

Select Board & Board of Assessors Meeting - Agenda
January 22, 2024 @ 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. January 8th, 2024
- 4. Public Comments on Items Not on the Agenda**
- 5. New Business**
 - a. Shoreland Zoning Ordinance
 - b. Comprehensive Plan State Approval
 - c. LD 2003 – Core Zoning Code Amendments
- 6. Unfinished Business**
 - a. Historic Preservation Ordinance
 - b. Village Partnership Initiative
- 7. Town Manager Report and Communications**
- 8. Fiscal Warrants**
 - a. FY24 Thirteenth AP Warrant: \$304,574.79
- 9. Executive Session**
- 10. Future Agenda Items**
 - a. Posted Road Application
 - b. Ground Lease Agreement
 - c. Fish Ladder Agreement
- 11. Adjournment of Meeting**

Manager commentary for January 22th, 2024 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 – Shoreland Zoning Ordinance**

Manager’s Commentary: The Planning Board has been reviewing our Shoreland Zoning Ordinance to comply with the State Department of Environmental Protection Chapter 1000 ([state website](#) with information and the guidelines). On [November 30, 2023](#) the Planning Board held a special workshop to review the suggested changes from the state. Additionally, they discussed other changes that could be considered. At their meeting on [January 18, 2024](#), the Board reviewed the additional changes ([PAGE 9](#)) and are proceeding to hold another public workshop in February about the drafted revisions ([PAGE 16](#)). With the Select Board’s support, the timeline goal of this ordinance revision will be included as part of the June Town Meeting Warrant. No action is needed tonight, I just wanted the Select Board to be aware of and supportive of these efforts.

New Business Item: **5B – Comprehensive Plan State Approval**

Manager’s Commentary: Town Staff have been working over the last few months to revise the comprehensive plan document to secure state approval. What’s included in the packet ([PAGE 77](#)) is the list of items by page number we’re working to include. If you have any specific answers to the highlighted areas or further modifications to what we’ve added, let us know! But the primary request for this evening is guidance about which of these items (or Any? All?) do you want us to reach out to the public about prior to submitting to the state? After we get state approval, we’ll want to take the revised document back to the public for their approval. My hope is that it will be ready, at the latest, for June.

New Business Item: **5C – LD 2003 – Core Zoning Code Amendments**

Manager’s Commentary: [LD 2003](#) is in reference to state law approved by the Governor on April 27, 2022 titled "An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions." In the subsequent year, the law was amended. The [revised law](#) titled "An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Unit" was approved by the Governor on June 16, 2023.

Maine Municipal Association (MMA) provided some guidance ([PAGE 87](#)) this November. Pulling directly from that document:

“Together, these bills made significant changes to several state statutes governing municipal land use regulation in Maine – all with an eye toward increasing the availability of housing. The changes can be broadly broken down into four sections:

1. requiring the DECD to establish statewide and regional housing production goals and identifying the municipal role in increasing affordable housing;
2. requiring municipalities to adopt additional density requirements and other requirements for affordable housing developments under local land use ordinances;
3. requiring municipalities to allow additional dwelling units on lots where residential uses are allowed, with the number of allowable units depending on the location of the lot and whether it contains an existing dwelling unit; and;
4. requiring municipalities to allow an accessory dwelling unit (ADU) on the same lot as a single-family dwelling unit in any area where residential uses are permitted and to comply with certain requirements pertaining to ADUs.”

How does this impact Newcastle? Except for the rural district, we’re a form-based code, so the vast majority of the density requirements don’t necessarily apply to us. I reached back out to MMA to get further clarification as the deadline for changes is this June:

“The DECD states in its written guidance that the density bonus required under 30-A M.R.S. § 4364 “only applies to lots in zoning districts that have density requirements. Lots in zoning districts that do not have density requirements, including lots in zoning districts that utilize a form-based code, are not subject to 30-A M.R.S. § 4364(2).” However, under the DECD Rule, “density requirements” are defined as the maximum number of dwelling units allowed on a lot, subject to dimensional requirements. And “dimensional requirements” are defined as the requirements that govern the size and placement of a structure, including, but not limited to building height, lot area, minimum frontage, and lot depth. So, for example, when determining the base density of a lot for purposes of applying the 2.5 density requirement for affordable housing developments, a municipality generally must determine how many units would be allowed on the lot based on the municipality’s setback, lot area, and other dimensional requirements and then multiply that number by 2.5 to determine the density that must be allowed on the lot for an affordable housing development. I took a quick look at Newcastle’s Code and it looks a lot like a form based code, but note that it does contain “density” requirements (at least for some districts), such as lot area requirements.”

I am now working with our Planner to best determine how to proceed, but I wanted to bring this to the attention of the Select Board, as it will likely take some time over the next few months to move through the process so that it can be included on the June Warrant.

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 – Historic Preservation Ordinance**

Manager’s Commentary: At the [October 23, 2023 meeting](#), the Select Board chose to postpone further review and consideration of a newly proposed ordinance to address Historic Preservation until January. Here we are! The question to the Select Board is, do you wish to move forward with the drafted Ordinance ([PAGE 107](#))? Or re-engage with the Planning Board and/or the Ad-hoc Historic Preservation Committee to make further revisions? Or postpone to a later date/indefinitely. As we’re all aware we have a lot of effort going into the revision of ordinances over the next year, many of which come from the review and recommendation of Planning and Code staff. This includes every item on the agenda this evening. It would be greatly beneficial to postpone this until after we’ve had time to address some of the more pressing needs of our ordinances.

A Possible Motion: ***“To postpone the consideration of the drafted Historic Preservation Ordinance indefinitely.”***

Unfinished Business Item: **6B – Village Partnership Initiative**

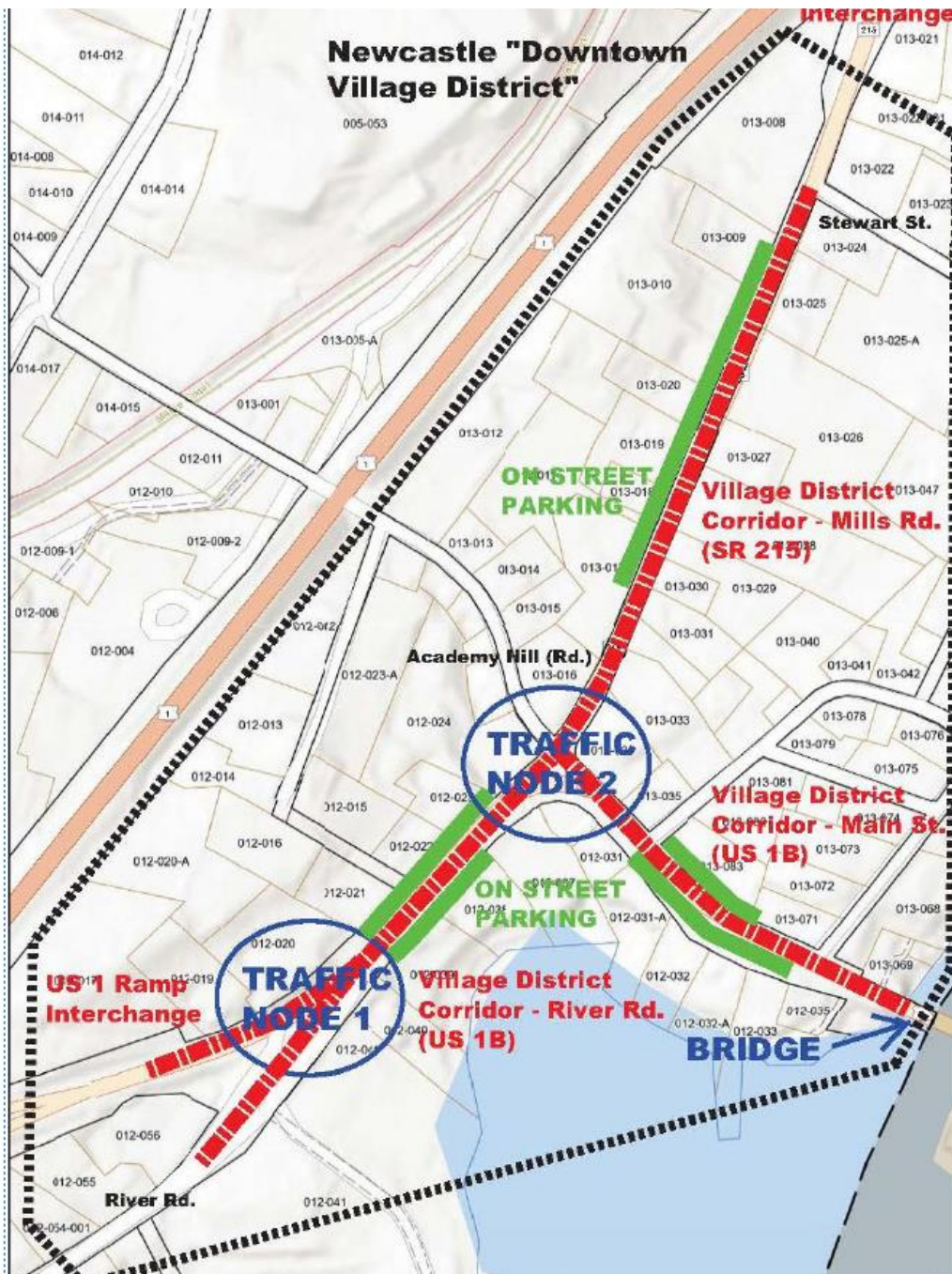
Manager’s Commentary: The Town of Newcastle received approval by the Maine Department of Transportation (MDOT) for a Village Partnership Initiative in September of 2023. Subsequently, the Town developed an RFP and received approval from the Select Board on [October 23, 2023](#) to solicit bids. In December, the winning bid was from Wright Pierce and the contracts were subsequently signed. On January 11, 2024, Town Staff and others met with Wright Pierce, the engineering firm hired to assist the Town of Newcastle and the Department of Transportation with some pre-engineering assessment and traffic data collection for the two state owned intersections and a potential re-design of the greater downtown area along these state roads.

The primary focus for the firm at this time is to collect traffic data, especially in the spring and summer months, but we all felt that this has the potential to be transformative for more than just Newcastle and the DOT as it is not ‘just another traffic study’. On the next page is a visual of the mapped area that is being considered as part of this engineering work (was included in the RFP).

Our next step is to discover ways to inform and engage the broader community which can greatly enhance this project. A few ideas that are being considered are articles in the paper, self-sign up for notices and updates, sending out surveys to gather input, and holding workshops or public input sessions. Additionally, we’ve reached out to Lincoln County Regional Planning Office to see if there is an opportunity to partner with them to facilitate these efforts. One final thought was to either use some time at our meeting to brainstorm some other ways to build momentum or to host another workshop another night in a less formal atmosphere and create a way to better engage with the community.

A Possible Motion: *“To schedule a Select Board Workshop to Discuss the Village Partnership Initiative on February ____ at 6pm in the Fire*

Project Vicinity Map



Fiscal Warrants: **8A – FY24 Fourteenth AP Warrant**

Manager Commentary: This can be found starting on [PAGE 128](#).

A Possible motion: *“To approve the fourteenth FY24 AP Warrant for \$304,574.79.”*

Select Board & Board of Assessors Meeting - Agenda
January 8, 2024 @ 7:00 p.m.
Fire Station Community Room, 86 River Rd.

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

Minutes transcribed by Emma McKearney, Deputy Town Clerk

1. **Call to Order:** Meeting started at 7:00pm.
2. **Amendments to the Agenda:** No amendments were made.
3. **Minutes of the previous meeting**
 - a. **November 27th, 2023:** Rufus made a motion to approve the minutes of the November 27, 2023, meeting as written. Motion was seconded by Thomas. Motion was passed 4-0, 1 absent.
 - b. **December 11th, 2023:** Rufus made a motion to approve the minutes of the December 11, 2023, meeting as written. Motion was seconded by Thomas. Motion was passed 4-0, 1 absent.
4. **Public Comments on Items Not on the Agenda**
 - a. **Joel Lind:** Joel, Select Board Member and resident of Newcastle, wanted to recognize the passing and accomplishments of Edna Verney. Edna was a lifelong resident of Newcastle who was an active participant in the community. She took over the care of the Harriet G. Bird Playground where she served as the chair of the committee since the 1970's. Edna passed on December 30, 2023.
5. **New Business**
 - a. **South Dyer Neck Bridge:** The Maine DOT has posted the bridge at 30 tons. Town Manager is working with the Maine DOT to figure out why this bridge was posted as it doesn't appear to be based on condition following a study conducted by VHB's assessment of Newcastle bridges and minor spans. *Tor made a motion to authorize the Road Commissioner to post a 30-ton weight restriction on the South Dyer Neck Bridge as prescribed by the Maine Department of Transportation. Motion was seconded by Rufus. Motion was passed 4-0, 1 absent.*
 - b. **Harbor Management Ordinance:** The Harbor Committee Chair provided the Town Manager with documentation of a working copy of the Harbor Committee Ordinance and Interlocal Agreement. It's suggested that there be a joint meeting to discuss the proposed, and additional, changes. *Thomas made a motion to schedule a joint workshop with the Town of Damariscotta Select Board at 6pm on January 18, 2024. Motion was seconded by Tor. Motion passed 4-0, 1 absent.*
 - c. **Community Resilience Partnership:** The Town of Newcastle was approached by the Lincoln County Regional Planning Commission (LCRPC) and Coastal Rivers Conservation Trust to potentially support the Town in becoming members of the Community Resilience Partnership, a state program. Damariscotta is currently a member of the Partnership. Being a member allows for additional state funding and grant opportunities to address the needs of the Town relating to climate. *Tor made a motion to support the draft letter to the Community Resilience Partnership Program Manager and express our intent to enroll and participate in the Community Resilience Partnership with the assistance from Service Providers, LCRPC and Coastal Rivers Conservation Trust. Motion was seconded by Rufus. Motion passed 4-0, 1 absent.*

6. Unfinished Business

- a. **Board and Committee Membership:** There were lapsed memberships to committees which were identified by staff. These appointments and re-appointments will be on schedule, based on their ordinances to be staggered and ending at the end of the fiscal year. In the beginning of July 2024, the Select Board will be provided with a list to appoint individuals to their desired committees. *Rufus made a motion to re-appoint Kevin Houghton to the Planning Board with a term expiring 6/30/2026, and Ben Frey to the Planning Board with a term expiring 6/30/2025. Motion was seconded by Tor. Motion passed 4-0, 1 absent. Rufus made a motion to appoint Wanda Wilcox to the Planning Board with a term expiring 6/30/2026. Motion was seconded by Thomas. Motion passed 4-0, 1 absent. Tor made a motion to re-appoint Ben Frey to the Finance Committee with a term expiring 6/30/2025, and John Hartman to the Finance Committee with a term expiring 6/30/2026. Motion was seconded by Thomas. Motion passed 4-0, 1 absent. Rufus made a motion to re-appoint David Lawrence to the Harbor Committee with a term expiring 6/30/2026, and Gisela Heimsath-Rhodes to the Harbor Committee with a term expiring 6/30/2024. Motion was seconded by Tor. Motion passed 4-0, 1 absent. Thomas made a motion to re-appoint Robert Wallace to the Shellfish Conservation Committee with a term expiring 6/30/2026. Motion was seconded by Tor. Motion passed 4-0, 1 absent.*
- b. **Fireworks Ordinance:** Town Manger presented an edited version of the Fireworks Ordinance. Since it was presented during the December 11, 2023, Select Board Meeting, no additional changes have been made. *Rufus made a motion to schedule a public hearing on the proposed amendments to the Fireworks Ordinance for February 12, 2024, at 7pm in the Newcastle Fire Department Community Room at 86 River Rd. Motion was seconded by Tor. Motion was passed 4-0, 1 absent.*
- c. **Finance Committee Ordinance:** John Mills and John Hartman expressed interest in continuing to participate on the Finance Committee, as well as Ben Frey. Additional changes to the ordinance since its initial recommended changes were shared on December 11 include: a three-member committee, recommendations for participants to have a background in finance, and the ability to develop committee policy and bylaws with Select Board approval. *Thomas made a motion to schedule a public hearing on the proposed amendments to the Finance Committee Ordinance for February 12, 2024, at 7pm in the Newcastle Fire Department Community Room at 86 River Rd. Motion was seconded by Rufus. Motion was passed 4-0, 1 absent.*
- d. **Fire Truck Procurement – Request for Proposal (RFP):** Casey Stevens, Fire Chief, and Lucas Kostenbader, a Lieutenant in the department, were present to answer any questions. The Town is waiting to receive audits back to give a clearer picture of what funds are available to buy a new fire truck. Currently, there is \$100,000 available in a reserve fund for this specific use. The Town may explore a bond, potentially in conjunction with the Lynch Road Project. There may be a discount if the chassis is paid for when it's received by the manufacturer before they start building the truck or making some form of payment up front. *Tor made a motion to seek bids utilizing the Fire Truck Procurement RFP as presented, establish a Special Town Meeting for March 25, 2024, at 7pm in the Newcastle Fire Station Community Room at 86 River Road, and notify the Interim Town Clerk. Motion was seconded by Thomas. Motion passed 4-0, 1 absent.*

7. **Town Manager Report and Communications:** Town Manager reviewed his report. Topics discussed were: the upcoming rain and wind storm predicted for this Tuesday and Wednesday and preparing for outages, there was about \$35,000 worth of damages in the Town of Newcastle during the December 18th storm however the county didn't meet the monetary threshold to potentially receive federal reimbursement, continuing to work on reimbursement deadlines for FEMA regarding the May Day Storm damages, and Wright-Pierce was awarded the contract for pre-engineering services for the Village Partnership Initiative. Newcastle's financial report was provided for the first six months of the fiscal year through December.

8. Fiscal Warrants

- a. **FY24 Thirteenth AP Warrant: \$53,771.02:** Tor made a motion to approve the Thirteenth AP Warrant for \$53,771.02. Motion was seconded by Thomas. Motion passed 4-0, 1 absent.

9. Executive Session: No executive session.

10. Future Agenda Items

- a. **Comprehensive Plan State Approval**
- b. **Posted Road Application**
- c. **Ground Lease Agreement**
- d. **Fish Ladder Agreement**
- e. **Historic Preservation Ordinance**

11. Adjournment of Meeting: Thomas made a motion to adjourn the meeting at 7:52pm. Motion was seconded by Rufus. Motion passed 4-0, 1 absent.

DRAFT

Memo

Date: January 12, 2024
To: Newcastle Planning Board
From: Michael Martone, Town Planner
Re: Overview of proposed changes to the Shoreland Zoning Ordinance

Below is an explanation of the changes which are currently proposed to be made to the existing Newcastle Shoreland Zoning Ordinance. The changes that were identified and required by the State, and approved by the Planning Board at the November 30, workshop meeting, are identified by purple text.

Please also refer to the three versions of Land Use Tables provided. 1) The 'default' table from the State's model Shoreland Zoning Ordinance; 2) Newcastle current Land Use Table with comparison to the State's 'default' table; and 3) a proposed Land Use Table with a comparison to the State's table and the Town's current table.

Organization Into Three Parts

The Ordinance is organized into four 'Articles': Administrative, Land Use Districts, Land Use Standards, and Definitions. Mainly, administrative sections at the end of the ordinance were moved to the front to be with other admin. sections—everything else is in the same order but grouped into the four articles.

