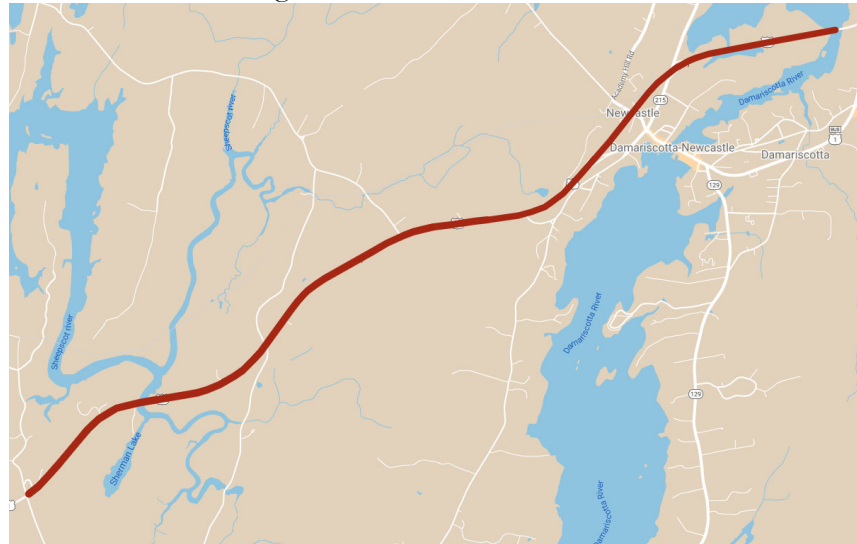
5 REGULATED AREAS – PARKING

- 5.1 Between November 1 and April 15, no vehicle or motorcycle shall be parked on any public street or way from 9:00 p.m. to 7:00 a.m., so as to interfere with or hinder the removal of snow from said street or way by the Town plowing / sanding / salting or loading and hauling.
- 5.2 Parking may be prohibited with notification to facilitate daytime snow removal.
- 5.3 When signs are erected giving notice thereof, no person shall park any motor vehicle at any time on the following public ways or specified portions thereof:

Town of Newcastle TRAFFIC & PARKING ORDINANCE Subsection A: Parking

- a. Route 1 in the Town of Newcastle

Exhibit A: No Parking on Route 1



- b. Both sides of Route 215 (Pond Road) from the intersection at the North end of Academy Hill Road on Pond Road to Austin Rd and the Nobleboro Town Line, and in addition, Austin Road to Mills Road.

Exhibit B: No Parking Sign in Damariscotta Mills



Town of Newcastle TRAFFIC & PARKING ORDINANCE Subsection A: Parking

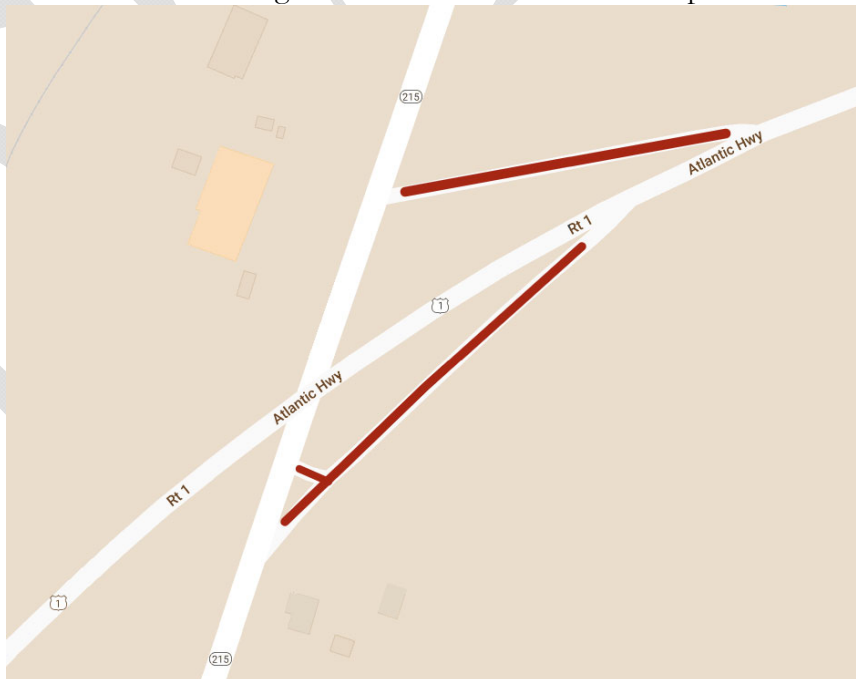
- c. Both sides of River Rd from the intersection of Business. Route 1 to Snead Spur.

