

# TREMONT ZONING ORDINANCE



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# TREMONT ZONING ORDINANCE

## SECTION I. AUTHORITY, APPLICABILITY AND ADMINISTRATION.

### A. AUTHORITY

1. This Ordinance shall be known and may be cited as "The Tremont Zoning Ordinance."
2. This Ordinance is adopted pursuant to the provisions of Title 30-A, MRSA, Section 3001, Home Rule.
3. The standards in this Ordinance have been prepared in accordance with the provisions of Title 38, MRSA, Sections 435-449, Mandatory Shoreland Zoning Act and Title 30-A, MRSA, Sections 4351-4352, Land Use Regulations.
4. This Ordinance shall be administered by the Planning Board and the Code Enforcement Officer of the Town of Tremont.

### B. APPLICABILITY

This Ordinance applies to all land areas within the Town of Tremont. This Ordinance also applies to any structure extending below the Normal High-Water Line (NHL) of a water body or within a wetland and to any structure built on, over or abutting a dock, wharf or pier.

### C. ADMINISTRATION

#### 1. Effective Date.

The effective date of this Ordinance is March 3, 1988, or as subsequently amended thereafter. A certified copy of this Ordinance is filed with the Town Clerk and is accessible to any member of the public. Copies are available for reference and may be purchased at the Town Office for a fee determined by the Board of Selectmen.

a. Section V.P. is repealed on the statutory date established under 38 M.R.S.A. Section 438-B(5), at which time Section V.P.-1.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 Until such time as Section V.P. is repealed, Section V.P.-1.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

#### 2. Amendment

a. This Ordinance may be amended by a majority vote of the legislative body present at a regular or special town meeting.

b. Copies of the amendments affecting the shoreland zone, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of DEP within 45 days of the Town Meeting approval, and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within this period shall be governed by the terms of the amendment, if such amendment is subsequently approved.

3. Severability

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

4. Inconsistency

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.

5. Any costs incurred by the Town in excess of \$1,000 in its effort to interpret information submitted for the approval of an application, including requests for legal opinions pertaining to the application, shall be borne by the applicant.

6. Availability

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

## **SECTION II. PURPOSE**

This Ordinance is an important tool for directing the future growth of the Town of Tremont. It encourages orderly growth in appropriate areas while working to preserve the rural character of the Town. It assures local control and promotes the values and concerns of the community as expressed in the Comprehensive Plan.

The purposes of this Ordinance are:

1. To protect the health, safety and welfare of the community;
2. To encourage orderly growth and development by establishing Land Use Standards now that promote an economic climate which increases job opportunities and overall well-being;
3. To encourage growth in accordance with the Comprehensive Plan so that the essential character of each neighborhood is maintained;
4. To promote shoreline management that gives preference in specific zones to functionally water-dependent uses over other uses while preserving the community's access to the water;
5. To protect commercial fishing and maritime activities by giving preference to those activities in specific zones;
6. To prevent and control possible air, water and soil pollution;
7. To conserve shore cover, freshwater and coastal wetlands;
8. To protect existing and potential fish spawning grounds, aquatic life, bird and other wildlife habitat;
9. To protect archaeological and historic resources;

10. To conserve natural beauty, open space and scenic vistas and visual as well as actual points of access to inland and coastal waters;
11. To protect fragile island environments;
12. To protect buildings and lands from flooding and accelerated erosion;
13. To control building sites, placement of structures and land uses, and;
14. To anticipate and respond to the impacts of development in shoreland areas

### **SECTION III. ZONES AND THE ZONING MAP**

#### **A. DEFINITION**

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

1. Residential-Business Zone
2. Residential Zone
3. Harbor Shoreland Zone
4. Commercial Fishery/Maritime Activity Shoreland Zone
5. Limited Residential Shoreland Zone
6. Resource Protection Shoreland Zone
7. Island Protection Zone
8. Rural Residential Zone

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

The depictions of districts on this map are merely illustrations of their locations. These districts shall be determined from distances measured on the ground, from the "Normal High Water Line" of a water body or the upland edge of a wetland.