Consolidating all of the administrative elements into one section put the "how to use the ordinance" stuff in one place; the "what uses are allowed and where" together under Land Use Districts; the Land Use Standards are in their original order and their section letters are the same as the original/State ordinance; and the definitions were left at the end of the document.

Change all instances of 'Chapter' to 'Ordinance'.

These changes are being made due to the 2020 separation of the Shoreland Zoning regulations from other land use regulations. This separation caused the Shoreland Zoning regulations to be a stand-alone ordinance rather than one chapter in a combined land use ordinance.

In many cases, consolidating land use regulations into one single ordinance can be effective, but due to the unique nature of the state-mandated Shoreland Zoning regulations, including definitions unique and specifically appropriate to the issues addressed by Shoreland Zoning, and the need to update the ordinance due to factors outside of the Town, keeping the Shoreland Zoning regulations isolated to a stand-alone ordinance may be the most effective and manageable approach.

Timber Harvesting

The changes made relating to timber harvesting are consistent with Option 1 of the three options laid out by the State's model ordinance, Ch. 1000. Choosing Option 1

essentially implements the current statewide standards for timber harvesting and defers to the Maine State Bureau of Forestry to administer those regulations.

Option 2 also implements the current statewide standards for timber harvesting but would have much of the cost and responsibility of administering those regulations fall to the Town. This is the current situation the Town is in, which does not provide any benefit in the form of flexible or favorable local regulations but does come with the burden of administering and implementing the State's standards.

Option 3 allowed municipalities to retain previous regulations for timber harvesting but required local municipalities to administer and implement those regulations locally, often with little to no support from the Bureau of Forestry. This option is no longer available to the Town as previous regulations have been repealed which the Town cannot now readopt.

The changes made to the Ordinance include: removal of the effective date for Section 15(O) and Section 15(O-1) as they are no longer applicable; the addition of a note that Section 15(O) and Section 15(O-1) are repealed as of the date of the adoption of these changes; The removal of items 3 (forest management activities except for timber harvesting & land management roads), 4 (timber harvesting), and 27 (land management roads) from the Land Use Table; and the removal of the definitions for 'Cross-sectional area', 'DBH', 'Disruption of shoreline integrity', 'Forest management activities', 'Forest stand', 'Harvest area', 'Land management road', 'Licensed forester', 'Residual basal area', 'Residual stand', 'Skid road or skid trail', 'Slash', 'Timber harvesting and related activities', and 'Wind firm'.

Districts and Zoning Map

The changes made to *Article II, Section B.1.: Official Shoreland Zoning Map* remove the General Development District but the Village Center District to the list to be consistent with the proposed Land Use Table. Stream Protection District was moved to the top of the list to match the order in the Land Use Table.

It should be noted that in the current ordinance the General Development District and Village Center District are included in the text of the Shoreland Zoning Ordinance, but they are not identified anywhere on the Shoreland Zoning Map. The proposed ordinance has removed any mention of the General Development District but retains mention of the Village Center District to allow for such a district to be implemented through an update to the Shore Land Zoning Map (by adding the VC District to the Map). Changes to the Shoreland Zoning Map would follow the same process as any other change to a land use ordinance or zoning map.

The purpose of the State's GD District (which the VC District is based on) is to allow for existing or proposed commercial, industrial, or other development which is not exclusively residential. In order for the Town to advance the vision for a mixed-use downtown village, the regulations allowed under a GD district (locally called the VC District) seem to be the most appropriate.

Proposed Changes to the Land Use Table

Remove General Development but leave Village Center

The General Development (GD) District was removed from the Ordinance and so removed from the Land Use Table. The Village Center (VC) District was kept as mentioned above.

Removal of Timber Harvesting

The removal of 'Timber Harvesting' from the Land Use Table will be necessary if the Town opts to have the State administer the state standards.

One question that still needs to be investigated is if/how the Town can prohibit Timber Harvesting in parts of the Town if it so desires. Currently, it would seem that the Town can prohibit Timber Harvesting in any district (it is currently listed as prohibited in the VC), but do we give that up if we have the State administer these regulations? Alternatively, can the Town prohibit Timber Harvesting through the local land use ordinances (Core Zoning Code)?

Mineral Extraction

I see no reason to allow uses like 'Mineral Extraction' or other uses which are incompatible with downtown village development, but otherwise I would recommend allowing any uses in the VC District that are allowed in the coinciding districts in the Core Zoning Code. All restrictions and regulations applicable within the Shoreland Zoning Ordinance would still be applicable, e.g., setbacks from highwater lines.

Agriculture in the Downtown

Agriculture and Aquaculture uses should be permitted in the downtown, especially considering the waterfront available, though restrictions around noise, odor, vibrations, etc. should still be enforced.

Gov't + Institutions

Government and Institutional uses can be compatible with a village downtown—the current town office is in the downtown.

Seasonal Conversions in Downtown

No known seasonal residences exist in the downtown, however, if any do, they should be encouraged to be converted to year-round residences and tied into the sewer and water network.

Note 4

Not permitting buildings within the SP District effectively means the 75' setback that applies to tidal waters would apply to streams similarly. This allows us to remove Note 4 in the Land Use Table and makes regulations around setbacks a bit more consistent.

Floor area vs Footprint

The State has updated their guidelines to now regulate building footprint rather than floor area and to regulate building height rather than building volume. It seems this is intended to make the regulations easier to measure and understand. My recommendation is to follow their lead on this for consistency as well as clarity.

Potential For Developing a Waterfront Management Strategy.

The State's model Shoreland Zoning Ordinance notes that "The development of a waterfront management strategy can be a complex process. There are many different techniques that can be used to tailor an ordinance to reflect local goals and resources. The Commercial Fisheries/Maritime Activities (CFMA) District included in these Guidelines is one approach which is based on allowing as permitted uses only those uses which are functionally water dependent. But other zoning variations are also possible which may be much more specific about what types of functionally water-dependent uses should be permitted, make use of more than one type of waterfront district, may include standards for assessing the impact of proposed development on water dependent uses, and may include specific provisions to encourage certain types of public benefits.

There are many other sources of information available to assist with the design of this type of ordinance. The Department of Agriculture, Conservation and Forestry's Municipal Planning Assistance Program and your regional planning council should be consulted for additional assistance."

How Newcastle's waterfront areas are used and what their potential future could be is something that might be good to discuss with the community and have inform either a standalone plan or part of a larger community vision plan.

Non-Conforming Structures

It may be beneficial to reorganize and clarify the entire Non-Conformance section. If it were organized by 25-, 75-, and 100-foot setbacks it might be much simpler and easier to decipher.

Ch. 1000 (default) LAND USE TABLE

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

LAND USES	DISTRICT							DISTRICT							
	SP	RP	LR	LC	GD	VC	MA	SP	RP	LR	LC	GD	VC	MA	VC to 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	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	yes	no					X			X
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	yes ²	no					X			X
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB	PB	PB	no					X			X
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	yes	no					X			X
14. Aquaculture	PB	PB	PB	yes	yes	yes	no					X			X
15. Principal structures and uses															
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO	CEO	CEO								X
B. Multi-unit residential	no	no	PB	PB	PB	PB	PB								X
C. Commercial	Note ¹⁰	no ¹⁰	no ¹⁰	PB	PB	PB	PB								X
D. Industrial	no	no	no	no	PB	PB	PB ⁵					X			
E. Governmental and institutional	no	no	PB	PB	PB	PB	PB ⁵					X			
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO	CEO	CEO								X
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	PB ⁵					X			
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	LPI	no					X			
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	CEO ⁵					X			
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO	no					X			X
25. Campgrounds	no	no ⁷	PB	PB	PB	PB	no					X			
26. Road construction	PB	no ⁸	PB	PB	PB	PB	PB								X
27. Land management roads	yes	PB	yes	yes	yes	yes	yes								
28. Parking facilities	no	no ⁷	PB	PB	PB	PB	PB								X
28. 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								

Differences between the State's Ch. 1000 model Shoreland ordinance and the existing Newcastle Shoreland Ordinance are highlighted in yellow.

Note that the VC District that exists in the Newcastle Shoreland Ordinance does not exist in the State's model ordinance, but it is essentially a modified version of the GD District in the State model ordinance. The Town's VC District is compared with the State's GD District.

PROPOSED LAND USE TABLE

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

Differences between the State's Ch. 1000 model Shoreland ordinance and the existing Newcastle Shoreland Ordinance are highlighted in yellow.

Proposed Changes are in RED.

Shoreland Zoning Ordinance

Town of Newcastle

Approved: November 3, 2020

Amended: TBD, 2024

Effective: TBD, 2024

Deleted: January 1, 2021

Text in **purple** is being added per the State's review of the current Newcastle Shoreland Zoning Ordinance.

- I. Administrative 3**
 - A. Purposes..... 3
 - B. Authority..... 3
 - C. Applicability..... 3
 - D. Effective Date..... 3
 - E. Availability..... 4
 - F. Severability..... 4
 - G. Conflicts with Other Ordinances..... 4
 - H. Amendments..... 4
 - I. Administering Bodies and Agents..... 4
 - J. Permits Required..... 5
 - K. Permit Application..... 5
 - L. Procedure for Administering Permits..... 6
 - M. Special Exceptions..... 7
 - N. Expiration of Permit..... 8
 - O. Installation of Public Utility Service..... 8
 - P. Appeals..... 9
 - Q. Enforcement..... 12
 - R. Non-conformance..... 14
- II. Land Use Districts 21**
 - A. Establishment of Districts..... 21
 - B. Districts And Zoning Map..... 24
 - C. Table of Land Uses..... 25
- III. Land Use Standards. 27**
 - A. Minimum Lot Standards..... 27
 - B. Principal and Accessory Structures..... 28
 - 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..... 31
 - D. Campgrounds..... 32
 - E. Individual Private Campsites..... 33
 - F. Commercial and Industrial Uses..... 34
 - G. Parking Areas..... 34
 - H. Roads and Driveways..... 35
 - I. Signs..... 37
 - J. Storm Water Runoff..... 38
 - K. Septic Waste Disposal..... 38
 - L. Essential Services..... 38
 - M. Mineral Exploration and Extraction..... 39
 - N. Agriculture..... 40
 - O. Timber Harvesting..... 40
 - P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting..... 41
 - Q. Erosion and Sedimentation Control..... 44
 - R. Soils..... 45
 - S. Water Quality..... 45
 - T. Archaeological Site..... 45
 - U. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal..... 46
 - V. Exemptions to Clearing and Vegetation Removal Requirements..... 47
 - W. Revegetation Requirements..... 49
- IV. Definitions 51**

I. ADMINISTRATION

A. PURPOSES

The purposes of this [Ordinance](#) are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve 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.

B. AUTHORITY

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

C. APPLICABILITY

This [Ordinance](#) 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 [Ordinance](#) 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.

D. EFFECTIVE DATE

This [Ordinance](#), which was adopted by the municipal legislative body on September 29, 2020, and amended on [Month ##, 2024](#), shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the [Ordinance](#), or [Ordinance](#) Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this [Ordinance](#) or [Ordinance](#) Amendment, within forty-five (45) days of his/her receipt of the [Ordinance](#), or [Ordinance](#) Amendment, it shall be automatically approved.

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

Commented [TM1]: To be updated upon adoption.

E. AVAILABILITY

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

Deleted: <#>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.¶

F. SEVERABILITY

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

G. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this [Ordinance](#) conflicts with or is inconsistent with another provision of this [Ordinance](#) or of any other [ordinance](#), regulation or statute administered by the municipality, the more restrictive provision shall control.

H. AMENDMENTS

This [Ordinance](#) may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. 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.

I. ADMINISTERING BODIES AND AGENTS**1. Code Enforcement Officer**

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

2. Planning Board

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

3. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of [30-A M.R.S.A. section 2691](#).

J. 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.

K. 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 II.C: Table Of Land Uses.
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.

L. 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 II.C: Table Of Land Uses](#), 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 Maritime Activities district;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of **Article III: 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.

M. SPECIAL EXCEPTIONS

In addition to the criteria specified in Section I.L: Procedure for Administering Permits, 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.

N. 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.

O. 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.

P. APPEALS

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

a) Administrative Appeals

To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. 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:
 - (1) The proposed structure or use would meet the provisions of Article III: Land Use Standards except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (2) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - (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 I.P.2.c\)\(2\)](#) 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 [Section I.P.2.f\)](#) and [Section I.P.4.b\)\(4\)](#).
- 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

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section I.P.1.a): Administrative Appeals. 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.
- (2) 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.
- (3) 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.
- (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application unless this time period is extended by the parties.

b) **Decision by Board of Appeals**

- (1) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- (2) The person filing the appeal shall have the burden of proof.
- (3) 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.
- (4) 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.

Q. 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 \$100.00 nor more than \$5,000.00 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$10,000.00 ([38 M.R.S.A. section 4452](#)).

R. NON-CONFORMANCE

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.

1. Purpose

It is the intent of this [Ordinance](#) to promote land use conformities, except that non-conforming conditions that existed before the effective date of this [Ordinance](#) or amendments thereto shall be allowed to continue, subject to the requirements set forth in [Section I.R: Non-Conformance](#). Except as otherwise provided in this [Ordinance](#), a non-conforming condition shall not be permitted to become more non-conforming.

2. General

a) Transfer of Ownership

Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this [Ordinance](#).

b) Repair and Maintenance

This [Ordinance](#) allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

3. Non-conforming Structures

a) 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 subparagraph (a) and (b) below.

(1) 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.

- (a) 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.
- (b) 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.
- (c) 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 footprint 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.
- (d) 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 footprint 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 footprint and height limits of division (iii).

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

Deleted: floor area

Deleted: floor area

Deleted: floor area

Commented [TM2]: This language is no longer needed due to the switch from regulating floor area to regulating footprint.

- (2) 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 I.R.3.b](#)): 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.

b) 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:

- (1) 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.

- (2) 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.

c) 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 Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section I.R.3.a): Expansions, as determined by the nonconforming footprint and height of the reconstructed or replaced structure at its new location. If the total amount of footprint and height 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 I.R.3.b): Relocation.

Deleted: floor area
Deleted: volume
Deleted: floor area
Deleted: volume

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 I.R.3.b](#)): Relocation, the physical condition and type of foundation present, if any.

d) 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.

4. Non-conforming Uses

a) 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 I.R.3.a\)\(1\)](#).

b) 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.

c) 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 a MA 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 I.R.3.d): Change of Use of a Non-conforming Structure.

Deleted: the CF

5. Non-conforming Lots**a) Non-conforming Lots**

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

b) Contiguous Built Lots

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on 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 Ordinance.

c) Contiguous Lots - Vacant or Partially Built

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

This provision shall not apply to two 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

- (1) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (2) Any lots that do not meet the frontage and lot size requirements of [Section I.R.5.c\)\(1\)](#) 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.

II. LAND USE DISTRICTS

A. ESTABLISHMENT OF DISTRICTS

1. Stream Protection District (SP)

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.

2. Resource Protection District (RP)

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, ~~Village Center~~, or ~~Maritime Activities~~ districts need not be included within the Resource Protection District.

- a) 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.
- b) 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.

Deleted: General Development

Deleted: I

Deleted: Commercial Fisheries/

- c) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- d) 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.
- e) 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.
- f) 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](#).

3. Limited Residential District (LR)

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 [Village Center](#) Districts, or the [Maritime Activities District](#).

Deleted: General Development

Deleted: Commercial Fisheries/

4. Limited Commercial District (LC)

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 [Village Center](#) 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.

Deleted: General Development

5. General Development I District

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

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

Commented [TM3]: The GD-I and GD-II standards are not currently used by the Town's current SZ Ordinance. The Village Center District--which is also not used currently--can be a modified version of the GD-II district standards.

6. Village Center District (VC)

The Town of Newcastle identifies the Town Center (D6) district and the Village Business (D5) district, as established in the Newcastle Core Zoning Code, Article 1, Section 3, as the Village Center District. This district includes parcels within the Town's historic downtown well suited for commercial and mixed uses.

Note: The Village Center District is a modified version of the General Development II District as set forth in the 2015 version of State's Chapter 1000 model ordinance.

The Village Center District includes areas where the pattern of development at the time of adoption is undeveloped or not as intensively developed as what is envisioned by the adopted Comprehensive Plan of the Town of Newcastle.

Portions of the Village Center District may include residential development. However, no area shall be designated as a Village Center 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 Village Center District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established Village Center Districts or expansions in the area of existing Village Center Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

7. Maritime Activities District (MA)

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 Section II.C: Table Of Land Uses and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- a) Shelter from prevailing winds and waves;
- b) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- c) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- d) Available support facilities including utilities and transportation facilities; and
- e) Compatibility with adjacent upland uses.

The Town of Newcastle identifies the SD - Marine District, as established by the Newcastle Core Zoning Code, Article 1, Section 3, as a Maritime Activities District. This district is that area identified on the Town's Tax Map 11, Lot 40.

Deleted: <#>General Development II District.¶

Deleted: also

Deleted: Village Center District

Deleted: Land Use Ordinance Chapter IXC(3)

Deleted: which is that part of

Deleted: Business

Deleted: that is located on the southerly side of Main Street along the Damariscotta River shore from the Park to the Damariscotta River Bridge.

Deleted: 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...

Deleted: that of the General Development I District...

Deleted: I or II

Deleted: Maritime Activity

Deleted: Land Use Ordinance

Deleted: Chapter IXC (3)

Deleted: on the river side of Pleasant Street, at

Deleted: and 40-A only that comprises the land of Riverside Boat Company

B. Districts And Zoning Map

1. Official Shoreland Zoning Map

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

- a) Stream Protection (SP)
- b) Resource Protection (RP)
- c) Limited Residential (LR)
- d) Limited Commercial (LC)
- e) Village Center (VC)
- f) Maritime Activities (MA)

2. Scale of Map

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

3. 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.

4. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Section I.H: Amendments, 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.

5. 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.

C. Table Of Land Uses

All land use activities, as indicated in Section II.C.2: TABLE: LAND USES IN THE SHORELAND ZONE, shall conform with all of the applicable land use standards in Article III: Land Use Standards. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

1. Key to Table: Land Uses in the Shoreland Zone

- RP: Resource Protection District
- SP: Stream Protection District
- LR: Limited Residential District
- LC: Limited Commercial District
- ~~VC: Village Center District~~
- MA: Maritime Activities District
- Yes: Allowed (no permit required but the uses 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

Deleted: GD: General Development I and General Development II District

2. TABLE: LAND USES IN THE SHORELAND ZONE

LAND USE TABLE HERE

Table 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 III.L.2.
 - ⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the Planning Board.
 - ⁸ Except as provided in Section III.H.3.
 - ⁹ Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.
 - ¹⁰ Except for commercial uses otherwise listed in TABLE: LAND USES IN THE SHORELAND ZONE, 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.

Commented [TM4]: What does this mean?

Commented [TM5]: My recommendation is to remove this condition. The SP District only covers 75' from a stream so by not permitting buildings within the district it is effectively as restrictive as being within 75' from any tidal water (non-tidal is 100' set-back)

Commented [TM6]: Note from previous pages reads: "Recreational water-dependent uses such as marinas and excursion vessels may, in some communities, displace or threaten to displace traditional commercial fisheries and maritime activities. Therefore communities may wish to preclude or further limit these types of uses in this district in order to protect berthing space and onshore staging areas for commercial fishing enterprises."