Exhibit C: No Parking on River Rd from Business Route 1 to Snead Spur



- d. Both sides of the on and off ramps to Route 1 at Route 215 (Mills Road)

Exhibit D: No Parking on the Route 1 on and off Ramps to Route 215



- e. Any place where an official sign or curb painting so prohibits.

Town of Newcastle
TRAFFIC & PARKING ORDINANCE
Subsection A: Parking

5.4 Under no circumstances shall a person park any motor vehicle on the following public ways or specified portions thereof:

- a. On a sidewalk.
- b. Within 10 feet of a fire hydrant.
- c. In front of or preventing any access to fire department emergency equipment i.e. sprinkler connections, dry hydrants, designated landing zones.
- d. On the opposite side of a roadway direction of traffic.
- e. Upon a bridge.
- f. Within 20 feet of the nearest corner of the curb at an intersection.
- g. In front of a public or private driveway or alleyway.

6 PARKING EXCEPTIONS

6.1 This ordinance does not apply to motor vehicles parked in prohibited areas for the following reasons:

- a. Mechanical problems or breakdown.
- b. Emergency situations as verified by Emergency Services, the Town Manager, Road Commissioner, or designee.
- c. Maintenance, construction, repair or installation of utilities or the public way by any State or municipal agency or utility company.

7 TOWING – PARKING

7.1 Any motor vehicle parked upon a public street or municipal parking lot of the Town of Newcastle in a place, manner or for a length of time prohibited by this Ordinance, or during any parking ban declared by the Municipal Officers/Town Manager/Road Commissioner or their Authorized Designee(s) is hereby declared to be an obstruction in the public way and a menace to the safety of the traveling public.

7.2 Any motor vehicle parked which constitutes an obstruction under this section of this Ordinance may, at the request and under the direction of the Town Manager, Road Commissioner, or their Authorized Designee(s) be towed to a suitable garage or storage space and impounded thereon until all towing, storage fees, and fines are paid. Towing and associated expenses will be at the expense of the owner of said vehicle and without the Town being liable for any damage that may be caused by such removal.

Town of Newcastle
TRAFFIC & PARKING ORDINANCE
Subsection A: Parking

8 DAMAGE – PARKING

- 8.1 Should damage occur to personal property as a result of owners placing obstructions or objects in a town road right of way, said damages shall be at the owner's expense.
- 8.2 Should a registered owner of a motor vehicle prevent the town from snow removal due to obstruction, the contractor shall file a claim through the Town Office to the Town Manager for approval. Upon approval, the registered owner of any motor vehicle found in violation of this ordinance shall be responsible for the costs of said snow removal if additional claims are brought forth.

DRAFT

Town of Newcastle
TRAFFIC & PARKING ORDINANCE
Subsection B: Posted Roads

9 RESTRICTIONS & NOTICES – POSTED ROADS

- 9.1 The Select Board may impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.
- 9.2 Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of 23,000 pounds during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.
- 9.3 Pursuant to 29-A M.R.S.A. § 2395, the notice shall contain, at a minimum, the following information:
- a. The name of the way or bridge
 - b. The gross registered weight limit
 - c. The time period during which the restriction applies
 - d. The date on which the notice was posted
 - e. The signature of the Town Manager, Road Commissioner, or designee
 - f. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way
- 9.4 Whenever a restriction expires or is lifted, the notices shall be removed wherever posted.
- 9.5 Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.
- 9.6 No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

10 POSTED ROAD EXEMPTIONS

The following vehicles are exempt under State law:

- 10.1 Any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4-A).