#### **B. MAP**

1. The Official Zoning Map is drawn at a scale of 1"=1000'. Zone boundaries are clearly delineated and a legend indicating the symbols for each zone is on the map.
2. The Official Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Town Office.
3. If amendments, in accordance with Section I.C.2. above, are made in the zone boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map within 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

## C. INTERPRETATION

Unless otherwise set forth on the Official Zoning Map, zone boundary lines are property lines, the centerlines of streets, roads and rights-of-way. Where uncertainty exists as to the exact location of zone boundary lines, the Board of Appeals shall be the final authority as to location. (See Appendix for a specific description by Assessor's Map & Lot number for each zone.)

## D. ZONE CRITERIA

### 1. Residential-Business Zone (R-B Zone)

Areas not within 250' of the shoreline, which are predominantly residential, but may contain some maritime related commercial and industrial activity, institutional facilities, public facilities or other commercial activity.

### 2. Residential Zone

Areas not within 250' of the shoreline which are devoted primarily to residential use or are suitable for residential development. These areas contain some multi-family development and home occupations.

### 3. Harbor Shoreland Zone

Areas within 250 feet, horizontal distance, of the shoreline, including those additional adjacent areas as approved by majority vote at Town Meeting, where the existing predominant pattern is a mixture of maritime and non-maritime uses and commercial and residential uses.

### 4. Commercial Fishery/Maritime Activity Shoreland Zone (CFMA Zone)

Areas within 250 feet, horizontal distance, of the shoreline, including those additional adjacent areas as approved by majority vote at Town Meeting, where the existing predominant pattern of development is commercial fishing and other maritime activities and contains areas which are suitable for functionally water-dependent uses.

### 5. Limited Residential Shoreland Zone

Areas within 250 feet, horizontal distance, of the shoreline, including those additional adjacent areas as approved by majority vote at Town Meeting, on shoreline of water bodies and wetlands where the existing pattern of development is low density residential with some home occupation.

### 6. Resource Protection Shoreland Zone

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department. Coastal wetlands are rated as of January 1, 1973. Freshwater wetlands are rated as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond, and have a surface elevation at or below the water level of the great pond during the period

of normal high water. "Wetlands associated with great ponds" are considered to be part of that great pond.

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NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

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- (2) This district shall also include 100 year floodplains adjacent to coastal as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

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NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

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- (5) Land areas adjacent to coastal wetlands which are subject to severe erosion or mass movement, such as steep coastal bluffs.

#### 7. Island Protection Zone

Island Areas not within 250' of the shoreline which are devoted primarily to residential use or are suitable for low density residential development.

#### 8. Rural Residential Zone

Areas not within 250' of the shoreline which are devoted primarily to residential use or are suitable for residential development. These areas contain some multi-family development and home occupations.

### SECTION IV. STANDARDS FOR THE ZONE

#### A. GENERAL ZONE STANDARDS

##### 1. Structures

- a. **Definition** - For the purposes of this Ordinance, the term structure is defined as anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground exclusive of fences. The term includes structures temporarily or permanently located, such as decks, patios and satellite disks but excludes paving, signs and flagpoles. Incidental structures, with a footprint of 24 square feet or less not exceeding 4 feet in height, such as residential lawn furniture, picnic tables, bird feeders and water wells are not considered as structures under this definition provided they do not have substantial volume or visual impact.

b. **Commercial towers** shall be restricted to a height of one hundred twenty-five (125) feet from the original grade.

c. **Water Setbacks**

- (1) All setback measurements from the normal high-water line (NHL) of any water body, or tributary stream, or from the upland edge of a wetland are horizontal distances.
- (2) The water body or wetland setback provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, or to other functionally water-dependent uses.
- (3) Stairways or similar structures may be allowed with a permit from the Planning Board to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of 4' in width; that the structure does not extend below or over the NHL 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.

d. **Lotline Setbacks** - Lotline setbacks shall be measured perpendicular to the side, rear or front lot lines.

e. **Principal Unit or Use**- If more than one principal residential dwelling unit, principal commercial governmental, institutional or industrial structure or use, or combination thereof, is constructed, established or placed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure or use.