Commented [TM7]: Do we want to exclude any recreational water-dependent uses from the MA District? The MA is very limited in size now so it could make sense as it is more of a working waterfront. One alternative it so create two different MA districts--one for working--one for recreation/a mix of both.

Either way, we may want to remove the note 5 from the table.

Commented [TM8]: How can we know designation as RP is due to floodplain criteria?

Commented [TM9]: Updated to reestablish correct reference. (This is also what is in ch. 1000)

III. 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

Note: The Village Business (D5) district and the Town Center (D6) district Standards in Article 2 of the Newcastle Core Zoning Code provide for greater residential densities in those areas served by municipal water and sewer systems. In those districts, those standards shall apply.

(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 SD - Marine, Village Business (D5), and Town Center (D6) district standards in Article 2 of the Newcastle Core Zoning Code	

(iii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Village Center and Maritime Activities

(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.

Deleted: Village
 Deleted: Chapter
 Deleted: X
 Deleted: Land Use Ordinance
 Deleted: It is the intent of this ordinance that

Deleted: Maritime Activities
 Deleted: and
 Deleted: Village
 Deleted: Chapter X
 Deleted: Land Use Ordinance

- (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 the Village Business (D5) and Town Center (D6) districts, which shall meet the standards of the Newcastle Core Zoning Code.

Deleted: Center

Deleted: 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 Village Center District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the 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.

Deleted: General Development I

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 Village Center and Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.

Deleted: General Development District adjacent to tidal waters and rivers that do not flow to great ponds classified GPA, and in the

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:
 - (1) 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;
 - (2) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (3) Only native species may be used to establish the buffer area;
 - (4) 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;
 - (5) A footpath not to exceed the standards in [Section III.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 III.A: Minimum Lot Standards, a second structure may be allowed and may remain as long as the lot is not further divided.
2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
3. The location shall not interfere with existing developed or natural beach areas.
4. The facility shall be located so as to minimize adverse effects on fisheries.
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.
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.
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.

Town of Newcastle

Shoreland Zoning Ordinance

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.
9. Except in the Village Center District 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 III.P: Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting 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 III.W: Revegetation Requirements.

Deleted: General Development

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.
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.
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.
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 (1,000) square feet.
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.
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 [Village Center](#) 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 III.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 III.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 III.Q: Erosion and Sedimentation Control.
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 III.M.3.
2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a) All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b) The final graded slope shall be two and one-half to one (2½:1) slope or flatter.
 - c) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary, to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. AGRICULTURE

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the 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

Note: Section 15(O) was repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 15(O-1) became effective.

Section 15(O-1) was repealed as of Month ##, 2024, at which time the Town accepts the statewide standards for Timber Harvesting and the Director of the Bureau of Forestry shall administer and enforce those standards within the Town.

Commented [TM10]: To be updated after adoption.

Deleted: ¶
IN A RESOURCE PROTECTION DISTRICT ABUTTING A GREAT POND, TIMBER HARVESTING SHALL BE LIMITED TO THE FOLLOWING:¶
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.¶
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.¶
EXCEPT IN AREAS AS DESCRIBED IN SECTION 15(O)(1) ABOVE, TIMBER HARVESTING SHALL CONFORM WITH THE FOLLOWING PROVISIONS:¶
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:¶
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.¶

Deleted: <#>AVERAGE SLOPE OF LAND BETWEEN EXPOSED MINERAL SOIL AND THE SHORELINE¶
(PERCENT)

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 hazard trees as described in Section III.U: Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

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 III.P.1, 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 III.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 (1,250 square feet) area as determined by the following rating system.

Diameter of Tree at 4½ 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:

- (1) The 25-foot by 50-foot plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot must be adjacent to, but not overlap a previous plot;
- (3) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (5) 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 III.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 4½ 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 III.P.2](#).
- 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 III.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 4½ 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 Village Center or 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 III.P: Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Deleted: General Development

Deleted: Commercial Fisheries/

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. 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:
 - (1) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (2) Stumps from the storm-damaged trees may not be removed;
 - (3) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (4) 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.

V. EXEMPTIONS TO CLEARING AND VEGETATION REMOVAL REQUIREMENTS

The following activities are exempt from the clearing and vegetation removal standards set forth in [Section III.P: Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting](#), provided that all other applicable requirements of this ordinance 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 ordinance, 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 III.P: Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting](#) apply;

2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section III.B: Principal and Accessory Structures 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 III.N: Agriculture 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.

W. REVEGETATION REQUIREMENTS

When revegetation is required in response to violations of the vegetation standards set forth in Section III.P: Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting, 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 ordinance 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 ordinance for a minimum of five (5) years.

IV. 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 4.5 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.

Commented [TM11]: Confirm this should be removed per Option 1 of Timber Harvesting.

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:

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

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

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

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

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period 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 - For further detail, see 38 M.R.S.A. section 437.

Aroostook River	Dennys River	East Machias River
Fish River	Machias River	Mattawamkeag River
Narraguagus River	East Branch of Penobscot	Pleasant River
Rapid River	West Branch Pleasant River	West Branch of Union River

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 III.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 4.5 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.

Comp Plan Update Content

- 60 *What regulatory and non-regulatory measures has the community taken or can the community take to protect critical natural resources and important natural resources?*

Need to write something up for this.

- 67 *Is there current regional cooperation or planning underway to protect shared critical natural resources? Are there opportunities to partner with local or regional groups?*

Some of this is addressed on p. 96. May need to add a bit more analysis.

- 130 *Encourage owners of marine businesses and industries to participate in clean marina/boatyard programs.*

Various local aquaculture businesses already participate and run an annual river clean-up. Coordination and formalization of some of these activities could be beneficial, but private entities have fortunately taken a strong lead on this.

- 132 *Support implementation of local and regional harbor and bay management plans.*

There is a shared Harbor Ordinance and Shellfish Ordinance with Damariscotta. With the exception of recent aquaculture and shellfish harvesting conflicts, both ordinances have been seen as effective and sufficient. ...Need to expand on this especially regarding perceived conflict between aquaculture and clamming.

- 133 *If applicable, provide sufficient funding for and staffing of the harbormaster and/or harbor commission.*

The shared Harbor Ordinance and Shellfish Ordinance in place are sufficiently(?) funded through the agreement for Damariscotta to manage and fund the Shellfish Committee and Ordinance while Newcastle funds and manages the Harbor Ordinance.

- 157 *Are public facilities, including sewer, water, broadband access or three-phase power, needed to support the projected location, type, and amount of economic activity, and what are the issues involved in providing them?*

Current sewer and water capacity is sufficient (according to GSBSD); network may need expanding depending on specific project needs, but focusing development to where infrastructure exists is a major goal of this Plan;

Broadband is a significant need both for residential, academic, and commercial users;

Three-phase power is available in some areas (where?) but may need to be expanded depending on specific projects. (Is there three-phase power in the Fabrication district?)

163 *A list of local and regional economic development plans developed over the past five years, which include the community.*

- Housing Needs Assessment (2023)
- LCRPC Strategic Plan, 2021-2026 (2021)
- MCOG Strategic Plan, 2022-2027 (2022)
- Damariscotta + Newcastle Bike/Ped Plan (2015)
- Route 129/130 Corridor Management Plan (????)
- Lincoln County Hazard Mitigation Plan Update (2021)
- Twin Villages Economic & Demographic Data (2017)
- Damariscotta Waterfront Study (2015)
- LC Sea Level Rise & Flooding Study (Updated 2015)

186 *Information on existing local and regional affordable/workforce housing coalitions or similar efforts.*

Need more information on. Number of units, bedrooms, affordability restrictions and time, etc. Asked Jim if he might have some information on these.

There are no local housing authorities that operate in or near Newcastle other than MaineHousing.

Existing Affordable Housing in Newcastle as of July 2020:

Franklin School Apts., 23 Mills Road; C.B. Mattson, (207) 582-1888,
www.cbmattson.com

Mobius Residence, 55 Timberlane Road; Mobius, Inc., (207) 563-3511,
www.mobiusinc.org

187 *A summary of local regulations that affect the development of affordable/workforce housing.*

No specific local regulations currently address Affordable or Workforce housing in the Town. However, the recent overhaul of the Core Zoning Code intentionally expanded the types of housing, the size and number of units permitted, and allowed for additional dwelling units (like ADUs) in primary and accessory buildings.

195 *Create or continue to support a community affordable/workforce housing committee and/or regional affordable housing coalition.*

We partner and/or work closely with neighboring communities--especially Damariscotta--and regional partners like MCOG or LCRPC to address the challenges facing our shared housing market.

196 *Designate a location(s) in growth areas where mobile home parks are allowed pursuant to 30-A M.R.S.A. §4358(3)(M) and where manufactured housing is allowed pursuant to 30-A M.R.S.A. §4358(2).*

Prior to the implementation of the current Core Zoning Code in 2021, mobile home parks and manufactured housing were only permitted in the 'Rural' district. The current Code does not regulate how buildings are constructed, which allows modular construction throughout the Town, however, Mobile Home Parks are still limited to the D1-Rural District.

- 238 *If you are a coastal community are land-side or water-side transportation facilities needed? How will the community address these needs?*

Newcastle currently does not have any public water born transit facilities. Potential for such infrastructure may exist but is currently beyond the horizon of this Plan.

- 239 *Does the community have local access management or traffic permitting measures in place?*

Standards for new driveways and entrances to public roads were developed and implemented in 2021, but traffic permitting is not addressed by local ordinances. Rather than attempt to regulate potential traffic generated by individual properties, a compact, walkable development pattern is sought to reduce the need to drive and make alternate modes of travel more convenient.

- 247 *Identify major traffic (including pedestrian) generators, such as schools, large businesses, public gathering areas/activities, etc. and related hours of their operations.*

Lincoln Academy: Automobile and non-motorized traffic at the start and end of the school day, with a significant number of students walking into Damariscotta after school. The reduction in traffic generation during the summer months is significant.

RH Reny and Mexicali Blues distribution centers: In addition to employee commutes, the distribution centers are destinations and points of origin for larger commercial distribution vehicles. While employees likely conform to fairly typical commuting times, the distribution activities are expected to be much less regular.

What other businesses/institutions? Lincoln County News?

In addition to specific business facilities, the village areas within Newcastle also generate traffic to varying extents. While mainly automotive, village areas also generate pedestrian and other non-motorized traffic—both recreational and otherwise— especially the areas of Downtown Newcastle, Damariscotta Mills, and Sheepscot Village. The Downtown Newcastle area has a number of notable traffic characteristics including providing a connection from US Route 1 to and from Damariscotta and the Pemaquid Peninsula, connections with the major regional roads of River Road and Mills Rd, and the concentration of growing residential, commercial, and industrial uses. The Town’s SD-Fabrication district and the area just north of the US Route 1 overpass of Mills Rd (which includes Louie Doe’s and the Lincoln County Publishing Co.) are existing manufacturing areas with potential to develop further. While the Main Street Bridge connection to Damariscotta is a major feature in Newcastle’s circulation landscape overall, the LincolnHealth Miles Campus and the Great Salt Bay School are two major individual destinations for traffic near, but not in, Newcastle.

248 *Identify policies and standards for the design, construction and maintenance of public and private roads.*

Does the town have any policies or standards for the construction, or maintenance of public roads?

In 2021, the Town enacted the Road, Driveway, and Entrance Ordinance which sets standards for new or altered driveways and entrances that connect to public roads and for public and private roads themselves.

263 *Maintain, enact or amend local ordinances as appropriate to address or avoid conflicts with:*

a. *Policy objectives of the Sensible Transportation Policy Act (23 M.R.S.A. §73);*

b. *State access management regulations pursuant to 23 M.R.S.A. §704; and Review 23 M.R.S.A. §704*

<https://legislature.maine.gov/statutes/23/title23sec704.html>

c. *State traffic permitting regulations for large developments pursuant to 23 M.R.S.A. §704-A.*

Need to look into these policies/regs.

288 *estimated costs of needed capital improvements to public facilities; and*

I think we can ball park these.

289 *the following information related to each of these public facilities and services:*

a. *Sewerage and/or Water Supply – Identify number and types of users, and percent of households served.*

	Newcastle	Damariscotta	Nobleboro	Total
Water Users	189	623	-	812
Residential	163	413	-	576
Commercial	12	175	-	187
Municipal	12	26	-	38
Hydrant	2	9	-	11
Sewer Users	150	337	39	566
Residential	118	231	37	386
Commercial	25	134	2	161
Municipal	7	12	-	19

Drinking Water

As of early 2024, there were 73,978 feet of water main in Damariscotta and Newcastle, through which GSBSD pumps an average of approximately 200,000 GPD of drinking water. The estimated safe yield for Little Pond, the source of the Districts drinking water supply, is between 500,000-900,000 GPD. This puts the current usage at approximately 25% - 40% of total capacity.

The District has a filtration waiver from the State which allows water sourced from surface waterbody of Little Pond to be distributed without filtration. Without the

filtration waiver, either a filter plant would be required in order to continue to source water from Little Pond, or an alternate source of drinking water would be required. The most apparent potential alternate source of drinking water is the Wiscasset Water District which would require an interconnection with their currently existing network which extends to Davis Island in Edgecomb.

In 2016 the 5 Rivers Regional Water Council—which is made up of the Boothbay, Wiscasset, Bath, Richmond, Bowdoinham, Brunswick-Topsham, and Great salt bay Water Districts—hired Wright-Pierce Engineers to complete a water assessment plan for the region. The study concluded that in the future that all the water in the region would most likely be sourced from the Brunswick-Topsham Water District.

As of late 2023, the 5 Rivers Regional Water Council is working to develop a hydraulic study for the region.

Sanitary Sewer

The design capacity for the current wastewater treatment facility is 268,000 gallons per day (GPD). Approximately 150,000 gallons of wastewater are generated daily, with fluctuations depending on several factors including weather and the time of year. This puts the current average usage at approximately 55% of the maximum design capacity. The DEP requires systems to be upgraded when the treatment facility reaches 80% capacity, which would be 214,000 GPD for the current GSBSD system. This means an increase of approximately 64,000 GPD—or a 42% increase—can be accommodated before upgrading the system should be required by the DEP.

Current Capital Projects

The Great Salt Bay Sewer and Water District began a project in late 2023 to replace the water mains on Glidden St, Pump St, and River Rd (from the Newcastle Inn to approximately 97 River Rd) as well as replacement of individual service lines on Mills Rd, Pleasant St, and Liberty St. The project is expected to be completed in the spring of 2024 with a budgeted cost of \$1,935,000.

A separate but overlapping project to upgrade and relocate the sanitary sewer lines from 9 Mills Rd to 21 Mills Rd was undertaken by GSBSD and completed in the fall of 2023 at a cost of \$160,000.

b. Septage – Identify any community policies or regulations regarding septage collection and disposal.

A pumpout station for boats has been located in the Damariscotta River just south of the Main St bridge and is available free of charge. The funding for the operation and maintenance of the pumpout station is largely paid for by local aquaculture farms.

Is there a town policy regarding disposing of sludge? –I assume the GSBSD is required to accept anything from Newcastle or Damariscotta, but is that correct?

c. Solid Waste – Describe the community's solid waste management system. Identify types and amounts of municipal solid waste and recycled materials for the past five (5) years.

All of Newcastle's solid waste goes to Nobleboro but the details around that are still needed. -Michele will ask at the meeting on 1/18.

d. Stormwater Management – Identify combined sewer overflows. For Municipal Separate Stormwater System (MS4) communities, describe plan and status of the major goals of the MS4 requirements.

Newcastle is not a MS4 community and there is no combined stormwater-sanitary sewer network—and so no Combined Sewer Outfalls (CSOs) in Newcastle.

e. Power and Communications – Availability of 3-phase power, Internet (including broadband), and cable within the community.

Need to find info on 3-phase power and communications.

f. Emergency Response System –Average call response times for fire, police, and emergency/rescue.

Need to get in touch with EMS and Fire re: response time and any other stats they can give us.

g. Education – Identify school administrative unit. Include primary/secondary school system enrollment for the most recent year information is available and for the ten (10) years after the anticipated adoption of plan.

Need to write up info on the Education system and district.

h. Health Care - Describe major health care facilities (hospitals, clinics) and other providers serving the community. Identify public health and social services supported by the community through municipal subsidy.

Need to put as much info as I can find about Lincoln Health and BoothBay Hospital.

i. Municipal Government Facilities and Services – Describe facilities and staffing for municipal administrative, enforcement, and public works operations.

List out Municipal staff positions: TM, CEO, Planner, Clerk, Treasurer, Admin., Part time fire, ... who else?

306 Identify community revenues and expenditures by category for the last five (5) years and explain trends.

Municipal Budget by Year

Dept./Cat.	2018	2019	2020	2021	2022
General Gov't	\$958,065	\$1,012,701	\$1,166,869	\$1,051,156	\$1,127,308
Public Service	\$223,538	\$227,738	\$237,872	\$301,260	\$350,530
Public Safety	\$260,300	\$255,173	\$285,198	\$467,164	\$492,074
Public Works	\$929,290	\$998,868	\$1,162,172	\$1,297,890	\$1,100,192
Debt Service	\$386,168	\$54,168	\$54,168	\$132,676	\$541,014
County	\$370,222	\$756,244	\$774,244	\$834,674	\$846,094
Schools	\$6,303,947	\$6,252,199	\$5,817,714	\$6,502,750	\$6,741,364
Other	\$234,742	\$71,164	\$89,106	\$48,600	\$48,000
Total	\$9,666,272	\$9,628,255	\$9,587,343	\$10,636,170	\$11,246,576
YoY Chng.		-0.4%	-0.4%	10.9%	5.5%

307 Describe means of funding capital items (reserve funds, bonding, etc.) and identify any outside funding sources.

From Kevin:

Newcastle currently covers its road related capital needs and upgrades with its annual budget (primarily property tax based). If Federal or State money is available for larger scale modifications or improvements, the Town of Newcastle has the capacity to assess the value and apply for low interest loans and/or grants.

308 Identify local and state valuations and local mil rates for the last five (5) years.

Taxable RE Value by Year	(Cert. Ratio)	YoY % Chng.	Mil Rate
2016	\$ 252,982,850	(100%)	18.1
2017	\$ 252,942,200	(100%)	-0.02%
2018	\$ 254,410,100	(100%)	0.58%
2019	\$ 256,829,700	(100%)	0.95%
2020	\$ 254,507,400	(95%)	-0.90%
2021	\$ 329,577,400	(100%)	29.50%
2022	\$ 331,106,400	(100%)	0.46%
2023	\$ 333,453,900	(95%)	0.71%

Tax Year	Mil Rate	Muni.	County	Schools
2016	18.1			
2017	18.1			
2018	17.9			
2019	17.9	28.80%	8.40%	62.80%
2020	17.9	20.00%	9.10%	70.90%
2021	15.3	25.20%	8.30%	66.50%
2022	15.9	28.30%	8.50%	63.20%
2023	16.0			

309 *How does total municipal debt (including shares of county, school and utility) compare with the statutory and Maine Bond Bank recommended limits on such debt?*

Need to see what the Maine Bond Bank recommends. Michele is looking into.

328 *A description or map identifying the location of lots and primary structures created within the last ten years. Include residential, institutional, commercial, and industrial development.*

I'm not sure we can put a map together but maybe we can write a general description.