Town of Newcastle
TRAFFIC & PARKING ORDINANCE
Subsection B: Posted Roads

- 10.2 The following vehicles are also exempt under the specific provisions of this ordinance:
- a. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
 - b. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle.
 - (1) This exemption does not apply to special mobile equipment
 - (2) It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.
 - c. MaineDOT vehicles or other vehicles authorized by MaineDOT or a municipality or county to maintain the roads under their authority.
 - d. Authorized emergency vehicles as defined in 29-A M.R.S.A. § 2054, school buses, a wrecker towing a disabled vehicle of legal weight from a posted roadway, and vehicles with three axles or less under the direction of a public utility and engaged in utility infrastructure maintenance or repair.
 - e. Any two axle vehicles registered for a gross weight in excess of 23,000 pounds and less than or equal to 34,000 pounds that are carrying any of the Special Commodities may operate without a permit. Special Commodities includes any of the following:
 - (1) Home delivered heating fuel (oil, gas, coal, stove size wood that is less than 36" in length, propane and wood pellets);
 - (2) Petroleum products;
 - (3) Groceries;
 - (4) Bulk milk;
 - (5) Waste;
 - (6) Animal bedding;
 - (7) Returnable beverage containers;
 - (8) Sewage from private septic tanks or porta-potties;
 - (9) Medical gases;
 - (10) Animal feed.

11 PERMITS – POSTED ROADS

- 11.1 The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Town Manager, Road Commissioner, or designee for a permit to operate on a posted way or bridge notwithstanding the restriction. The Town Manager, Road Commissioner or designee may issue a permit only upon all of the following findings:

Town of Newcastle
TRAFFIC & PARKING ORDINANCE
Subsection B: Posted Roads

- a. No other route is reasonably available to the applicant;
 - b. It is a matter of economic necessity and not mere convenience that the applicant uses the way or bridge; and
 - c. The applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.
- 11.2 Even if the Town Manager, Road Commissioner, or designee make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.
- 11.3 In determining whether to issue a permit, the Town Manager, Road Commissioner, or designee shall consider the following factors:
 - a. the gross registered weight of the vehicle;
 - b. the current and anticipated condition of the way or bridge;
 - c. the number and frequency of vehicle trips proposed;
 - d. the cost and availability of materials and equipment for repairs;
 - e. the extent of use by other exempt vehicles; and
 - f. such other circumstances as may, in their judgment, be relevant.
- 11.4 The Town Manager, Road Commissioner, or designee may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.
- 11.5 An applicant whose permit is denied may appeal the decision through the Town of Newcastle's Board of Appeals

12 PENALTIES – OVERWEIGHT VEHICLES

- 12.1 Each violation shall be deemed a separate offense.
- 12.2 Any violation of this Ordinance for being overweight on posted roads shall be a civil infraction and handled as a traffic violation. See Town Fee Schedule.
- 12.3 In addition to any fine, the Town of Newcastle may seek restitution for the cost of repairs to any damaged town property, damaged way, or bridge and reasonable attorney fees and costs.
- 12.4 Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

**Town of Newcastle
TRAFFIC & PARKING ORDINANCE**

13 ADMINISTRATION & ENFORCEMENT

13.1 This Ordinance shall be administered and may be enforced by the Town Manager, Road Commissioner, or designee such as a law enforcement officer.

14 SEVERABILITY

14.1 In the event that any portion of this Ordinance is declared invalid by a Court of competent jurisdiction, the remaining portions shall continue in full force and effect.

15 EFFECTIVE DATE

15.1 This Ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

This Ordinance is hereby approved and signed by the Municipal Officers on June 20, 2023:

Karen Paz, Select Board Chair

Joel Lind, Select Board

Tor Glendinning, Select Board

Thomas Kostenbader, Select Board

Rufus Percy, Select Board

A true & attested copy by: _____
Michelle Cameron, Interim Town Clerk

Jrnl	Invoice Description	Reference			
Description	Account	Proj	Amount	Encumbrance	
00277 BANGOR SAVINGS BANK					
0169	Fire Truck Loan Pymt	October			
	Oct Fire Truck Pymt	E 110-30-60	2,256.92	0.00	
	DEBT SERVICE - DEBT SERV / LOAN PYMT FT				
		Vendor Total-	2,256.92		
00033 CENTRAL MAINE POWER CO					
0169	Various Electric Accts				
	35011988843 - T.O.	E 101-65-02	96.04	0.00	
	GEN GOVT - TOWN OFFICE / ELECTRICITY				
	35016922797 - SANDLOT	E 107-40-01	30.91	0.00	
	PUBLIC WORKS - FACILITIES / ELECTRICITY				
	35015543750 - SHEEP. FD	E 105-68-02	33.38	0.00	
	PUB SAFETY - SHEEPSCT STA / ELECTRICITY				
	35015543313 - BIRD	E 101-67-02	41.39	0.00	
	GEN GOVT - BIRD PLAYGR / ELECTRICITY				
	35013306861 - FLASHER	E 105-57-03	33.68	0.00	
	PUB SAFETY - INFRASTRUCT / FLASHER RT 1				
		Vendor Total-	235.40		
00380 Constellation Newenergy, Inc.					
0169	Town Office Account	35011988843			
	35011988843 - T.Office	E 101-65-02	134.39	0.00	
	GEN GOVT - TOWN OFFICE / ELECTRICITY				
		Vendor Total-	134.39		
00376 Dead River Company					
0169	Annual Service & Repairs	Fire Station			
	INV#33887 - Heating	E 105-66-04	244.82	0.00	
	PUB SAFETY - FIRE STA/COM / MAINT/REPAIR				
	INV#27890 - Cleaning	E 105-66-04	279.76	0.00	
	PUB SAFETY - FIRE STA/COM / MAINT/REPAIR				
		Vendor Total-	524.58		
00293 ELAN FINANCIAL SERVICES					
0169	VISA COMMUNITY CARD	Adobe/Zoom			
	Adobe/Zoom	E 101-25-11	94.97	0.00	
	GEN GOVT - OPERATIONS / SOFTWARE				
		Vendor Total-	94.97		
00010 GREAT SALT BAY COMM. SCHOOL					
0169	SCHOOL/ELEMENTARY	September			
	Sept School/Elementary	E 116-60-01	149,770.83	0.00	
	SCHOOLS - SCHOOLS / ELEMENTARY				
		Vendor Total-	149,770.83		
00897 HAGAR ENTERPRISES, INC					
0169	SNOW PYMT #2	October			
	Snow Removal Roads	E 107-41-01	31,167.14	0.00	
	PUBLIC WORKS - WINTER OPS / SNOW REMOVAL				
	Snow Downtown	E 107-41-02	5,793.78	0.00	
	PUBLIC WORKS - WINTER OPS / SNOW DWNTWN				
		Vendor Total-	36,960.92		
00449 HYGRADE BUSINESS GROUP, INC.					
0169	Stabilization Programming	INV#510386295			
	Stabilization Programming	E 101-25-05	100.00	0.00	
	GEN GOVT - OPERATIONS / POSTAGE/ENV				
		Vendor Total-	100.00		
00165 KONICA MINOLTA/SYMQUEST					
0169	500-0622968-000	Newcastle Fire			
	Newcastle Fire Co - Copie	E 105-05-55	25.10	0.00	
	PUB SAFETY - FIRE DEPT / ADMIN/OFC				
		Vendor Total-	25.10		

Jrnl	Invoice Description	Reference	Amount	Encumbrance
Description	Account	Proj		
00318 LCTV				
0169	Town Franchise Fees	Provider Agency		
	Provider Agency	E 102-89-17	13,500.00	0.00
	PUBLIC SRVCE - PROVIDER AGE / LCTV			
		Invoice Total-	13,500.00	
0169	Select Board 9/11/2023	Recording		
	Video Recordings	E 101-25-81	100.00	0.00
	GEN GOVT - OPERATIONS / VIDEO RECORD			
		Invoice Total-	100.00	
		Vendor Total-	13,600.00	
00106 LINCOLN COUNTY SHERIFF'S OFFICE				
0169	ACO Wages	August		
	ANIMAL CONTROL SERVICES	E 105-55-01	303.70	0.00
	PUB SAFETY - ANIMAL CNTRL / ANIMAL CNTRL			
		Vendor Total-	303.70	
00005 LOCKBOX #936724				
0169	TRANSCO CONTRACT	Town Office		
	HP/HPLJ2300	E 101-26-01	24.15	0.00
	GEN GOVT - LEASES / COPIER			
	XER/XALC8045	E 101-26-01	227.45	0.00
	GEN GOVT - LEASES / COPIER			
		Vendor Total-	251.60	
00822 MAINE MUNICIPAL ASSOC-W.C. FUND				
0169	WORKERS COMP INS	INV#46802		
	Workers Comp Ins.	E 101-03-15	594.30	0.00
	GEN GOVT - INSURANCE / WORKERS COMP			
		Vendor Total-	594.30	
00016 MAINE MUNICIPAL EMPL. HEALTH TRUST				
0169	Member Group Remittance	October		
	Dental	E 101-02-07	151.20	0.00
	GEN GOVT - FRINGE BENEF / DENTAL INS			
	Health (Medical)	E 101-02-02	5,092.26	0.00
	GEN GOVT - FRINGE BENEF / HEALTH INS			
	IPP (Income Protection)	E 101-02-05	131.83	0.00
	GEN GOVT - FRINGE BENEF / IPP			
	Vision	E 101-02-04	16.73	0.00
	GEN GOVT - FRINGE BENEF / OTHR HLTH TM			
		Vendor Total-	5,392.02	
00360 MODERN PEST SERVICES				
0169	INV#6003540	September		
	PEST REMOVAL-ACCT#267722	E 101-65-04	95.00	0.00
	GEN GOVT - TOWN OFFICE / MAINT/REPAIR			
		Vendor Total-	95.00	
00109 PROPERTY CARE PLUS, INC				
0169	October Mowing			
	October	E 101-70-02	1,800.00	0.00
	GEN GOVT - CEMETERIES / MOWING			
		Vendor Total-	1,800.00	
00102 READY REFRESH/BLUE TRITION BRANDS INC				
0169	TOWN OFFICE WATER	23I0424000511		
	TOWN OFFICE WATER	E 101-25-95	93.94	0.00
	GEN GOVT - OPERATIONS / SUPPLIES			
		Vendor Total-	93.94	
01442 TOWN OF DAMARISCOTTA				
0169	July & August Shared Plan	Michael Martone		
	July Planning	E 103-01-21	2,054.86	0.00