EXCEPTIONS:

- (1) This does not refer to multi-unit residential development whose dimensional requirements are specified within the structure standards of each zone.
- (2) One residential dwelling unit is permitted in the Harbor Shoreland and the Commercial Fishery/Maritime Activity Zones as an accessory use to a principal maritime commercial use. The applicant must demonstrate with clear and convincing evidence that the state subsurface wastewater laws will be satisfied.

f. **Flood Hazard** - The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least 1' above the elevation of the 100-year flood. (See Tremont Floodplain Management Ordinance.)

2. **Lots**

a. **Lot Coverage** - Within the shoreland zone lot coverage shall include all non-vegetated surfaces , including, but not limited, to structures and parking lots.

b. **Lot Area** - Land below the NHL of a water body or upland edge of a wetland and land beneath roads serving more than 2 lots shall not be included toward calculating minimum lot area for lots created since May, 1992.

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

- d. **Lot Access** - No lot can be developed unless it has driveway or road access as defined in this Ordinance.
- e. **Shore Frontage** - Minimum shore frontage is the length of a lot bordering on a water body or wetland, and shall be measured in a straight line between the points of intersection of the side lot lines with the shoreline. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, from the shoreline shall be equal to or greater than the shore frontage requirement for the lot with the proposed use.
- f. **Division** - No lot shall be divided as to make a substandard lot.

## **B. RESIDENTIAL-BUSINESS ZONE (R-B ZONE)**

The purpose of the Residential-Business Zone is to preserve the integrity of the residential uses while allowing for maritime related and light commercial activity which are compatible with the physical capability of the land.

### 1. Land Use Standards

All uses are permitted subject to the Lot, Structure, Performance and Conversion Standards.

### 2. Lot Standards

#### **Lot area:**

- a. Minimum: 40,000 sqft. per lot and per residential dwelling unit or principal non-residential structure
- b. Multi-unit residential:
  - (1) 40,000 sq. ft. for first unit
  - (2) 20,000 sq. ft. for each additional unit

### 3. Structure Standards

#### a. **Setbacks** (minimum):

- (1) Lot Lines: 15' for residential principal and accessory structures  
25' for non-residential principal and accessory structures

b. **Height:** 40' maximum. Whenever physically possible, buildings taller than 25' should be positioned so as to minimize visual impact and protect residential views.

c. **Lot coverage:** 25% maximum

d. **Building Size:** Non-maritime related uses not to exceed 5000 square feet.

### 4. Conversion Standards

- a. Structures that existed on May 9, 1994 in their current form may convert to any use permitted by this section without regard to lot line setback requirements provided the buffering standards are met.
- b. Structures built or rebuilt after May 9, 1994 may convert to any use permitted in this zone provided that the structure complies with all the standards for the new use.

## C. RESIDENTIAL ZONE

### 1. Land Use Standards

The following uses are allowed subject to Lot, Structure and Performance Standards:

- a. Single-family residential use and its accessory uses.
- b. All multi-unit residential use and its accessory uses.
- c. Home Occupations as an accessory use.
- d. Governmental and institutional use.

No commercial or industrial activity is allowed.