330 *Estimate the minimum amount of land needed to accommodate projected residential, institutional, commercial, or industrial development at least ten (10) years into the future.*

We address residential development on p.146. We should be more explicit about non-residential uses--but the goal is to focus on redevelopment and minimize the amount of "green-field" development.

338 *Does the Future Land Use Plan align and/or conflict with the community's vision statement?*

We can explicitly address this in a few sentences in the Future Land Use intro.

431 *Given current regulations, development trends, and population projections, estimate how many new residential units and how much commercial, institutional, and/or industrial development will likely occur in the planning period? Where is this development likely to go?*

Need to address amount of non-residential development here. Location should be fairly straight forward.

357 *Include in the Capital Investment Plan anticipated municipal capital investments needed to support proposed land uses.*

This will likely be little more than a guess. The general strategy of the Plan is to develop where development already exists so the costs should be minimal--maybe we just increase predicted investments in village centers and keep investment in rural areas the same?

The Capital Investment Plan is a rough approximation of timeframes, partner groups, and cost for many of the projects contemplated within this Plan. Similar to any comprehensive plan overall, this included capital investment plan is not binding. It can be thought of as an exercise in approximating the feasibility of the ideas and vision put forth by the community. The amounts listed in the table are best estimates of what a project of that type may cost. In many cases, considerable federal, state, local, public, and private assistance would be expected and sought if projects were to move forward. Hopefully this table—like the rest of the Plan—will be a conversation starter and help move Newcastle towards a future the community have envisioned.

Project	Partner	Timeframe	Priority	Amount
STREETS + TRANSPORTATION				
US Route 1 On/Off Ramp Redesign	MDOT, USDOT	Medium	High	\$ 10,000,000
River & Main Intersection Redesign	MDOT, USDOT	Medium	High	\$ 3,000,000
Street Re-stripping	MDOT	Short	Medium	\$ 80,000
NON-MOTORIZED				
Bike/Ped Reconnections Coastal Rivers	BCoME	Medium	Medium	\$ 300,000
East Coast Greenway Improvements	East Coast Greenway Alliance	Long	Medium	\$ 500,000
Sidewalk Improvements + Extension	Local Businesses	Ongoing	High	\$ 500,000
Mobility Amenities	Bicycle Coalition of ME	Short	Medium	\$ 75,000
Rail 'N' Trail	NNE Passenger Rail Authority	Long	Low	\$ 600,000
PUBLIC SPACE + RECREATION				
Harriet Berd Clubhouse		Short	Medium	\$ 75,000
Veterans Park		Short	Medium	\$ 75,000
Main Street Mall	Local Businesses	Medium	Low	\$ 1,500,000
Street Tree Program	Project Canopy (DACF)	Short	Medium	\$ 50,000
Waterfront Access Acquisition	Property Owners, Coastal Rivers	Medium	High	\$ 500,000
Free-range Gardening	Local Businesses, Lincoln Home	Short	Low	\$ 2,000
Intersection Murals	Local Businesses, Local Artists	Short	Low	\$ 500
CONSERVATION				
Conservation (Land) Acquisition	Midcoast Conser./ Coastal Rivers	Medium	Medium	\$ 1,852,500
Stream Restriction Improvements	BwH (DIFW)	Medium	Low	\$ 200,000
MUNICIPAL SERVICES				
Town Office Relocation		Medium	Medium	\$ 500,000
Taniscot Rehabilitation	Newcastle Historic Society	Medium	Low	\$ 150,000
Sale of Town Office Property				\$ (150,000)
ECONOMIC DEVELOPMENT				
Working Waterfront Improvements	Local Industry	Medium	Medium	\$ 250,000
Wayfinding	Local Businesses	Medium	Low	\$ 90,000

From Kevin:

Newcastle currently outsources its public works department for both its annual road maintenance and road related capital improvements. As of fiscal year 2024, Newcastle contributes nearly \$900,000 to its annual Capital Improvement Plan for road replacement and upgrades with a goal of getting to \$1,200,000 per year. Newcastle is also in the process of developing a complete asset inventory of its roads and will be looking to utilize this information to both prioritize which roads are addressed in a given year and to ensure 1.2 million dollars is the right amount to be allocated each year. This decision making tool will be in place for the Fiscal Year 2026 budget process.

Building Infrastructure:

Town Office

Newcastle's town office in the heart of downtown. Ideally, its location would be better suited for redevelopment and as a part of the tax base. The community has discussed this over the years and with any further increase in the number of employees, the Town will need to consider modifying the building further or making a move to a new location.

Fire Stations

Newcastle has two Fire Stations.

One, just off River Road is the main fire station and is within walking distance of Downtown. This facility was built in 200? and houses X apparatus. Our fire department is a volunteer call department so it does not have dormitories or sleeping quarters, but it does have a full kitchen and several offices. Additionally the facility is home to our community room which is host to several committee and board meetings including the Select Board. While it serves well for regular meetings and some Special Town Meetings, it is far too small for large gatherings including Town Meeting. Typically, the Town of Newcastle utilizes space at Lincoln Academy for larger events.

The second fire station is in Sheepscot Village at the corner of Sheepscot Road and West Old County Road. It is a garage bay for two additional apparatus. It also has some open space in the rear of the facility that can house equipment or, if renovated, some additional meeting or workspace. No plans are currently in development for this as the heating system was replaced in the fall of 2023.

Salt Shed

The Town has a salt shed off of Mills Road. The structure was built as a temporary structure in ????. There have been conversations for its eventual replacement with a permanent structure and given the recent severe wind storms and the loss of the canvas roof twice, the permanent structure discussion will be a part of the FY25 budget cycle.

361 *Direct a minimum of 75% of new municipal growth-related capital investments into designated growth areas identified in the Future Land Use Plan.*

Can be specifically addressed with minor edits to doc. (p.146, 147)

The Affordable Housing Law; Guidance for Municipalities

MMA Legal Services

November 30, 2023

On April 27, 2022, Governor Mills signed affordable housing legislation into law, [P.L. 2021, c. 672](#), entitled, *An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions* (hereinafter the Affordable Housing Law). The law was later amended by [P.L. 2023, c. 192](#), which was entitled *An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units*. Together, these bills made significant changes to several state statutes governing municipal land use regulation in Maine – all with an eye toward increasing the availability of housing. The changes can be broadly broken down into four sections:

- (1) requiring the DECD to establish **statewide and regional housing production goals** and identifying the municipal role in increasing affordable housing;
- (2) requiring municipalities to adopt additional density requirements and other requirements for **affordable housing developments** under local land use ordinances;
- (3) requiring municipalities to allow **additional dwelling units** on lots where residential uses are allowed, with the number of allowable units depending on the location of the lot and whether it contains an existing dwelling unit; and
- (4) requiring municipalities to allow an **accessory dwelling unit** (ADU) on the same lot as a single-family dwelling unit in any area where residential uses are permitted and to comply with certain requirements pertaining to ADUs.

The following summary outlines the general requirements of these laws and the Maine Department of Economic and Community Development (DECD) rule adopted to assist with the administration and enforcement of these laws (19-100 C.M.R. ch.5 (2023), herein referred to as the “DECD Rule”) and includes the following sections:

- ~ **Implementation Date** (page 2)
- ~ **Housing Production Goals and Fair Housing** (page 2)
- ~ **Affordable Housing Developments** (page 3)
- ~ **Additional Dwelling Units Density Requirements** (page 8)
- ~ **Accessory Dwelling Units Density Requirements** (page 11)
- ~ **Short-term Rental Regulations** (page 16)
- ~ **Issues Applicable to Multiple Sections of the Law** (page 16)
- ~ **Funding Opportunities** (page 18)
- ~ **Quick Links; Municipal Planning Resources** (page 20)



This discussion is intended to be a general overview based on MMA Legal Services' interpretation of the Affordable Housing Law and the DECD Rule. MMA Legal Services strongly encourages each municipality to consult with local legal counsel on how to best implement these requirements in their municipality.

Implementation Date

The deadlines for municipalities to implement requirements in 30-A M.R.S. §§ 4364, 4364-A and 4364-B are:

- ~ **January 1, 2024**, for municipalities in which the municipal officers (select board or town/city council) have authority to adopt ordinances without further action or approval by the voters. According to the DECD Rule, this means municipalities that do not have a town meeting form of government (19-100 C.M.R. ch. 5 § 1(B)); and
- ~ **July 1, 2024**, for all other municipalities.

Housing Production Goals and Fair Housing

(5 M.R.S. § 13056(9); 30-A M.R.S. § 4364-C)

The Affordable Housing Law requires the DECD, in consultation with Maine State Housing, to establish statewide and regional “housing production goals” aimed at increasing the availability of affordable housing in the state. 5 M.R.S. § 13056(9). The “*State of Maine Housing Production Needs Study*,” linked in the “**Quick Links**” section of this guidance, was released October 2023.

A different provision in the law establishes the municipal role in statewide housing production goals set by the DECD. Section § 4364-C provides that a municipality:

- Shall ensure local ordinances and regulations are designed to “affirmatively further” the purposes of the federal Fair Housing Act (FHA) and the Maine Human Rights Act (MHRA) to achieve the statewide or regional housing production goals.
- May establish and enforce short-term rental regulations to achieve housing production goals.

This is the only portion of the law that is currently in effect (as of August 8, 2022).

The purpose of the FHA is to provide for fair housing in the United States by prohibiting discriminatory practices that make housing unavailable to an individual because of their race, color, religion, sex, national origin, familial status or disability. 42 U.S.C. § 3601 *et seq.*

The purpose of the MHRA, in the context of housing, is to prevent discrimination due to an individual’s “race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin or familial status or because the individual has sought and received an order of protection under Title 19-A, section 4007.” 5 M.R.S. § 4581.

1. What is the general purpose of this section of the law?

According to guidance issued by the DECD, the language in § 4364-C referencing the municipal obligation to advance state and federal fair housing laws is intended to draw a link between local land use regulation and federal and state prohibitions against discriminatory housing practices.

However, because neither the FHA nor the MHRA expressly address the *affordability* of housing, or impose clear standards around affordability, a full understanding of the purpose of § 4364-C is not yet apparent.

2. What should a municipality do to comply with this section of the law?

MMA Legal Services recommends that municipalities review local ordinances to identify and amend any clearly discriminatory provisions, such as provisions that limit housing to individuals based on their race, color, religion, national origin, ancestry, sex, sexual orientation or gender identity, disability, familial status or receipt of a permanent protection order. When reviewing local ordinances for this purpose, municipalities are also encouraged to keep in mind the spirit of the law and consider how provisions in local ordinances may affirmatively further (or act as a barrier to) affordable housing, such as how short-term rental properties are regulated in the municipality.

Municipalities should document any actions taken to review ordinances and regulations in the event that the law is later determined to require municipalities to demonstrate that they took specific steps to ensure that local ordinances and regulations have been designed to “affirmatively further” the purposes of the FHA and MHRA or state affordable housing goals. For example, a board or committee assigned to review local ordinances should take minutes of workshops dedicated to ordinance review or make express written finding for this purpose. Municipalities should also consider keeping track of the time and costs associated with meeting the goals of this section, particularly if a municipality might seek state funding to cover the cost of these expenses. See the discussion on “**Funding Opportunities**” later in this guidance document.

Affordable Housing Developments

(30-A M.R.S. § 4364)

Section 4364 governs affordable housing developments approved on or after the “implementation date” (discussed above). Under this section, a municipality that has adopted “**density requirements**” is required to authorize a “**density bonus**” for eligible “**affordable housing developments**” constructed in specified areas in the municipality.

3. Does this section apply to all municipalities?

No. Based on language in § 4364 and the DECD Rule, it appears this section of the law only applies to municipalities that have: (1) zoning districts or designated growth areas where multifamily dwellings are permitted; and (2) adopted “density requirements” that limit the number of



MMA Legal Services

dwelling units that may be built on lots in those zones or growth areas. See the discussion of the term “designated growth areas” in the discussion of **“Issues Applicable to Multiple Sections of the Law”** below.

Based on language in the statute and the DECD rule, we understand “density requirements” to include: (a) ordinance provisions expressly limiting the number of dwelling units permitted on lots in a zone, (such as by only allowing X number of dwelling units per lot), and (b) dimensional requirements that have the effect of limiting the number of dwelling units on a lot (e.g., per-unit lot area or frontage requirements, or setback and building height requirements).

Therefore, this section of the law probably does not apply to your municipality if:

- Your municipality has no land use ordinance;
- Your municipality’s land use ordinance contains only dimensional requirements that, when applied, do not limit the number of units that can be constructed on a lot (such as establishing only setback and building height requirements);
- Your municipality does not have a designated growth area or areas served by public water and sewer; or
- Your municipality does not allow for multifamily dwellings (structures containing three or more dwelling units) in any designated growth area or area served by public water and sewer.

MMA Legal Services advises that municipalities review the criteria in the statute and DECD Rule and consult with legal counsel to determine if the requirements in this section apply based on the ordinances and regulations adopted by the municipality.

4. Which housing developments are entitled to a density bonus?

To be entitled to a density bonus, a proposed housing development must:

- Meet the definition of “affordable housing development” in § 4364(1) and the DECD Rule (which includes specific income limits for rental or owner occupied developments).
- Be located in a “designated growth area,” as defined by the law and DECD Rule (see the discussion of this term in **“Issues Applicable to Multiple Sections of the Law”** below) or be served by public water and sewer.
- Be located in any area in the municipality where multifamily dwellings are allowed. The DECD Rule defines “multifamily dwelling” as a structure containing three or more dwelling units.
- Meet the state subsurface wastewater disposal system minimum lot size requirements (12 M.R.S. Ch. 423-A).
- Comply with state and local shoreland zoning requirements (if the proposed development will be in the shoreland zone).



MMA Legal Services

- The owner of the development must provide written verification that the affordable housing units will meet the water and wastewater system requirements outlined in § 4634(5).
- The owner of the development must execute and record a restrictive covenant in the registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality, ensuring that the development will remain affordable, as defined by the law, for at least 30 years. See § 4364(3) for affordability criteria.

5. What does this section of the law require a municipality to do?

Under § 4364, municipalities that are subject to the affordable housing density bonus requirement must:

- Grant eligible affordable housing developments a dwelling unit **“density bonus”** of at least 2.5 times the base density otherwise allowed by municipal ordinance in that location.
- Not require more than 2 off-street parking spaces for every 3 units in an eligible affordable housing development. If fractional results occur when calculating off-street parking requirements, the number of necessary parking spaces may be rounded up or down to the nearest whole number under the DECD Rule. 19-100 C.M.R. ch. 5, § 2(C).

The DECD Rule provides that municipalities can adopt ordinances that are more permissive than these requirements, provided the ordinances are equally or more effective in achieving the goal of increasing housing opportunities. 19-100 C.M.R. ch. 5, § 1(A)(2). A municipality that wishes to adopt local regulations designed to increase affordable housing developments in the municipality which are different from the requirements in § 4364 are encouraged to contact local legal counsel to discuss whether the regulations will meet this standard.

6. If this section applies, does a municipality have to amend local land use ordinances to comply with the requirements in this section?

Although section 4364 provides that a municipality “shall apply” density requirements in accordance with this section, the statute does not address several key details as to its implementation and it allows local choice in several areas. For these reasons MMA Legal Services strongly recommends that municipalities subject to § 4364 amend applicable land use ordinances to make it clear how the required density bonus for affordable housing developments will be administered in their community and to flesh out the details of the approval process and criteria left open by the statute.

For example, a municipality might grant a density bonus by expressly excluding this type of development from otherwise applicable dimensional requirements or by adopting different standards for approving this type of development than are applicable to market rate developments.

In addition to incorporating the statutory requirements outlined in § 4364, municipalities are encouraged to review and amend local ordinances to:



MMA Legal Services

- Ensure local definitions of “multifamily housing,” “affordable housing,” and other terms used in this section are consistent with how these terms are defined in the Affordable Housing Law and DECD Rule.
- Identify the municipal official or board that is required to approve or review the restrictive covenant ensuring long-term affordability of the units and incorporate the review criteria applicable to the restrictive covenant in § 4364(3) into a local ordinance.
- Identify the municipal official or board that is required to approve or review the written verification that each dwelling unit is connected to adequate water and wastewater services and incorporate the review criteria for determining adequate water and wastewater services listed in § 4364(5) into a local ordinance.
- Address restrictive covenants (see the discussion in **Question 9** below).

7. How is the “density bonus” calculated under this section?

The density bonus is calculated on a case-by-case basis for each project because the base density and density bonus will depend on the particular lot where the affordable housing development will be located. The “**base density**” will depend on the size of the lot in question and the way in which the various applicable dimensional requirements (e.g., setback, frontage, per dwelling lot size, etc.) interact to determine the number of dwellings allowed. Then that number must be multiplied by 2.5 to determine the total number of dwelling units that must be allowed on the lot.

Example 1: A developer proposes to build a qualifying affordable housing development on a 40,000 sq. ft. lot with 300 feet of road frontage in a designated growth area that allows multifamily dwellings. The applicable minimum lot size per dwelling unit is 15,000 sq. ft., with a 20-foot setback required from all lot lines, and 150 feet of frontage required per dwelling unit. These requirements result in a base density of two (2) dwelling units for this lot. The board or official responsible for reviewing the affordable housing development would then multiply the base density by 2.5, which would allow the developer to build five (5) dwelling units (2×2.5) on the lot (assuming that the number of units also complies with the minimum lot size required per the state subsurface wastewater minimum lot size law). In addition, the board or official could require no more than 3 parking spaces ($5 \times 2/3$, rounded down to nearest whole number) for the development.

“**Base density**” is defined in the DECD Rule as the maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance (excluding local density bonuses, transferable development rights or other similar means to increase density on a lot). Under the DECD Rule, if a fractional result occurs when calculating a density bonus, the number of units is rounded down to the nearest whole number. A municipality may also choose to round up, thereby increasing the allowable density by more than the statute requires. 19-100 C.M.R. ch. 5, § 2(C).



MMA Legal Services

Example 2: If the developer proposes a qualifying affordable housing development on an 50,000 sq. ft. lot with 500 feet of road frontage in the same zone, and the applicable dimensional requirements increased the base density to three (3) dwellings, the density bonus calculation would increase to allow seven (7) dwelling units (3 x 2.5, rounded down to the nearest whole number) and the municipality could not require more than five (5) parking spaces ($7 \times 2/3$, rounded up to nearest whole number) for the development.

8. Can municipalities apply dimensional requirements to eligible affordable housing developments granted a density bonus under this section?

A municipality probably cannot adopt or enforce dimensional requirements in a local ordinance that would prevent a developer from building the *number* of affordable housing units allowed under this section. Therefore, a municipality probably could not enforce a per-unit lot size requirement or other dimensional requirements, if it would mean that the density bonus discussed above could not be achieved. However, a municipality probably can adopt and enforce dimensional requirements that govern *the size or location* of dwelling units on a lot (such as a reduced or relaxed minimum road or side lot setback requirement).

However, note that the Affordable Housing Law requires affordable housing developments allowed under this section to comply with applicable minimum lot area requirements in the state minimum lot size law and regulations. 12 M.R.S. ch. 423-A. Also, for affordable housing developments in the shoreland zone, the municipality must enforce the minimum lot size and other dimensional requirements mandated by state shoreland zoning law and regulations. 38 M.R.S. §§ 435 to 448. As a result, a developer may be prohibited from building the total number of affordable housing development units allowed under this section when these statutory dimensional requirements are applied.