Jrnl	Invoice Description	Reference	Amount	Encumbrance
Description	Account	Proj		
August Planning	PLANNING - COMPENSATION / DEVELOP ADM E 103-01-21		4,109.71	0.00
	PLANNING - COMPENSATION / DEVELOP ADM			
	Vendor Total-		6,164.57	
00354 TOWN OF NOBLEBORO				
0169 (OCTOBER) TIPPING FEES				
OCT. TIPPING FEES	E 102-10-10		9,984.00	0.00
	PUBLIC SRVCE - WASTE DISP / TRANSFER STA			
	Vendor Total-		9,984.00	
00023 TREASURER, STATE OF ME-BMV				
0169 9/1-9/8 & 9/8-9/15	BMV REPORTS			
9/1-9/8 BMV Report	G 1-345-00		3,388.25	0.00
	GEN'L GOV. / STATE MV FEE			
9/8-9/15 BMV Report	G 1-345-00		4,541.25	0.00
	GEN'L GOV. / STATE MV FEE			
	Vendor Total-		7,929.50	
01503 U.S. BANK EQUIPMENT FINANCE, INC				
0169 COPIER LEASE/MAINT	500-0580082-000			
T.O. COPIER LEASE & MAINT	E 101-26-01		208.53	0.00
	GEN GOVT - LEASES / COPIER			
	Vendor Total-		208.53	
00396 US BANKCORP EQUIPMENT FINANCE GROUP				
0169 PP ABATEMENT	23-24 001			
PP ABATEMENT	G 1-162-23		16.00	0.00
	GEN'L GOV. / PP TAXES '23			
	Vendor Total-		16.00	
00355 VANASSE HANGEN BRUSTLIN, INC				
0169 Professional Services	8/6 - 9/2/2023			
Prof. Services 8/6-9/2/23	G 1-604-00		19,821.20	0.00
	GEN'L GOV. / FEMA 4719			
	Vendor Total-		19,821.20	
	Prepaid Total-		0.00	
	Current Total-		256,357.47	
	Warrant Total-		256,357.47	

THIS IS TO CERTIFY THAT THERE IS DUE AND CHARGEABLE TO THE APPROPRIATIONS LISTED ABOVE AND YOU ARE DIRECTED TO PAY UNTO THE PARTIES NAMED IN THIS SCHEDULE.

DATE: 9/25, 2023

JOEL LIND
TOR GLENDINNING
RUFUS PERCY
KAREN PAZ
THOMAS KOSTENBADER

Fire Warrant 9-25-2023

Vendor	Account	Description	Amount
Dead River	105-66-04	Maint/Heat Valve	\$244.82
Dead River	105-66-04	Annual Tune-up	\$279.76
Konica-Minolta (SymQuest)	105-05-55	Copier	\$ 25.10
Total for Submission:			\$549.68