### 2. Lot Standards

#### a. **Lot area:**

- (1) Minimum: 40,000 sq. ft. per lot and per residential dwelling unit or institutional or governmental principal structure.
- (2) Multi-unit residential:
  - (a) 40,000 sq. ft. minimum for first unit
  - (b) 20,000 sq. ft. for each additional unit

### 3. Structure Standards

#### a. **Setbacks** (minimum):

- (1) 15' from lot lines

#### b. **Height:** 40' maximum

#### c. **Lot coverage:** 20% maximum

## D. HARBOR SHORELAND ZONE

### 1. Land Use Standards

The following uses are allowed subject to Lot, Structure and Performance Standards.

- a. single-family residential use and its accessory uses (no multi-unit residential use is permitted);
- b. all maritime commercial uses;
- c. non-maritime commercial uses (excluding transient accommodations) up to a total of 3000 sqft. in total building area;

- d. marinas with up to 550 linear feet of slip/dock space.

one residential unit is allowed as an accessory use to a principal maritime commercial use. The applicant must demonstrate with clear and convincing evidence that the State subsurface wastewater laws will be satisfied.

## 2. Lot Standards

- a. **Lot area:** Minimum 40,000 sq. ft. per lot and per residential dwelling unit or principal non-residential structure.  
EXCEPTION: No minimum for maritime commercial uses.
- b. **Shore frontage:** 150' minimum per lot and per residential dwelling unit or principal non-residential structure located within 75' of the shoreline of a stream or 250' of the shoreline of any wetland.  
EXCEPTION: No minimum for maritime commercial uses.

## 3. Structure Standards

- a. **Setbacks** (minimum):
  - (1) 15' from lot lines
  - (2) Residential: 75' from the shoreline.  
Non-residential: 25' from the shoreline.  
EXCEPTION: No setback minimum for maritime commercial uses
  - (3) 75' from the shoreline of a stream (if sustained slopes exceed 20%, a 100' setback of undisturbed vegetation shall be maintained.) and 75' from the shoreline of a tributary stream.
- b. **Height:** 35' maximum.
- c. **Lot coverage:** 70% maximum (includes non-vegetated surfaces).

# E. COMMERCIAL FISHERY/MARITIME ACTIVITY SHORELAND ZONE

## 1. Land Use Standards

- a. The following uses are allowed subject to Lot, Structure and Performance Standards:
  - (1) all maritime commercial uses;
  - (2) non-maritime limited commercial use up to a total of 2000 sq. ft. in total building area provided it is an accessory use to an existing maritime commercial use for as long as the principal maritime use continues to operate. Accessory transient accommodations are not allowed under this section (2).
  - (3) only one residential dwelling unit is allowed, in addition to the square footage allowed in paragraph (2), whether existing, new, conforming or non-conforming under section VII, as an accessory use to a principal maritime commercial use. The applicant must demonstrate with clear and convincing evidence that the State subsurface wastewater rules will be satisfied.
  - (4) all functionally water-dependent industry;
  - (5) marinas with up to 550 linear feet of slip/dock space;

2. Lot Standards

a. **Lot area:**

- (1) Residential: 40,000 sq. ft. minimum per lot and per residential dwelling unit or principal non-residential structure.
- (2) Non-Residential: no minimum

b. **Shore frontage:**

- (1) Residential: 150' minimum per lot and per residential dwelling unit or principal non-residential structure located within 250' of the shoreline.
- (2) Non-Residential: no minimum

3. Structure Standards

a. **Setbacks** (minimum):

- (1) 15' from lot lines
- (2) Residential - 75' from the shoreline of any wetland, stream or tributary stream.  
Non-Residential - None from the shoreline.

b. **Height:** 35' maximum

c. **Lot coverage:** 70% maximum (includes non-vegetated surfaces).

**F. LIMITED RESIDENTIAL SHORELAND ZONE**

1. Land Use Standards

- a. Single family residential use and its accessory uses are the only allowed uses subject to Lot, Structure and Performance Standards.
- b. Home Occupations as an accessory use

No commercial, industrial, governmental or institutional activity is allowed.

2. Lot Standards

a. **Lot area** per lot and per residential dwelling unit.