9. How do we meet the affordable housing restrictive covenant requirement?

MMA Legal Services recommends that municipalities subject to this section adopt an ordinance establishing criteria for determining the type of entity that is acceptable as the holder of the restrictive covenant required by this section. As noted above, the ordinance should also identify the municipal official or board responsible for reviewing and approving restrictive covenants for this purpose. A municipality might also consider requiring the developer to cover the cost of any legal review necessary to confirm the covenant complies with this law and any local ordinance requirements.

Note: Maine State Housing Authority is generally familiar with affordable housing development and is commonly named as a party responsible for administering and enforcing restrictive covenants related to state and federal housing laws.

Additional Dwelling Units Density Requirements

(30-A M.R.S. § 4364-A)

Section 4364-A requires municipalities to allow **additional dwelling units** on lots that are located in any area where residential uses are allowed, including where residential uses are allowed as a conditional use. The number of dwelling units that must be allowed on a lot depends on: (1) whether the lot already contains a dwelling unit; and (2) where the lot is located within the municipality.

Lots without an existing dwelling unit

- If the lot is located in a “**designated growth area**” as defined by the law and DECD Rule (see the discussion of this term in “**Issues Applicable to Multiple Sections of the Law**” below) and does not have an existing dwelling unit on it, a municipality must allow up to 4 dwelling units to be constructed on the lot.
- If a lot is located in an area that is not a designated growth area, but is located in an area where residential uses are allowed (including as a conditional use), and the lot does not have an existing dwelling unit on it, a municipality must allow up to two (2) dwelling units to be constructed on the lot. The DECD Rule clarifies that the two dwelling units may be within one structure or as two separate structures. 19-100 C.M.R. ch. 5, § 3(B)(1)(b).

Lots with an existing dwelling unit

- On lots having one existing dwelling unit, a municipality must allow up to two (2) additional dwelling units per lot. The DECD Rule defines “existing dwelling unit” as a residential unit in existence on a lot at the time of submission of an application to build additional units on that lot.
 - The additional dwelling units may consist of one additional dwelling unit within or attached to an existing structure, or one additional detached dwelling unit, or one of each.
- If a lot contains two existing dwelling units, the DECD Rule clarifies that no additional dwelling units must be allowed on the lot, unless otherwise allowed under a local ordinance. 19-100 C.M.R. ch. 5, § 3(B)(1)(d).

10. Does this section of the law apply to all municipalities?

Yes. This section applies to all municipalities, regardless of whether the municipality has adopted a zoning ordinance or density requirements.

11. What criteria must be met for additional dwelling units allowed under this section to be built on a lot?

- Each additional dwelling unit must meet the state subsurface wastewater disposal system minimum lot size requirements in 12 M.R.S. ch. 423-A.
- The owner of the housing structure must certify compliance with the water and wastewater system requirements in § 4634-A(4).



MMA Legal Services

- Additional dwelling units in the shoreland zone must meet state and local shoreland zoning requirements.

12. What does this section require municipalities to do?

To comply with the requirements in § 4364-A, municipalities must ensure local land use ordinances:

- Do not restrict residential development to only single-family housing.
- Do not establish dimensional requirements (including but not limited to setback requirements) for the additional dwelling units allowed under § 4364-A that are greater than the dimensional requirements for single-family housing units, except that an ordinance may establish per-dwelling unit lot area requirements provided the required lot area for subsequent units is “not greater than” the required lot area for the first unit. The DECD Rule clarifies that “not greater than” means proportional to the lot area per dwelling unit for the first unit. 19-100 C.M.R. ch. 5, § 3(B)(4).

Municipalities may adopt local regulations that are more permissive than the requirements in the law, provided that the regulations are equally or more effective in increasing housing opportunities within the municipality. 19-100 C.M.R. ch. 5, § 1(A)(2).

13. Does a municipality have to amend local land use ordinances to comply with the requirements in this section?

Although section 4364-A provides that municipalities must allow additional dwelling units according to this section “notwithstanding any provision of law to the contrary,” MMA Legal Services advises municipalities to review and amend local ordinances to ensure they allow the number of required dwelling units in the applicable areas in the municipality and to facilitate implementation of the requirements in § 4364-A.

Municipalities are also encouraged to review and amend local ordinances to:

- Clarify or establish an application and permitting process for additional dwelling units allowed under this section, including a tracking process for when and how individual lots have exhausted the additional dwelling unit “bonus.” For example, an ordinance should address whether a dwelling unit bonus will be allowed or prohibited on lots where a dwelling unit in existence after the implementation date is torn down and an empty lot results.
- Incorporate the review criteria outlined in § 4364-A(4) for determining adequate water and wastewater services and identify the municipal board or official responsible for reviewing and approving the written verification that the additional dwelling units meet this requirement for adequate water and wastewater services.
- Ensure local definitions of “dwelling unit” are consistent with the definition provided in Title 30-A M.R.S. §§ 4301, 4364-A and the DECD Rule.



MMA Legal Services

14. Must municipalities allow additional dwelling units on a lot that already contains additional dwelling units or an ADU built under the Affordable Housing Law?

If more than one dwelling unit has been constructed on a lot pursuant to the allowance under this section or § 4364-B, the lot is generally not eligible for any additional increases in density except as allowed by the municipality. The DECD Rule states that a municipality has the discretion to determine if a dwelling unit or ADU has been constructed on the lot for purposes of this provision. 19-100 C.M.R. ch. 5, § 3(B)(2)(a).

Note that § 4364 only allows municipalities with zoning to prohibit the “doubling up” of density bonuses allowed under §§ 4364-A and 4364-B, but the DECD Rule provides that municipalities with and without zoning may prohibit the doubling up of density bonuses under § 4364-A. See 30-A M.R.S. § 4364-A(2)(A) and 19-100 C.M.R. § 3(B)(2). Municipalities without zoning ordinances should consult with local legal counsel to discuss how density bonuses under §§ 4364-A and 4364-B will be implemented and how to count additional dwelling units allowed on a lot under the municipality’s ordinance.

15. Can municipalities apply dimensional requirements to additional dwelling units allowed under this section?

Yes. A municipality may establish and apply dimensional requirements, including but not limited to setback requirements, for additional dwelling units allowed under § 4364-A, but only if they are not greater (or are less restrictive) than the dimensional requirements applied to the single-family dwelling units already on the lot. See 30-A M.R.S. § 4364-A(3) and 19-100 C.M.R. ch. 5, § 3(B).

For example, if a municipality has a 20 ft. road setback for single-family dwellings, the road setback required for additional dwellings must be the same 20 ft. (or less).

The law also allows municipalities to establish lot area requirements for each additional dwelling unit on a lot as long as the lot area requirement for additional units is not greater than (is proportional to) the lot area required for the first unit. Note, the law requires the lot area for additional units be proportional to the lot area for the “first unit,” not necessarily for a *single-family dwelling unit*. Therefore, it is possible that a different lot area could be applied if the “first unit” on a lot is in a duplex or multi-family housing development.

For example, if a municipality has adopted a 30,000 sq. ft. lot size requirement, it may enact an additional 30,000 sq. ft. (or less) lot size requirement for each additional dwelling unit allowed under this section. Conversely, a municipality may not enact per-unit lot size requirements that increase for each additional unit (e.g., 30,000 sq. ft. for one unit, 65,000 sq. ft. for two units, and 100,000 sq. ft. for three units).



MMA Legal Services

16. Can a municipality apply dimensional requirements to additional dwelling units if doing so would prohibit the total number of additional dwelling units allowed under this section from being built on a lot?

A municipality may adopt and enforce lot size requirements that would have the effect of limiting the number of additional dwelling units allowed under this section.

For example, if a municipality has adopted a 20,000 sq. ft. lot size requirement for each dwelling unit on a lot, a municipality could deny an application for an additional dwelling unit on a 30,000 sq. ft. lot that already contains a dwelling unit.

However, in practice, it is not clear to what extent a municipality may apply other types of dimensional requirements (e.g., setbacks or height restrictions) that have the effect of prohibiting additional dwelling units on a lot.

17. What is the difference between an “additional dwelling unit” and “accessory dwelling unit?”

The Affordable Housing Law establishes clearly distinct requirements for “additional” dwelling units under § 4364-A and “accessory” dwelling units under § 4364-B. Although the law and DECD Rule do not establish clear definitions of either of these terms, MMA Legal Services believes that a court would give these terms their traditionally understood meaning when applying the law.

For example, “accessory dwelling unit” is defined in 30-A M.R.S. § 4301(1-C) and the DECD Rule as a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land and an “accessory” structure is usually understood to be a structure that is dependent on or pertaining to a principal use or main structure. See *Town of Shapleigh v. Shikles*, 427 A.2d 460 (Me. 1981).

However, in practice, it may not always be clear if a proposed dwelling unit is an ADU or additional dwelling unit under these sections, particularly when a dwelling unit will be constructed on a property with a single-family dwelling unit. For this reason, MMA Legal Services advises that municipalities review local definitions of “dwelling unit” and “accessory dwelling unit” to make clear any local differences in these definitions and the regulation of these types of development. For example, it may be helpful to enact a maximum size for ADUs or to otherwise clarify which characteristics render a unit “accessory” (e.g., subordinate) as distinct from “additional.” For more on ADUs, see the discussion below (**Question 21**).

Accessory Dwelling Units Density Requirements

(30-A M.R.S. § 4364-B)

Section 4364-B requires municipalities to allow at least one “**accessory dwelling unit**” (ADU) to be constructed on the same lot as a single-family dwelling unit in any area of the municipality where residential uses are allowed. Compliance with this section of the law is required by the implementation date, which is discussed above.

18. Does this section of the law apply to all municipalities?

Yes. This section applies to all municipalities, regardless of whether the municipality has adopted a zoning ordinance or density requirements.

19. What criteria must be met for an ADU allowed under this section to be built on a lot?

The ADU must be located on a lot that already contains a single-family dwelling unit and in an area where residential uses are allowed (including as a conditional use). Additionally, the ADU must:

- Be constructed either:
 - Within an existing dwelling unit on the lot;
 - Attached to or sharing a wall with a single-family dwelling unit; or
 - As a new structure on a lot for the primary purpose of creating an ADU.
- Be a minimum size of 190 square feet.
- Be consistent with state subsurface wastewater disposal system minimum lot size requirements in 12 M.R.S. ch. 423-A.
- Comply with the several water and wastewater system requirements in § 4634-B(7) – as verified in writing by the owner of the unit.
- Comply with state and local shoreland zoning requirements, if located in the shoreland zone.

20. What does this section require municipalities to do?

Under § 4364-B municipalities must:

- Exempt an ADU allowed under this section from any density requirements or calculations related to the area in which the ADU is constructed.
- For an ADU located within the same structure as, attached to, or sharing a wall with a single-family dwelling unit, apply the same or more permissive setback and dimensional requirements to the ADU as are applicable to the single-family dwelling unit.
 - If an ADU is located in an existing accessory building or secondary building or garage as of the implementation date, the setbacks for that structure can apply.
- Allow ADUs on a nonconforming lot if the ADU does not further increase the nonconformity per § 4364-B(3)(C).

Under § 4364-B municipalities may not:

- Categorically prohibit ADUs in the shoreland zone that would otherwise meet the requirements established by the DEP under Title 38, chapter 3 and municipal shoreland zoning ordinances.
- Count any permit issued for an ADU as a permit issued under a rate of growth ordinance.
- Subject ADUs to additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the ADU is located.
- Require planning board approval for an ADU allowed under this section.

21. Are municipalities required to amend local ordinances to comply with this section of the law?

Although § 4364-B provides that a municipality “shall allow” an ADU to be located on the same lot as a single-family dwelling, MMA Legal Services recommends municipalities review and amend local ordinances to ensure local ordinances do not prohibit an ADU allowed under this section and to facilitate the administration of the requirements in this section.

In addition to implementing the statutory requirements in § 4364-B, MMA Legal Services suggests municipalities also consider:

- Adopting a maximum size for ADUs, as expressly authorized by § 4364-B. The law establishes a minimum size for ADUs, but not a maximum size. By adopting a maximum size for ADUs, it may help municipalities distinguish an ADU from additional dwelling units allowed under § 4364-A.
- Determining whether to regulate ADUs in existing structures that are not dwelling units (e.g., commercial, industrial, or existing garages) independently from the requirements in § 4364-B.
- Adopting provisions that allow for an ADU that has not been built with municipal approval to be allowed if the ADU otherwise meets the requirements for ADUs under the law and municipal ordinance per § 4364-B(4)(D).
- Identifying who is responsible for reviewing and approving the required written verification that an ADU is connected to adequate water and wastewater services under § 4364-B(7) and incorporate the review requirements into the applicable local ordinance.

As noted above, the DECD Rule encourages municipalities to adopt local definitions and requirements that meet the needs of their communities and the minimum requirements in the law. Ordinances may be more permissive than the requirements in this section, provided that they are equally or more effective in achieving the goal of increasing housing opportunities in the municipality. 19-100 C.M.R. ch. 5, § 1(A)(2). Municipalities implementing different requirements for ADUs than what is required by law are encouraged to consult with legal counsel to ensure the requirements meet this standard.

22. Can planning boards review applications for ADUs allowed under this section?

No. A municipality may not establish a local application or permitting process for an ADU allowed under this section that requires review or approval by a planning board. Therefore, municipalities should ensure that local ordinances give the CEO or another municipal official or board jurisdiction to review and approve an ADU allowed under this section if a local permit or approval for the ADU is required by the municipality.

For example, municipalities should carefully review local ordinances requiring conditional use approval and approval of development in the shoreland zone to ensure they comply with this requirement.



MMA Legal Services

If the CEO is authorized to review and approve an ADU allowed under this section, municipalities should allow for an appeal of the CEO's decision to be made to a local board of appeals and require the board of appeals to conduct a de novo review of the CEO's decision. This is because a Maine Law Court decision has identified due process issues when a court directly reviews a CEO's decision. (Note: a court will generally review a CEO's decision directly when there is no local appeal process to a local board of appeals or when a local board of appeals is required to conduct an appellate review of the CEO's decision). *Lamarre v. Town of China*, 2021 ME 45. See also, "[Courts Urge De Novo Review of CEO Decisions](#)," MMA Legal Services Legal Note, *Maine Town & City*, December, 2022.

23. What does it mean to exempt an ADU from density requirements in a local ordinance?

Section 4364-B requires municipalities to exempt the ADU allowed under this section from any "density requirements" or "calculations related to the area in which the ADU is constructed." The DECD Rule further provides that a municipality must exempt the ADU allowed under this section from "lot area requirements related to the area in which the ADU is constructed." 19-100 C.M.R. ch. 5, § 4(B)(3)(a).

MMA Legal Services understands this to mean that a municipality must exempt an ADU allowed under this section from any local ordinance requirement that expressly limits the number of units allowed on a lot, as well as any dimensional requirements that, when applied, would have the effect of limiting the number of units on a lot (e.g., per-unit lot size, per-unit frontage, setback, building height requirements, etc.).

24. Can municipalities enact dimensional requirements for the ADU allowed under this section of the law?

Section § 4364-B, establishes different restrictions on a municipality's authority to enact dimensional requirements pertaining to an ADU allowed under this section depending on where the ADU will be constructed in relation to the single-family dwelling.

ADUs located within, attached to, or sharing a wall with a single-family dwelling unit must be subject to "the same" dimensional requirements that govern the size and placement of a structure on a lot as the single-family dwelling unit. See § 4364-B(4)(B). Except, as noted above, the ADU must be exempt from any lot size requirement or other dimensional requirement that has the effect of prohibiting the ADU from being constructed.

For example, a municipality that has established a 20 ft. road setback requirement for single-family dwelling units would apply that same setback requirement to an ADU constructed on the lot that is within, attached to, or sharing a wall with the single-family dwelling unit. However, if a municipality has adopted a 40,000 sq. ft. lot size requirement per dwelling unit, the municipality may not apply this per-unit lot area requirements to the ADU allowed under this section. (Note: the addition of the ADU would still need to comply with the requirements in the state minimum lot size law and regulations).



MMA Legal Services

A municipality is not required to allow an ADU to be constructed in an accessory building or secondary building (like a garage) built prior to the implementation date of the law. If a municipality allows for the ADU allowed under this section to be built in this type of existing structure, then the municipality may apply the dimensional requirements that are applicable to that structure to the ADU.

For example, if a municipality has established a 20 ft. road setback for single-family dwellings and a 40 ft. road setback for secondary buildings built on the lot prior to the implementation date of the law, the municipality may apply the 40 ft. road setback requirement to the ADU constructed in the secondary structure.

This section does not directly address a municipality's authority to adopt dimensional requirements for ADUs constructed as a new, separate structure on a lot for the primary purpose of creating an ADU. MMA Legal Services interprets the law and DECD Rule as also prohibiting a municipality from applying density requirements or per-unit lot area requirements to an ADU built as a new, separate structure on a lot under this section. However, a municipality could probably enact and apply other types of dimensional requirement (e.g., setback or building height) governing where an ADU may be built on the lot provided it does not completely prohibit an ADU allowed under this section from being built on a lot. For this reason, MMA Legal Services advises municipalities to enact dimensional requirements for detached ADUs that are the same as or less restrictive than those applicable to the single-family dwelling on the lot.

25. Must a municipality allow a new ADU to be constructed on a lot that already contains an ADU?

No. Section 4364-B only requires that municipalities allow "an" or "one" ADU to be located on the same lot as a single-family dwelling unit. See also 19-100 C.M.R. ch. 5 § 4(A)(1).

26. What requirements apply to an ADU that was built prior to the implementation date with or without required approvals?

The law does not restrict the construction or permitting of ADUs constructed and certified for occupancy prior to the implementation date of the law. Therefore, any ADU constructed and reviewed by the municipality prior to the implementation date is not required to comply with the requirements in the Affordable Housing Law and may be subject to the land use regulations adopted by the municipality in effect at the time.

An ADU that was built prior to the implementation date, but without municipal approval, must be allowed if the ADU otherwise meets the requirements for ADUs of the municipality and under § 4364-B, even the ADU did not comply with the ordinance requirements in effect at the time it was built. 30-A M.R.S. § 4364-B(4)(D).

Short-term Rental Regulations

The Affordable Housing Law expressly confirms municipal home rule authority to regulate short-term rentals. 30-A M.R.S. § 4364-C(2). The law identifies the regulation of short-term rentals as one way for a municipality to achieve statewide or regional housing production goals. Also, regulations that restrict short-term rentals in the municipality will likely be consistent with the purpose of the law, which is to support and encourage the creation of affordable housing.

Municipalities may regulate short-term rentals in a number of ways. For example, a municipality may define and regulate short-term rentals as commercial uses or transient housing in local land use ordinances, rather than as residential housing, and restrict where these uses may be located or impose more stringent dimensional requirements on these uses. A municipality could also impose regulations limiting the number of short-term rentals in the municipality, such as through a licensing ordinance.

A municipality considering short-term rental regulations should work closely with local legal counsel to ensure that such regulations have a sound legal basis and will be administered in compliance with § 4364-A (the section of the law governing additional dwelling units) and § 4364-B (the section of the law governing ADUs).