- (1) Basic minimum 40,000 sq. ft.
- (2) Multi-unit residential (non-conforming expansion):
  - (a) 40,000 sq. ft. minimum for first unit
  - (b) 20,000 sq. ft. for each additional unit

b. **Shore frontage:** 150' minimum per lot and per residential dwelling unit located within 250' of the upland edge of a coastal wetland or within 75' of the shoreline of a stream. 200' minimum per lot and per residential dwelling unit located within shoreland zone of any other water body or freshwater wetland.

3. Structure Standards

a. **Setbacks** (minimum):

- (1) 15' from lot lines
- (2) 75' from the upland edge of a wetland
- (3) 100' from the normal high-water line of any great pond.
- (4) 75' from the shoreline of a stream (if sustained slopes exceed 20%, a 100' setback of undisturbed vegetation shall be maintained.) and 75' from the shoreline of a tributary stream.

b. **Height:** 35' maximum

c. **Lot coverage:** 20% maximum (non-vegetated surfaces)

**G. RESOURCE PROTECTION SHORELAND ZONE**

1. Land Use Standards

a. The following uses are permitted subject to Lot, Structure and Performance Standards:

Small non-residential structures or facilities for educational, scientific or nature interpretation purposes.

b. The following uses are not allowed.

- (1) residential, commercial, industrial, governmental and institutional development;
- (2) private sewage disposal systems; and
- (3) road, driveway and parking areas.
- (4) marinas

2. Lot Standards

a. **Lot area:** 2 acres minimum per principle structure or recreational facility within Shoreland Zone.

b. **Shore frontage:** 250' minimum per principle structure or recreational facility within Shoreland Zone.

3. Structure Standards

a. **Set backs** (minimum):

- (1) 25' from lot lines, 250' from the shoreline; except for small non-residential structures or facilities for educational, scientific or nature interpretation purposes, in which case setbacks shall be 100' from the shoreline of a great pond and 75' from the shoreline of a tributary stream, stream, or wetland.

b. **Height:** 20' maximum

c. **Lot coverage:** 5% maximum (includes non-vegetated surfaces).

## **H. ISLAND PROTECTION ZONE**

### 1. Land Use Standards

The following uses are allowed subject to Lot, Structure and Performance Standards.

- a. Single-family residential use and its accessory uses.
- b. Governmental and institutional use.
- c. Home Occupations as an accessory use

No commercial or industrial activity is allowed.

### 2. Lot Standards

- a. Lot area per lot and per residential dwelling unit or principal non-residential structure.
  - (l) Basic minimum 40,000 sq. ft.

### 3. Structure Standards

- a. Setbacks (minimum):
  - (l) 15' from lot lines
- b. Height: 35' maximum
- c. Lot coverage: 20% maximum (includes non-vegetated surfaces)

## **I. RURAL RESIDENTIAL ZONE**

### 1. Land Use Standards

The following uses are allowed subject to Lot, Structure and Performance Standards.

- a. Single-family residential use and its accessory uses.
- b. All multi-unit residential use and its accessory uses.
- c. Home Occupations as an accessory use.
- d. Governmental and institutional use.

No commercial or industrial activity is allowed.

### 2. Lot Standards

- a. Lot area:
  - (1) Minimum: 40,000 sqft. per lot and per residential dwelling unit or institutional or governmental principal structure.
  - (2) Multi-unit residential:
    - (a) 40,000 sqft. minimum for first unit
    - (b) 20,000 sqft. for each additional unit

3. Structure Standards

- a. Setbacks (minimum):
  - (l) 15' from lot lines
- b. Height: 40' maximum
- c. Lot coverage: 20% maximum

**SECTION V. OTHER LAND USE ACTIVITIES AND THEIR STANDARDS**

**A. 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, 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, or the spreading, disposal or storage of manure within the Shoreland Zones shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

- 4. There shall be no tilling of soil within one hundred (100)feet, horizontal distance of the normal high-water line of a great pond, 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, 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.