Issues Applicable to Multiple Sections of the Law

The several provisions of the Affordable Housing Law include common terms and requirements. These are addressed below:

Definitions. Municipalities are not required to adopt the terms and definitions in the DECD Rule word for word. A municipality can adopt terms and definitions that meet the needs of their community, provided that the locally adopted terms and definitions are more permissive than the definitions in Section 1(B) of the DECD Rule and are equally or more effective in achieving the goal of increasing housing opportunities. 19-100 C.M.R. ch. 5, § 1(B).

Designated Growth Area. The Affordable Housing Law establishes distinct requirements for development that occurs in a municipality's "designated growth area." See §§ 4364(2) and 4364-A(1). The law and DECD Rule define this term as:

- The locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the Growth Management Act, or as identified in a comprehensive plan that has been certified by the state under 30-A M.R.S. § 4347-A. The DECD Rule clarifies that this is "an area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent." 19-100 C.M.R. ch. 5, § 1(B).



MMA Legal Services

- In the absence of a comprehensive plan, a designated growth area is “an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the Federal Decennial Census as a census-designated place, or a compact area of an urban compact municipality as defined by 23 M.R.S. § 754.”

If a municipality does not have a comprehensive plan, it may need to determine whether it has a “designated growth area” for purpose of this law and where it is located, such as by identifying which areas have access to public water and sewer or which areas have been designated as urban compact areas by the MDOT.

Nonconforming Lots and Structures. The Affordable Housing Law does not address how most requirements in the law apply to legally nonconforming lots or structures and the limits that generally apply to expansion or development involving nonconformance issues. Usually, ordinances provide that a legally nonconforming lot or structure of record may not become more non-conforming, and expansion of the nonconforming structure or use is limited.

The DECD has, informally, indicated that with respect to affordable housing developments and additional dwelling units (§§ 4364 and 4364-A), a municipality retains its home rule authority to enact ordinances regulating the development of nonconforming lots and structures, even if those provisions would restrict or prohibit development otherwise allowed under these sections.

However, under § 4364-B, an ADU must be “allowed on a lot that does not conform to the municipal zoning ordinance if the ADU does not further increase the nonconformity.” 30-A M.R.S. § 4364-B(3)(C). The DECD Rule clarifies that this means that an ADU must be allowed on a nonconforming lot provided it “does not cause further deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.” 19-100 C.M.R. ch. 5, § 4(B)(2)(c).

Plantations; Municipalities under the LUPC. The requirements in the Affordable Housing Law apply to “municipalities.” However, under the DECD Rule, municipality is defined to exclude “all unorganized and deorganized townships, plantations, and towns that have delegated administration of land use controls to the Maine Land Use Planning Commission pursuant to 12 M.R.S. § 682(1).” Therefore, the law’s requirements only apply to towns and cities not subject to LUPC land use regulations.

Residential Use. Sections 4364-A and 4364-B apply to lots in areas where “residential uses” are allowed, including as a conditional use. The DECD Rule defines residential use as “a use permitted in an area by a municipal legislative body to be used for human habitation.” 19-100 C.M.R. ch. 5, § 1(B). Residential use may include single-family, duplex, triplex, quadplex, and other multifamily housing, condominiums, time-share units, and apartments, but does not include dormitories, congregate living facilities, campgrounds, hotels, motels, bed and breakfasts, or other types of lodging facilities, and transient housing or short-term rentals.

MMA Legal Services advises municipalities to review local definitions of “residential use” and “commercial use” to ensure consistency with this provision. Particularly, municipalities should consider whether to allow short-term rentals in residential areas or to expressly prohibit



MMA Legal Services

additional dwellings and ADUs allowed under the Affordable Housing Law to be used as short-term rentals.

Shoreland Zoning. The Affordable Housing Law expressly provides that any affordable housing development, additional dwelling unit, or ADU allowed under this law must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances. The application of shoreland zoning requirements may have the practical effect of prohibiting some affordable housing developments, additional dwelling units and ADU's in shoreland zones. However, a municipality may not categorically prohibit ADUs in the shoreland zone that would otherwise meet requirements established by the DEP for shoreland zoning and municipal shoreland zoning ordinances. 30-A M.R.S. § 4364-B(5).

Subdivision Law. The Affordable Housing Law expressly provides that it does not exempt a subdivider from the requirements in the state subdivision law (30-A M.R.S. §§ 4401 to 4408). An affordable housing development or the addition of single-family dwelling units to a lot may trigger subdivision review, in which case the development must meet all applicable approval criteria in the state subdivision law.

Water and Wastewater. The Affordable Housing Law requires that the owner of affordable housing developments, additional dwelling units, and the ADU allowed under the law provide written verification to the municipality that each unit or housing structure is connected to adequate water and wastewater services before a municipality may certify the development for occupancy. The law specifies the information that must be included in the written verification. As stated above, municipalities are encouraged to specify in local ordinances which municipal official or board is responsible for reviewing this information.

Funding Opportunities

The Maine Legislature created the Housing Opportunity Program and Housing Opportunity Fund in separate legislation (P.L. 2021, c. 635). The DECD is required to provide technical and financial assistance to support communities implementing zoning and land use related policies necessary to support increased housing development, including model ordinance development. Funding opportunities for municipalities include:

- ~ **Municipal Payments:** State funding is available through the Housing Opportunity Program to reimburse municipalities for the mandated costs of complying with Chapter 672 requirements. The process to apply for this one-time payment will depend on whether a municipality has adopted zoning.
 - Municipalities that have adopted zoning ordinances are automatically eligible for a one-time payment.
 - Municipalities without zoning (including municipalities with only shoreland zoning) must request funding from the DECD by sending the Housing Opportunity Program a letter



MMA Legal Services

explaining why the municipality must amend their ordinances to comply with Chapter 672 requirements and send copies of impacted ordinances. This request will then be reviewed by a Municipal Payment Review Committee, which will issue a written approval or denial to the municipality.

- If eligible, a municipality (with or without zoning) will receive up to \$10,000 for qualifying expenses if it has one or more designated growth areas or public, special district, or centrally managed water system or sewer system. Municipalities without a designated growth area or public water or sewer will receive up to \$5,000 for qualifying expenses.
- Qualifying expenses include: (1) attorney fees to research, draft, and revise zoning ordinances, (2) staff, volunteer, or contractor time for research and drafting zoning ordinances, including staff time, (3) fees related with providing notice and conducting board meetings and town meetings.
- For more information see the “Municipal Payment Distribution Schedule for P.L. 2021, c. 672” on the DECDs Housing Opportunity Program website.

~ **Service Provider Grants:** The DECD has established a service provider grant program to provide funding to eligible entities to support municipal ordinance development and provide technical assistance to increase housing opportunities. Eligible service providers include regional organizations (such as councils of governments, regional planning commissions), regional economic development organizations, county governments, non-profit organizations, academic institutions, and cooperative extension programs and for-profit enterprises. A municipality may also be eligible to apply as a service provider.

The purpose of these grants is to provide funding to entities that will provide municipalities with assistance to plan for and increase housing opportunities to comply with Affordable Housing Law requirements and beyond. For example, eligible entities may assist with municipal ordinance development designed to further the purposes of the FHA and MHRA or to assist a municipality identify its specific housing needs.

The deadline to apply for service provider grants has passed. A municipality that has received funding to be a service provider may not also apply for a municipal grant. Moreover, a municipality that is eligible to receive or has received a municipal grant is generally ineligible to receive ordinance development services from a service provider.

For more information see the Request for Application (RFA #202306123) on the State’s Division of Procurement Services [website here](#).

For more information on funding opportunities see the DECD’s Housing Opportunity Program website for more information on funding opportunities.



Quick Links; Municipal Planning Resources

Statutes:

[P.L. 2021, c. 672](#), An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions (LD 2003)

[P.L. 2023, c. 192](#), An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units (LD 1706)

[Title 30-A, Chapter 187](#); see 30-A- M.R.S. §§ 4364 to 4364-C

Rules:

[19-100 C.M.R. ch. 5](#), Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule

[19-100 C.M.R. ch. 4](#), Rule Regarding Housing Opportunity Program Grants

State Agencies:

DECD Housing Opportunity Program:

<https://www.maine.gov/decd/housingopportunityprogram>

Municipal Planning Assistance program, DACF:

<https://www.maine.gov/dacf/municipalplanning/index.shtml>

MMA Legal Services Resources:

MMA Legal Services Ordinance Enactment information packet:

<https://www.memun.org/Members/Information-Packets/Browse/ordinance-enactment>

Regional Planning Resources:

List of Regional Planning Organizations (MPAP):

https://www.maine.gov/dacf/municipalplanning/technical/regional_council.shtml

Southern Maine Planning Guidance on LD 2003: <https://smpdc.org/ld2003>

Housing Goals Study:

State of Maine Housing Production Needs Study, October 2023:

https://mainehousing.org/docs/default-source/default-document-library/state-of-maine-housing-production-needs-study_full_final-v2.pdf

Maine Municipal Association Legal Services

1-800-452-8786

legal@memun.org

www.memun.org

HISTORIC SPECIAL DISTRICT REVIEW ORDINANCE

Article 1: General

A. Purpose and intent.

1. Protect Newcastle's historic, architectural, and cultural heritage.
2. Assist property owners with maintaining the architectural integrity of the district.
3. Protect, preserve, and enhance the outward appearance and architectural features of identified historic structures.
4. Prevent the demolition or removal of buildings or structures within designated historic districts.
5. Preserve, protect, and enhance the essential character of designated districts by protecting relationships of groups of buildings and structures.
6. Accept new buildings and structures which are designed and built in a manner which is compatible with the character of the district.

B. Applicability.

1. Unless otherwise specified, this Ordinance shall apply to all property within the Historic Special District as shown on the Official District Map in Article 1 of the Core Zoning Code.
2. In addition, certain standards shall apply to designated Local Landmarks as described in this subsection.
 - a. Reserved.

C. Exempt Activities.

1. Activities exempt from review under the standards of Article 2, as may be applicable, are the following:
 - a. Alteration to or addition of removable decorative features including but not limited to: mailboxes, flowerboxes, flags.
 - b. Change in paint color, except when the painting of brick, stone or other masonry is proposed.
 - c. The installation of security devices, including but not limited to: control panels, touch key plates, mirrors, cameras, and peepholes.
 - d. Exterior placement of utility meters, vents, cable or telephone boxes, wiring, antennas, satellite dishes, and components of HVAC systems, when the placement is not on the Primary Facade;
 - e. General maintenance and repair of structures, including but not limited to the following: scraping and repainting, caulking and weather-stripping, and the replacement of materials when the materials will look the same when viewed from the Public Realm;
 - f. Alteration or replacement of existing gutters, downspouts, storm windows, conduit, venting or other features which already exist and are required for the existing operation and physical health of the building and do not significantly

alter the building or compromise character-defining elements on the structure (subject to the determination of the Planning Department).

D. Meaning & Purpose.

1. Words, phrases and terms used within this Ordinance are defined in the Definitions section or within the Articles that contain standards associated with the term.
2. Words, phrases and terms not defined in this Ordinance must be accorded their commonly accepted meanings as defined in the most recent edition of the Webster's Unabridged Dictionary.
3. The terms "standards," "regulations," and "requirements" are used to mandate a specific course of action or built outcome.
4. The words "must," "will", and "shall" are mandatory and when used require compliance with standards, regulations, and requirements of the Ordinance.
5. The words "may" and "should" are permissive.

E. Authority & Compliance.

1. Authority.

- a. This Ordinance is adopted under the authority granted by Title 30-A, §2101.

2. Relationship to Other Standards.

- a. This Ordinance does not abrogate, annul, or otherwise interfere with any easement, covenant, and/or other private agreements.
- b. Where the standards of this Ordinance impose a greater restriction than required by other ordinances, regulations, resolutions, rules, easements, covenants, or agreements, the provision of this Ordinance must apply.
- c. Where standards conflict, the standards of this Ordinance must take precedence over those of other codes, ordinances, regulations, and standards that may be in conflict with this Ordinance. Additions or Alterations for the purpose of complying with other codes, ordinances, regulations, and standards are still subject to review by this Ordinance. This Ordinance does not abrogate or annul any other codes, ordinances, regulations or standards.
- d. All development activity must comply with relevant Federal and State laws and regulations. Where there is a direct conflict between this Ordinance and the standards of a Federal or State Law, Federal or State Law supersedes the standards of this Ordinance.

- 3. Hazard Buildings.** No provision in this Ordinance shall be construed to prevent the Alteration, Demolition, or Relocation of a building when the Code Enforcement Officer certifies that such action is required for the public safety.

- 4. Appeals.** An appeal from the final decision of the Historic Special District Review Board may be taken by any party or person aggrieved to the Zoning Board of Appeals within 30 days from the date of the decision. Appeals from final decisions from the Planning Department may be taken by any party or person aggrieved but

must be taken to the Historic Special District Review Board within 30 days from the date of the decision.

DRAFT

Article 2: Standards

1. Alterations and Additions

- A. **Purpose.** The purpose of this subsection is to further the purposes of this Ordinance by preserving the essential character of buildings which are important to the education, culture, history, traditions, and the economic value of the Town.
- B. **Applicability.** The following standards shall be used by the Permitting Authority in reviewing applications for Certificate of Appropriateness when an Alteration or Addition to an existing Primary or Accessory Building is proposed in the Historic Special District, or when an Alteration or Addition to a designated Local Landmark is proposed, except for the installation of Renewable Energy Systems which shall be governed by Article 2, Section 4 below.
- C. **Standards.**
 1. The character-defining qualities of a structure and its site (including but not limited to: architectural features, finishes, and construction techniques or examples of skilled craftsmanship) shall not be destroyed. The removal or alteration of any historic material (for the purposes of this Ordinance, pre-1930) or character-defining architectural features should be avoided when possible. If removal of historic material or a distinctive feature is proposed, an analysis shall be submitted which identifies: (1) what considerations were taken before ultimately deciding on removal and why the other considerations were not feasible; (2) if an alternative material is proposed, how the alternative material is considered a similar substitute in durability, longevity, and appearance.
 2. All Primary and Accessory Buildings shall be recognized as products of their own time period, place and use. Alterations that have no historical basis or create a false sense of historical development such as adding conjectural features or architectural elements from other time periods shall not be undertaken.
 3. Changes which may have taken place in the course of time are evidence of the history and development of a structure, object or site and its environment. Changes that have acquired significance in their own right shall not be destroyed.
 4. Damaged historic features shall be repaired rather than replaced wherever economically or technologically feasible, as demonstrated by the applicant. Where the severity of damage requires replacement of a distinctive feature, the new feature shall match the feature being replaced in composition, design, texture and other visual qualities and, where possible, materials. Repair or replacement of damaged historic features shall be based on accurate duplications of features, substantiated by documentary, physical or photographic evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects.
 5. The surface cleaning of structures and objects, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.

6. Every reasonable effort shall be made to protect and preserve significant archeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken by the applicant.
7. Contemporary design for Additions to existing properties shall not be discouraged when such Additions do not destroy significant cultural, historical, architectural or archeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material and character of the property, neighborhood or site.
8. New Additions or Alterations to structures shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and structural integrity of the historic property would be unimpaired.
 - a. Additions should be made on a side or rear elevation, not on the Primary Façade, unless in the determination of the Permitting Authority an addition to the side or rear elevation is not economically possible due to unique constraints of the project.

2. Demolitions and Relocations

- A. **Purpose.** The purpose of this subsection is to further the purposes of this Ordinance by preserving historic buildings which are important to the education, culture, traditions, and the economic value of the Town. Furthermore, the purpose of this section is to afford the Town, historic societies, other preservation organizations, and others interested in preservation the opportunity to acquire or arrange for the preservation of historic buildings and structures, or important portions and features thereof, or proper removal of historic artifacts, or the proper recordation of the building, structure and/or site.
- B. **Applicability.** The following standards shall be used by the Review Board in reviewing applications for Certificate of Appropriateness when Demolition or Relocation of an existing Primary Building is proposed within the Historic Special District, or when the Demolition or Relocation of a designated Local Landmark is proposed.
- C. **Stay.**
 1. At the hearing on the application for Demolition or Relocation, the Review Board may, in the interest of exploring reasonable alternatives, delay issuance of the Certificate of Appropriateness for a delay period of up to 90 days from the date of the hearing. If, 10 days prior to the expiration of the original delay period, the Maine Historic Preservation Commission or State Historic Preservation Office recommends that there are still reasonable alternatives to explore, the Review Board may continue the delay for an extension of 30 days from the end of the original period. The purpose of the delay is to assist the applicant in finding alternatives to Demolition or Relocation, such as:
 - a. Assisting in securing funding to preserve in place the structure or important features thereof; or
 - b. Finding other ways to preserve the structure, such as outright purchase if possible, or relocation; or
 - c. At minimum, to provide the opportunity for the proper recordation of buildings, structures, and sites, including photography and narrative report.

- d. If, after the initial 90 day extension and the 30 day delay period, the application for Certificate of Appropriateness for Demolition or Relocation has not been withdrawn by the applicant or acted upon by the Review Board, the Review Board shall act on the application at their next regularly scheduled meeting, provided that enough time for noticing is available in accordance with Article 3, Section 2.H.
- D. **Standards.** In order to approve an application to relocate or demolish a building within the Historic Special District, or the Demolition or Relocation of a designated Local Landmark, the Review Board must find that the proposal meets at least one of the following standards for approval:
1. The Review Board determines that the structure is not of historic significance based on findings from the Maine Historic Preservation Commission or an architectural historian meeting the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61).
 - a. In order to make this determination, the Review Board shall require the applicant to obtain a letter from the Maine Historic Preservation Commission or escrow funds with the Town to hire a qualified architectural historian (as defined above) to make a determination as to the eligibility of the structure to be listed on the National Register of Historic Places, either on its own or as a contributing structure to an eligible Historic District. If the structure is considered eligible for listing by the Maine Historic Preservation Commission and the applicant formally applies to the National Register and is declined, this Ordinance will not prevent the applicant from reapplying for a reconsideration of a previously issued Certificate of Appropriateness specific to Demolition or Relocation of the building.
 2. The structure, or predominant portions thereof, has been determined to represent an immediate hazard to the public health or safety because of severe structural deficiencies, which hazard cannot be abated by reasonable measures.
 - a. In order to make this determination, the applicant must escrow funds with the Town sufficient to hire a third-party structural engineer to provide a written report as to the integrity of the building.
 3. No prudent and feasible alternative exists.
 - a. In order to assist the Review Board in making this determination, the applicant must submit an analysis indicating the alternatives to demolition considered and the reasons that they are not feasible. Economic hardship may be a consideration, but the applicant must demonstrate through quotes from experienced professionals that the economic hardship would be too great. In this case, Relocation will be encouraged rather than Demolition.
- E. **Conditions of Approval for Demolition.** In approving an application to demolish a building within the Historic Special District, or the Demolition of a designated Local Landmark, the Review Board may impose either or both of the following conditions, or others that would further the stated purpose of this section:

1. The applicant shall allow the Review Board, Historical Society, or another historic preservation entity of the Board's choosing to document the structure inside and out prior to the structure's destruction at no cost to the applicant.
2. The applicant shall advertise to the general public the structure as available for free with removal at the sole of a recipient, offering the structure to be moved or scrapped for salvage materials. The advertisement shall appear in a newspaper of local circulation a minimum of two times and the cost of the advertisement will be borne by the applicant.

3. New Construction and Additions

- A. **Purpose.** The purpose of this subsection is to further the purposes of this Ordinance by allowing new construction within the Historic Special District that preserves, protects, and enhances the essential character of the District. This subsection provides standards to ensure that new buildings are designed and built in a manner which is compatible with the essential character of the district.
- B. **Applicability.** The following standards shall be used in reviewing applications for Certificate of Appropriateness when New Construction of a Primary or Accessory Building, or an Addition to a Primary or Accessory Building, is proposed within the Historic Special District.
- C. **Standards.**
 1. **Scale and form.**
 - a. **Height.** The proposed height of the building shall be visibly compatible with immediately adjacent structures and the neighborhood as a whole when viewed from the public realm.
 - b. **Width.** The width of a building shall be visually compatible with immediately adjacent structures and the neighborhood as a whole when viewed from the public realm.
 - c. **Proportions of principal facades.** New construction shall be compatible in proportion with existing buildings in the neighborhood.
 - d. **Roofs.**
 1. **Roof shapes.** The proposed roof shape shall fit in with the established context of the neighborhood and of immediately adjacent structures.
 2. **Rooftop decks.** Rooftop decks shall be designed so that they cannot be seen from the public realm.
 3. **Rooftop utilities.** When rooftop utilities, including but not limited to communication antennae, satellite dishes, mechanical units, elevator towers, and vents are proposed, the utility shall be placed in such a way that they are not visible from the public realm, such as on the side or rear of the building. Alternatively, rooftop utilities shall be visually screened from view from the public realm by the placement of decorative elements that are in keeping with the established context of the neighborhood and of immediately adjacent structures.
 2. **Composition.**
 - a. The characteristic sizes and proportions of window and door openings, and the rhythm of entrances, porches and other projections to public ways shall be

consistent with the proportions of openings found either within the specific Historic SD District

- b. **Relationship of materials.** Building materials shall be reflective of and complementary to existing buildings within the historic district. Materials shall be durable and of high-quality.
3. **Relationship to street.**
 - a. **Walls of continuity.** Facades and site structures, such as masonry walls, fences and landscape masses, should, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual continuity with the structures, public ways and places to which such elements are visually related.
 - b. **Unifying development pattern.** The new construction shall maintain any unifying development pattern such as orientation of buildings, setbacks, and building coverage.
4. Other standards.
 - a. **Uses.** Non-residential uses shall not alter the character-defining features of the structure such that it would not be recognizable as its original residential use.
 - b. **Distinguishing original character.** The distinguishing original qualities or character of a site and its environment shall not be destroyed. If a distinguishing original feature is proposed to be altered or removed, an analysis must be submitted which indicates the reasons for alteration or removal.
 - c. **Archeological resources.** Every reasonable effort shall be made to protect and preserve significant archeological resources affected by or adjacent to any project. If, on the basis of an archeological site survey or other information, the Permitting Authority determines that there is an archeological resource on or immediately adjacent to the parcel, it may limit excavation or building to preserve or protect the site or may approve a plan or conditions to provide for appropriate evaluation, excavation or protection of the resource. If resources must be disturbed because no feasible alternative exists, documentation of the resource shall be undertaken and provided to the Town and to the Maine Historic Preservation Commission.

4. Renewable Energy Systems

- A. **Purpose.** Recognizing that historic properties may need to adapt to changing technologies, this section is intended to provide clear standards for the review of the installation of renewable energy systems, including but not limited to solar panels or windmills, on historic properties. The intent is not to discourage the installation of Renewable Energy Systems, but to ensure that historic resources and the overall character of historic districts is protected to the extent practical.
- B. **Applicability.** The following standards shall be used by the Review Board in reviewing applications for Certificate of Appropriateness when the installation of Renewable Energy Systems are proposed on any property within the Historic Special District or on a designated Local Landmark building.
- C. **Standards.**

1. All Renewable Energy Systems shall be placed in such a way that they are unable to be seen from the public realm. When this is not economically or technologically feasible, one of the following alternatives may be approved:
 - a. Renewable Energy Systems located on Accessory Buildings, in accordance with subsection C.2 below.
 - b. Renewable Energy Systems located on rear roof slopes, behind existing architectural features or parapets, where such visibility does not detract from the overall historic character of the property.
 - c. Ground-mounted Renewable Energy Systems located in the rear yard.
 - d. Only in instances when the Review Board determines, based on information provided by the applicant, that none of the above are technologically or economically feasible, the Renewable Energy System may be placed in such a way where it will be seen from the public realm. The standards in subsection C.2 below must be met.
2. The following standards shall be met when the installation of Renewable Energy Systems is proposed on the roof of a structure:
 - a. Removal of historic roofing materials as part of the installation of solar panels on portions of a roof visible from the public realm shall not be undertaken.
 - b. Permanent removal or otherwise altering a historic roof element and configuration (dormers, chimneys, or other features) on portions of a roof visible from the Public Realm shall not be undertaken.
 - c. Any installation procedure that will cause irreversible changes to historic features or materials on portions of a roof visible from the public realm shall not be undertaken.
 - d. The placement of solar panels on top of visible slate or clay tile roofing shall not be undertaken in any instance.
 - e. The color of conduit and all attachment mechanisms for Renewable Energy Systems shall match the existing building materials to which it is attached or directly adjacent, including roof, siding, or similar.
 - f. The placement of panels in an array shape that does not echo that of the visible roof plane shall not be undertaken in any instance. The slope of solar panels must match the existing slope of the roof to which they are attached or located on.

Article 3: Administration

1. Historic Special District Review Board.

- A. **Membership.** The Historic Special District Review Board's membership shall be comprised of five regular members appointed by the Selectboard. The Selectboard shall make every effort to appoint at least one member from each of the Town's three Historic Special Districts (Damariscotta Mills, Sheepscot Village, and Glidden Street).
- B. **Appointment.** Members of the Historic Special District Review Board (the Review Board) shall be appointed by a majority vote of the Selectboard to serve staggered terms of 3 years.
1. **Initial Appointment.** The five appointments made by the Select Board in establishing the initial Historic Special District Review Board shall be as follows: one appointment for a term of one year, two appointments for a term of two years, and two appointments for a term of three years. Thereafter, with the exception of filling a vacant position resulting from a resignation before the conclusion of a complete term, all appointments to the Historic Special District Review Board shall be for three-year terms.
 2. In the case of a vacant Historic Special District Review Board position before the conclusion of a complete term, the Select Board's appointment to fill the vacant Historic Special District Review Board position shall be for only the remainder of the unserved term.
 3. Historic Special District Review Board members may serve multiple terms and may be reappointed for consecutive or nonconsecutive terms.
- C. **Qualifications.** Appointments to the Review Board shall be made on the basis of demonstrated interest in promoting historic preservation in Newcastle. It is preferred that members have architectural design skills or other experience related to historic preservation, such as history, architectural history, landscape architecture, planning, engineering, law, archaeology and building construction or trades, but not required.
- D. **Board Rules.** The Review Board may adopt rules of procedure and policy as it may deem necessary to conduct its affairs, following a public hearing thereon. Board rules shall include application forms and checklists of required submittals that will sufficiently allow applicants to demonstrate compliance with the relevant standards of review.
Meetings. The Review Board should hold at least one meeting per month, or more as it deems necessary. A quorum of at least three members will be required for voting purposes.
- E. **Meetings.** The Review Board should hold one meeting per month, or more as it deems necessary. A quorum of at least three members are required for voting purposes. An affirmative vote requires a majority of voting members present.

1. A regular meeting schedule, including meeting location, shall be established by the Historic Special District Review Board on an annual basis and shall be posted in the Town office and in a newspaper of local circulation upon adoption by the Board.
2. **Special Meetings.** Meetings of the Historic Special District Review Board not included on the established regular meeting schedule must be posted at least once in a newspaper of local circulation, as well as posted in the Town Office, no less than seven days before the meeting. Such notice must include the date, time, location, and proposed agenda of the meeting.

F. Responsibilities.

1. The Historic Special District Review Board shall review applications for Certificate of Appropriateness which are determined to be either Tier 2 or Tier 3 Projects under Article 3, Section 2.F and 2.G below. The review of such applications is limited to the applicable review standards under this Ordinance. The Historic Special District Review Board's authority is limited to the standards of this Ordinance, as may be amended.
2. The Historic Special District Review Board shall provide a report to the Planning Board and Selectboard following a petition to establish or expand the Historic Special District or a petition to designate a property as a Local Landmark as described in Article 3, Section 3 below.
3. The Historic Special District Review Board may provide advice to the Planning Board, Selectboard, or any other Town body regarding historic preservation and issues or opportunities related to historic preservation in Newcastle.
4. The Historic Special District Review Board shall review and make recommendations to the Maine Historic Preservation Commission regarding all National Register proposals for properties and districts within the Town.
5. The Historic Special District Review Board maintains the Town's Historic Resources Inventory. To assist in the maintenance of the Historic Resources Inventory, the Historic Special District Review Board shall conduct or cause to be conducted a continuing survey of historic, architectural and cultural resources in the community.
6. The Historic Special District Review Board acts to advance the Purpose and Intent of this Ordinance as described in Article 1, Section A.

2. Procedure for Certificate of Appropriateness.

- A. **Application & Fees.** A Certificate of Appropriateness application must be submitted, including payment of the applicable fee, with the Planning Department on forms created by the Town for that purpose.
- B. **Independent Consulting and Peer Review Fees.**
1. Where a Permitting Authority determines that the scale or complexity of a project necessitates third party professional or technical services to assist with project review and determination of compliance with the relevant standards of this Ordinance, the applicant may be required to escrow funds with the Town prior to the commencement of project review sufficient to pay the costs incurred by the Town in review of the application.
 2. Funds will be held by the Town Treasurer in a non-interest bearing escrow account. The escrow may be used by the Planning Department only to pay reasonable costs incurred which relate directly to the review of the Certificate of Appropriateness application pursuant to the review criteria. The results of the consultation or peer review for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation or peer review results or the outcome of the application.
 3. The escrow fund amount shall be set by the Selectboard and will be available on the Town's adopted Fee Schedule. When the escrow account is 75% depleted, the applicant shall submit funds sufficient to bring the amount of the account back to the original escrow fund amount.
- C. **Determination of Completeness.** Upon receipt of an application, the Planning Department shall determine whether the application is complete and shall determine whether the proposed project requires review by the Historic Special District Review Board according to the standards set forth in Article 3, Section 2.E, 2.F, and 2.G of this Ordinance, as may be applicable.
- D. **Other Permits.** No Permit, including Demolition Permits, Use Permits, or otherwise, may be issued for any construction, reconstruction, alteration, or demolition until a Certificate of Appropriateness has been issued by the relevant Permitting Authority in accordance with this Ordinance.
- E. **Tier 1 Projects.**
1. **Permitting Authority.** Tier 1 Projects shall be reviewed administratively by the Planning Department.
 2. **Applicability.** Tier 1 Projects include but are not limited to, the following:

- a. The removal of architectural features that are not in compliance with Section 3.C below;
 - b. The replacement of materials and features not in compliance with Section 3.C below with materials and features that are in keeping with Section 3.C;
 - c. The installation of missing historical materials and features, supported by photographic or physical documentation;
 - d. Repointing and other masonry repairs;
 - e. Construction or replacement of patios or decks where the majority of the patio or deck cannot be seen from the public realm;
 - f. Placement of meters, vents, cable or telephone boxes, wiring, antennas, satellite dishes, and components of HVAC systems, when the placement is not on the primary facade;
 - g. Addition, removal or replacement of cloth, canvas, or acrylic awnings that otherwise comply with the relevant review standards;
 - h. Removal of deteriorated accessory buildings which are not original to the site or otherwise historically significant;
 - i. Installation of a temporary structure designed to promote safe access for individuals with disabilities, so long as the temporary structure can be removed and does not impact the essential form of the property;
 - j. The installation of fences or low walls of wood, stone, or brick (unless proposed in the Frontage Zone of the lot);
 - k. The replacement of exterior light fixtures and the installation of new light fixtures, including fixtures to illuminate signage.
3. **Exemption.** Tier 1 Projects proposed on structures which were built after the year 1930 per the Town's Assessor's Records (property cards) are exempt from Tier 1 Project review.
 4. **Process.** Where the Planning Department determines that an application meets the relevant review standards, the Certificate of Appropriateness shall be issued within ten (10) business days, without presentation to the Historic Special District Review Board for approval. If the Planning Department has not acted within ten (10) business days, the applicant may seek approval from the Review Board, rather than staff. Inaction by the Planning Department does not constitute approval of the application.
 - a. Applicants proposing Tier 1 Projects may elect for their application to be reviewed by the Review Board rather than the Planning Department. The

Planning Department can, for any reason, forward an application to the Review Board for review.

- b. The Planning Department shall provide its written findings and decision on any applications to the Review Board with written notice of any action taken on applications as an informational item at the next meeting.

F. Tier 2 Projects.

1. **Permitting Authority.** Tier 2 Projects are reviewed by the Historic Special District Review Board at a duly-noticed public hearing.
2. **Applicability.** Tier 2 Projects include, but are not limited to, the following:
 - a. Replacement of architectural details when there will be a change in design from the existing details;
 - b. The installation of fences or low walls of wood, stone, brick, when proposed to be within the Frontage Zone;
 - c. The installation or modification of Renewable Energy Systems;
 - d. Changes to roof lines, including rooftop additions, rooftop decks, or dormers.
3. **Process.** Upon receipt of a complete Tier 2 application the application shall be placed on the agenda for the next available Historic Special District Review Board meeting, provided that applicable noticing requirements can be met. Within forty-five (45) days of receipt of a complete application by the Historic Special District Review Board, the Review Board shall make a decision to approve, approve with conditions, or deny the application.
 - a. Upon mutual agreement by the Board and the Applicant, the review of an application may be continued to subsequent meetings.
 - b. Inaction by the Historic Special District Review Board within the above time frame shall constitute an approval of the application.

G. Tier 3 Projects.

1. **Permitting Authority.** Tier 3 Projects are reviewed by the Historic Special District Review Board at a duly-noticed public hearing, and require the assistance of a qualified historic preservation consultant.
2. **Applicability.** Tier 3 Projects include, but are not limited to, the following:
 - a. New Construction or Additions to buildings;
 - b. Demolition of any part of a structure;
 - c. Discovery of any archaeological resource on the site;

- d. Moving of buildings;
 - e. New Additional Structures.
3. **Process.** Upon receipt of a complete Tier 3 application, the application shall be placed on the agenda for the next available Historic Special District Review Board meeting, provided that applicable noticing requirements can be met. Within sixty (60) days of receipt of a complete application by the Historic Special District Review Board, the Board shall make a decision to approve, approve with conditions, or deny the application.
- a. Upon mutual agreement by the Board and the Applicant, the review of an application may be continued to subsequent meetings
 - b. Inaction by the Historic Special District Review Board within the above time frame shall constitute an approval of the application.
- 4.

H. Public Hearings.

1. The Historic Special District Review Board shall hold a public hearing on each Tier 2 or Tier 3 application for Certificate of Appropriateness prior to a decision being rendered. A notice of the hearing shall be mailed by the Town to direct abutters via USPS first class mail, postmarked at least 7 days in advance of the hearing. A notice shall also be posted by the Planning Department at the Town Office and on the Town's website. In the case of an application for a new Primary Building or an addition to an existing Primary Building, the noticing area shall be extended to abutting property owners within 250' of the subject property. Notice shall be made by the applicants, with receipt of mailing required to be submitted to the Town.
 2. Public Hearings and notifications are not required for Tier 1 Projects.
- I. **Approval.** If the Permitting Authority determines that the proposed Addition, Alteration, Relocation, New Construction or Demolition meets the standards of this Ordinance, it shall approve a Certificate of Appropriateness, and shall notify the applicant and Code Enforcement Officer, in writing, of the determination along with any conditions of approval within ten (10) business days.
- J. **Denial.** If the Permitting Authority determines that the proposed Addition, Alteration, Relocation, New Construction or Demolition does not meet the standards of this Ordinance, a Certificate of Appropriateness shall not be issued. A record of findings, describing how the application does not meet the standards of this Ordinance, shall be created, made available to the applicant, and maintained in the Town's records. The Permitting Authority shall notify the applicant and the Code Enforcement Officer within ten (10) business days of the final determination.

K. Time Limits on Certificates of Appropriateness.

1. Substantial construction shall commence within one (1) year of the issuance of a Certificate of Appropriateness. Approval may be extended for one (1) additional year from the conclusion of the original one (1) year time limit by the Planning Department upon written request of the applicant. Requests for a time extension must be submitted in writing within one (1) year of the initial approval. After the approval has expired or an extension has been denied, the applicant may reapply without prejudice. The extension shall be approved by the Planning Department, as outlined above, unless there is:
 - a. Additional information that indicates that the plan does not meet the standards of this Ordinance;
 - b. A failure to meet a condition of approval;
 - c. An amendment to this Ordinance that prohibits or otherwise alters the proposed project.

3. Establishment of Historic Special Districts or Local Landmarks

- A. Purpose.** To provide a clear amendment process for the establishment or expansion of Historic Special Districts or Local Landmarks, in accordance with Title 30-A, M.R.S.A § 4352 (Zoning Ordinances), as may be amended from time to time.
- B. Applicability.** This section shall apply to all petitions to establish a new Historic Special District or expand an existing Historic Special District. In addition, this section shall apply to all petitions to establish a Local Landmark.
- C. Procedure.**
 1. **Application.** Any person or group seeking to add or expand historic districts shall request the amendment in writing to the Historic Special District Review Board. Any proposal by the Selectboard or Planning Board shall be referred to the Historic Special District Review Board for comment before any further action. Any applications shall be in writing.
 - a. Applications for the establishment of Local Landmarks may only be made by a property owner or their assigns.
 2. **Studies and recommendations.** Before making its recommendation concerning the proposed establishment or expansion of an historic district or Local Landmark, the Historic Special District Review Board may conduct studies and research on the proposal. The Historic Special District Review Board shall make a report on every request received within six months. The final report shall also be mailed to the Maine Historic Preservation Commission for review.

3. **Public hearing.** Prior to making a recommendation concerning the proposed establishment or expansion of an historic district or Local Landmark, the Historic Special District Review Board shall hold a public hearing on the request, after due notice is provided twice in a newspaper of general circulation. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing. The notice must be written in plain English, understandable by the average citizen. Mailed notice of the proposal shall also be sent to the applicant, owners of all property to be included within the proposed designation, and property within a 250-foot radius of the property under consideration.
 4. **Final report.** Not later than 30 days after the public hearing, the Review Board shall submit a final report to the Planning Board with the Review Board's recommendation.
 5. **Further action.** After the Planning Board's receipt of the Review Board's recommendations, as provided above, the petition will make its way through the Zoning Amendment process as described in Article 7, Section 21 of the Core Zoning Code.
- D. **Eligibility for Historic Designation.** The properties designated in accordance with this section shall have one or more of the following characteristics:
1. **History of Newcastle.** Structures, buildings or sites at which events have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, or social history of Newcastle, the State of Maine, or the nation, including but not limited to sites or buildings at which visitors may gain insight or see examples of particular items or of larger patterns in the North American heritage.
 2. **Persons.** Structures, buildings or sites associated with important historic persons.
 3. **Ideas.** Structures, buildings or sites associated with important examples of a great idea or ideal.
 4. **Architecture.** Structures or structural remains and sites embodying examples of architectural types or specimens valuable for the study of a period, style or method of building construction; for the study of community organization and living; landscaping; a single notable structure; or a site representing the work of a master builder, master designer, architect or landscape architect.
 5. **Visual continuity.** Structures or buildings contributing to the overall visual continuity of the historic district.
 6. **National Register.** Those sites or areas listed on or eligible for listing on the National Register of Historic Places.

4. Interim Protection for Nominations

- A. **Nominated Local Landmarks and Historic Districts.** From the time of nomination of a Local Landmark or Historic Special District, including expansion of Historic Special Districts, until the Historic Special District Review Board acts upon such nomination, a site, structure, or area shall be subject to all of the provisions of Article 2, Section 2 governing demolition, to the same extent as if designated.
- B. Upon final action of the Historic Special District Review Board recommending the designation of a Local Landmark or Historic Special District, including expansion of Historic Special Districts, the site, structure, or area nominated shall be subject to all of the protections of Article 2, Section 2 of this Ordinance until such time as a final decision on designation by the legislative body of the Town of Newcastle becomes effective.
- C. Upon final action of the Historic Special District Preservation Review Board not recommending the designation of a Local Landmark, Historic Special District, or expansion of a Historic Special District, that site, structure, or area, the protections of Article 2, Section 2 of this Ordinance shall expire after 30 days from the date of the Board's action.
- D. Upon a vote by the legislative body of the Town of Newcastle to designate a Local Landmark, Historic Special District, or to expand a Historic Special District which fails to pass, that site, structure, or area shall no longer be subject to the provisions of Article 2, Section 2 of this Ordinance.

5. Enforcement

- A. Where the applicant has done work or caused work to be done on a structure or a property for which a Certificate of Appropriateness is sought and such work is either not done in compliance with an approval received under this Ordinance, or any other Ordinance of the Town of Newcastle, or was performed without the approvals required under this Ordinance or any other Ordinance of the Town of Newcastle, no application for such structure or property shall be considered by the Planning Department or by the Historic Special District Review Board until the work done without approval is brought into compliance with the requirements of the relevant Ordinance.
- B. Review of any application by the Planning Department or by the Historic Special District Review Board in accordance with this Ordinance shall not constitute waiver of any future claims by the Town concerning violations and shall not stop the Town from prosecuting any violation.
- C. Failure to perform any act required by this Ordinance or of any conditions of approval on any Certificate of Appropriateness issued hereunder, or performance of any act prohibited by this Ordinance, shall constitute a violation and be subject to a fine as provided in 30-A M.R.S. §4452, as may be amended. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

Article 4: Definitions

Accessory Building: Same as the definition found in Article 8 of the Core Zoning Code.

Addition: An improvement that increases the square footage of a structure or the addition of decks or patios. These include lateral additions added to the side or rear of a structure or vertical additions added on top of a structure.

Additional Structure: Same as the definition found in Article 8 of the Core Zoning Code.

Alteration: For the purposes of this Ordinance, this includes any change in foundations, gutters, door and window sash and character-defining decorative elements, such as, but not limited to, cornices, brackets, window architraves, doorway pediments, railing, balusters, columns, cupolas and cresting and roof decorations. This definition also includes the addition of skylights, utilities, and similar when seen from the Public Realm.

Applicant: Same as the definition found in Article 8 of the Core Zoning Code.

Architectural Feature: The architectural elements embodying style, design, general arrangement, and components of the exterior of any building or structure, including, but not limited to: decorative elements, the kind or texture of the building materials, and the style and type of all windows, doors, lights, and porches.

Certificate of Appropriateness: The approval documentation indicating compliance with the relevant standards of this Ordinance.

Character or Character-Defining: The visual aspects and physical features that comprise the appearance of a building, which may include the overall shape of the building and its materials, craftsmanship, decorative details, and unique aspects of its site or environment.

Conjectural Features: Features added based only on availability or added without research into what would be the historically accurate feature for a type of architectural style.

Demolition: The razing of a building or a structure or the removal of any exterior architectural feature or structure or object.

Frontage Zone: Same as the definition found in Article 8 of the Core Zoning Code.

Hazard Building(s): Any building which, because of inadequate maintenance, dilapidation, physical damage (including damage from a fire, flood, or similar), unsanitary condition, or abandonment, constitutes a fire hazard or a danger to public health.

Historic Preservation: Broadly, this is a conversation about the past for the purposes of planning for the future. For the purposes of this Ordinance, this means identifying and regulating buildings, structures, sites or districts with cultural, social, architectural or historic value in order to communicate with future generations those places (including individual buildings or sites and whole neighborhoods) which have been important or significant to the broader story of the Town of Newcastle and its inhabitants.

Historic Resource Inventory: An inventory, maintained by the Town, of sites, buildings and resources within the Historic Special Districts, and, if applicable, their Character-Defining features.

Historic Special Districts: Those shown on the Official District Map of the Town of Newcastle, Maine as may be amended from time to time. The Official District Map is included in Article 1 of the Core Zoning Code.

Legislative Body: Voters of the Town of Newcastle at a duly-noticed Town Meeting.

Local Landmarks: Those properties, which may be located outside of the Historic Special Districts but which have significant architectural, social, cultural or historical value in their own right, and which have been designated as Local Landmarks through the process outlined in Article 3, Section 3 of this Ordinance. Only property owners or their agents/assigns may initiate a petition to designate their property as a Local Landmark.

Minor Alteration: Incidental changes or additions to a building which will neither result in substantial changes to any significant historic features nor obscure such features. In no event shall any change be deemed minor when, in the determination of the Planning Department, such change shall alter the historic character of the building.

New Construction: New construction includes the placement of a new Primary or Accessory Building on a site, whether the new building is post-and-beam construction or factory-built/manufactured.

Permitting Authority: The Planning Department or the Historic Special District Review Board, as may be applicable.

Planning Department: The Town Planner or their designee.

Primary Building: Same as the definition found in Article 8 of the Core Zoning Code.

Principal Facade or Principal Elevation: The front of a building facing the street.

Proportions: The relationship of the size, shape, and location of one building element to all of the other elements; each architectural style typically has its own rules of proportion.

Projections: A part or feature of a building which extends out beyond the enclosing walls (for example, steps, porches, or enclosed entries, or bay windows, balconies, and cornices).

Public Realm: All public or civic lands including publicly-owned parks and open spaces, roads, sidewalks, rights-of-way, frontage zones, and water bodies.

Reconstruction: The act or process of depicting, through new construction, the form, features, and details of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time (usually using documentary or photographic evidence).

Renewable Energy Systems: Systems that harness energy from solar, geothermal and/or wind sources.

Repointing: To repair the joints of brickwork or masonry with mortar or cement.

Review Board: The Newcastle Historic Special District Review Board, as established by Article 3 of this Ordinance.

Rhythm: An ordered, alternating, recurring pattern of solids (walls) to voids (windows and doors) in building facades along the street. The recurrent alternation of walls to windows and doors (solids to

voids) along the front facade of a building establishes a pattern which can be perceived when observing the building from a distance.

Temporary: For the purposes of this Ordinance, the term Temporary shall have the same meaning as Temporary Structure, as outlined in Article 4, Section 9 of the Core Zoning Code.

DRAFT

Jrnl	Invoice Description	Reference	Amount	Encumbrance
Description	Account	Proj		
Vendor Total-			194.78	
00340 SPIC & SPAN CLEANING INC				
0379	Cleaning Services	JANUARY		
JAN. CLEANING SERVICES	E 101-65-06		540.00	0.00
GEN GOVT - TOWN OFFICE / JANITORIAL				
Vendor Total-			540.00	
01442 TOWN OF DAMARISCOTTA				
0379	INTERLOCAL PLANNING	DECEMBER 2023		
DEC - PLANNING SERVICES	E 103-01-21		4,257.02	0.00
PLANNING - COMPENSATION / DEVELOP ADM				
Vendor Total-			4,257.02	
00030 TOWN OF NEWCASTLE/PETTY CASH				
0379	REIMBURSE PETTY CASH	JANUARY		
PETTY CASH REIMBURSEMENT	E 101-25-05		5.15	0.00
GEN GOVT - OPERATIONS / POSTAGE/ENV				
Vendor Total-			5.15	
00023 TREASURER, STATE OF ME-BMV				
0379	12/29-1/5/2024	BMV Report	*** PAID ***	Check # 2706
12/29-1/5/24	G 1-345-00		2,702.06	0.00
GEN'L GOV. / STATE MV FEE				
Invoice Total-			2,702.06	
0379	1/5 - 1/12/2024	BMV Report	*** PAID ***	Check # 2744
1/5-1/12/24 BMV Report	G 1-345-00		4,223.75	0.00
GEN'L GOV. / STATE MV FEE				
Invoice Total-			4,223.75	
Vendor Total-			6,925.81	
00355 VANASSE HANGEN BRUSTLIN, INC				
0379	Prof. Services - Lynch Rd	Nov - Dec. 2023		
Lynch Rd - Nov - Dec.	G 1-604-00		9,205.30	0.00
GEN'L GOV. / FEMA 4719				
Lynch Rd over Dyer Creek	G 1-604-00		48,840.00	0.00
GEN'L GOV. / FEMA 4719				
Vendor Total-			58,045.30	
01540 YEREANCE & SON PLUMBING/HEATING INC				
0379	DRAIN PLUMBING/ANTIFREEZE	INV#18842		
Antifreeze/Drain Plumbing	E 101-67-04		147.00	0.00
GEN GOVT - BIRD PLAYGR / MAINT/REPAIR				
Vendor Total-			147.00	
Prepaid Total-			6,965.81	
Current Total-			297,608.98	
Warrant Total-			304,574.79	

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: 1-22, 2024

JOEL LIND
TOR GLENDINNING
RUFUS PERCY
KAREN PAZ
THOMAS KOSTENBADER

Jrnl	Invoice Description	Reference	Proj	Amount	Encumbrance
Description	Account				
00348 AT&T MOBILITY					
0379	Hbr Master/Fire Chief	Cell Phones			
	Hbr. Master Phone	E 103-25-18		42.77	0.00
	PLANNING - OPERATIONS / CELL PHONE				
	Fire Chief Phone	E 105-05-09		44.79	0.00
	PUB SAFETY - FIRE DEPT / PHONES				
		Vendor Total-		87.56	
00277 BANGOR SAVINGS BANK					
0379	Fire Truck Loan Pymt	February			
	Feb. 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					
0379	Various Electric Accounts				
	35011988843 - T.O.	E 101-65-02		328.89	0.00
	GEN GOVT - TOWN OFFICE / ELECTRICITY				
	35016922797 - SANDLOT	E 107-40-01		37.40	0.00
	PUBLIC WORKS - FACILITIES / ELECTRICITY				
		Vendor Total-		366.29	
00074 COLBY & GALE					
0379	FD Fuels / ShpScot Propan	2 Accts			
	SHEEPSHOT STATION PROPANE	E 105-68-01		597.00	0.00
	PUB SAFETY - SHEEPSCT STA / HEATING FUEL				
	FIRE CO VEHICLE FUEL	E 105-05-60		436.46	0.00
	PUB SAFETY - FIRE DEPT / VEH GAS/OIL				
		Vendor Total-		1,033.46	
00095 DISCOUNT TIRE & ALIGNMENT / DON FOSHAY					
0379	Fire Company - Maintenanc	12/31/23 Statem			
	Fire Co. - Maintenance	E 105-05-42		709.54	0.00
	PUB SAFETY - FIRE DEPT / EQ/VEH MAINT				
		Vendor Total-		709.54	
00293 ELAN FINANCIAL SERVICES					
0379	Supplies/Software/Late Fe	Visa Card			
	Software Suite	E 101-25-11		384.57	0.00
	GEN GOVT - OPERATIONS / SOFTWARE				
	Supplies (Amazon)	E 101-25-95		141.97	0.00
	GEN GOVT - OPERATIONS / SUPPLIES				
	Late Fees	E 101-25-80		39.00	0.00
	GEN GOVT - OPERATIONS / PRO.DEV/FEES				
		Vendor Total-		565.54	
00397 EMMA MCKEARNEY					
0379	Reimbursement - Bin Purch	1/13/2024			
	Reimbursement - Bin	E 101-25-07		13.99	0.00
	GEN GOVT - OPERATIONS / ELECTION SUP				
		Vendor Total-		13.99	
00010 GREAT SALT BAY COMM. SCHOOL					
0379	SCHOOL/ELEMENTARY	January			
	January Appropriations	E 116-60-01		149,770.83	0.00
	SCHOOLS - SCHOOLS / ELEMENTARY				
		Vendor Total-		149,770.83	
00897 HAGAR ENTERPRISES, INC					
0379	SNOW PYMT #6	February	*** SEPARATE ***		
	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				
		Invoice Total-		36,960.92	

Jrnl	Invoice Description	Reference	Proj	Amount	Encumbrance
Description	Account				
0379	SALT & SAND SHED REPAIR	INV#7405	*** SEPARATE ***		
	SAND/SALT SHED REPAIR	E 107-40-02		1,690.00	0.00
	PUBLIC WORKS - FACILITIES / MAINT SHED				
			Invoice Total-	1,690.00	
			Vendor Total-	38,650.92	
00278 HARRIS COMPUTER SYSTEMS					
0379	TRIMN0002016	NEW503			
	INV#TRIMN0002016	E 101-25-11		20,663.28	0.00
	GEN GOVT - OPERATIONS / SOFTWARE				
			Vendor Total-	20,663.28	
00100 HUSSEY COMMUNICATIONS INC.					
0379	INV#142972/143485	VARIOUS MATERIA			
	INV#143485-Radio/Antenas	E 105-05-25		493.45	0.00
	PUB SAFETY - FIRE DEPT / COMMUNICATN				
	INV#142972-Batteries	E 105-05-25		1,251.50	0.00
	PUB SAFETY - FIRE DEPT / COMMUNICATN				
			Vendor Total-	1,744.95	
01144 INTERSTATE SEPTIC SYSTEMS, INC					
0379	SEPTIC WASTE CONTRACT	Inv#133589			
	Septic Waste Contract	E 102-10-05		2,300.00	0.00
	PUBLIC SRVCE - WASTE DISP / SEPTIC CONTR				
			Vendor Total-	2,300.00	
00165 KONICA MINOLTA/SYMQUEST					
0379	500-0622968-000	Inv#519877690			
	500-0473754-000-Fire Co.	E 105-05-55		25.10	0.00
	PUB SAFETY - FIRE DEPT / ADMIN/OFC				
			Vendor Total-	25.10	
00106 LINCOLN COUNTY SHERIFF'S OFFICE					
0379	December ACO Services				
	Dec. Animal Control Servi	E 105-55-01		517.26	0.00
	PUB SAFETY - ANIMAL CNTRL / ANIMAL CNTRL				
			Vendor Total-	517.26	
00005 LOCKBOX #936724					
0379	TRANSCO CONTRACT	IN4136339			
	HP/HPLJ2300	E 101-26-01		24.15	0.00
	GEN GOVT - LEASES / COPIER				
			Vendor Total-	24.15	
00233 MAIN STREET GROCERY					
0379	GA - FOOD	VOUCHER			
	GA - FOOD / VOUCHER	E 102-51-04		72.13	0.00
	PUBLIC SRVCE - G.A. / FOOD				
			Vendor Total-	72.13	
00822 MAINE MUNICIPAL ASSOC-W.C. FUND					
0379	WORKERS COMP INS	INV#60714			
	WC INS - INV#60714	E 101-03-15		1,665.20	0.00
	GEN GOVT - INSURANCE / WORKERS COMP				
			Vendor Total-	1,665.20	
00016 MAINE MUNICIPAL EMPL. HEALTH TRUST					
0379	FEB. HEALTH INSURANCE	MHT.15110			
	Dental	E 101-02-04		194.99	0.00
	GEN GOVT - FRINGE BENEF / VISION/DENTA				
	Health (Medical)	E 101-02-02		6,819.09	0.00
	GEN GOVT - FRINGE BENEF / HEALTH INS				
	IPP (Income Protection)	E 101-02-05		188.00	0.00
	GEN GOVT - FRINGE BENEF / IPP				
	Vision	E 101-02-04		22.31	0.00

Jrnl	Invoice Description	Reference	Proj	Amount	Encumbrance
Description	Account				
GEN GOVT - FRINGE BENEF / VISION/DENTA					
Vendor Total-				7,224.39	
00408 MAINE OXY					
0379	COMPRESSED AIR & TESTING	2 SEP INVOICES			
INV#3032828096	*10/16/23	E 105-05-20		591.50	0.00
	PUB SAFETY - FIRE DEPT / S.C.B.A.				
INV#3002861973	*10/31/23	E 105-05-20		230.00	0.00
	PUB SAFETY - FIRE DEPT / S.C.B.A.				
Vendor Total-				821.50	
00360 MODERN PEST SERVICES					
0379	Ecocare Choice Program	Inv#6174881			
PEST REMOVAL-ACCT#267722		E 101-65-04		103.00	0.00
	GEN GOVT - TOWN OFFICE / MAINT/REPAIR				
Vendor Total-				103.00	
00366 NC HUNT INC					
0379	Plastic Culvert 18x20	Inv2312-116022			
Dec.21 - Plastic Culvert		E 107-43-03		1,028.00	0.00
	PUBLIC WORKS - GEN CONTRCTR / CULVERTS				
Vendor Total-				1,028.00	
00405 NORTHEAST COFFEE COMPANY					
0379	Water for PFAS Residents				
A. Main - Rental/Water		E 101-99-99		98.00	0.00
	GEN GOVT - MISC / CONTINGENCY				
W. ONeil - Rental		E 101-99-99		10.95	0.00
	GEN GOVT - MISC / CONTINGENCY				
J. Sullivan - Rental/Wate		E 101-99-99		97.50	0.00
	GEN GOVT - MISC / CONTINGENCY				
Vendor Total-				206.45	
00409 QUADIENT FINANCE USA, INC					
0379	Acct#7900044081240644	Postage Fees			
Postage Fees for the Mach		E 101-25-05		500.00	0.00
	GEN GOVT - OPERATIONS / POSTAGE/ENV				
Vendor Total-				500.00	
00102 READY REFRESH/BLUE TRITION BRANDS INC					
0379	INV#33L0424000511	T O Water			
TOWN OFFICE WATER		E 101-25-95		110.94	0.00
	GEN GOVT - OPERATIONS / SUPPLIES				
Vendor Total-				110.94	
00164 RELIANCE EQUIPMENT					
0379	INVs#9911,9912,9913	Maint/Testing			
INV#9911		E 105-05-42		1,848.97	0.00
	PUB SAFETY - FIRE DEPT / EQ/VEH MAINT				
INV#9912		E 105-05-42		395.84	0.00
	PUB SAFETY - FIRE DEPT / EQ/VEH MAINT				
INV#9913		E 105-05-42		1,713.52	0.00
	PUB SAFETY - FIRE DEPT / EQ/VEH MAINT				
Vendor Total-				3,958.33	
00407 RH RENY INC					
0379	Refund for BMV Reg.	TT864-026	*** PAID ***	Check #	2743
Refund: TT864-026		R 101-60		40.00	0.00
	GEN GOVT - OVER/SHORT				
Vendor Total-				40.00	
00321 SBA TOWERS X, LLC					
0379	DECEMBER & JANUARY	Tower Rental			
Tower Rental - FD - 2mos.		E 105-05-25		194.78	0.00
	PUB SAFETY - FIRE DEPT / COMMUNICATN				