NOTE: 17 M.R.S.A. section 2805(4) requires a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

## **B. Archeological and Historic Sites**

1. Tremont has 21 prehistoric archeological sites (mapped in the Town Office) and 2 listed historic buildings (Bass Harbor Head Light Station and the Dix Family Stable).
2. Any proposed land use activity involving structural development or soil disturbance on or adjacent to these sites or eligible to be listed on the National Register of Historic Places, as determined by the Planning Board, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the Planning Board.
3. The Planning Board shall consider comments received from the Commission prior to rendering a decision on the application.

## **C. Bed and Breakfast**

1. As a home occupation, it can have no more than 4 bedrooms devoted to lodging purposes.
2. If more than 4 bedrooms are used for lodging, the use is commercial.

## **D. Campgrounds**

1. Campgrounds shall contain a minimum of 5,000 sq. ft. of suitable 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. Campgrounds must conform to the minimum requirements imposed under State licensing procedures. The Planning Board's approval is conditional on the State license approval.
3. 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, 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.
4. A recreational vehicle or a site for a recreational vehicle may not be rented, leased or occupied for more than 2 weeks consecutively from November 1st through May 1<sup>st</sup> unless the recreational vehicle is connected to permanent sewage, water, electricity and heat that will meet State and local codes.

During this period, renewal of any occupancy in the campground may not occur unless there is at least one week non-occupancy.

#### **E. Campsites (Individual Private)**

1. The following conditions must be met:
  - a. One campsite per lot is permitted outside of shoreland zone. One campsite is allowed 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.
  - b. Campsite placement on any lot, including the areas intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
  - c. Only one recreational vehicle shall be allowed on a campsite. The Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
  - d. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection Zone shall be limited to one thousand (1000) square feet.
  - e. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Licensed Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
  - f. When a recreational vehicle, tent or similar shelter is occupied on-site for more than 90 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 (PROHIBITED)**

The following new commercial and industrial uses are prohibited within 250' of the shoreline of a great pond or a coastal wetland, or 75' of the shoreline of a stream:

- a. Auto washing facilities;
- b. Auto or other vehicle service and/or repair operations, including body shops;
- c. Chemical and bacteriological laboratories;
- d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms;
- e. Commercial painting, wood preserving and furniture stripping;
- f. Dry cleaning establishments;
- g. Electronic circuit assembly;
- h. Laundromats, unless connected to a sanitary sewer;
- i. Metal plating, finishing or polishing;
- j. 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;
- k. Photographic processing; and
- l. Printing.

## **G. Communication Towers**

1. Communication towers are a commercial use
2. Structure height shall be no greater than one hundred and twenty five (125) feet from the original grade
3. Structures shall be set back a minimum distance equal to two (2) times the height of the structure or 250 feet which ever is greatest.
4. All structures and associated equipment shall be enclosed within a locked fence with a minimum height of eight (8) feet.
5. A sign shall be prominently displayed near the entrance to the facility indicating the name and contact info of those responsible for the facility.
6. An alternative analysis study shall be completed by the Applicant, and reviewed by the Planning Board. This study shall contain details of the site selection process and those parameters precluding the use of an existing facility or site.

## **H. 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 Zone 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.

## **I. Home Occupation**

The purpose of the Home Occupation provision is to permit those businesses which are compatible with the Residential Zone in which they are allowed. Home Occupations are limited to those uses which may be conducted within a residential structure or on the property without substantially changing the appearance or condition of the residence or property.

1. A home occupation is carried on by a member of the family residing on the property and has no more than two additional employees.
2. Home occupations shall be clearly incidental and secondary to the use of the property for dwelling purposes and does not change the essential residential character of such property.
3. A home occupation shall not create noise, dust, vibration, odor, smoke, glare, electronic interference, fire hazard, or any other hazard or nuisance to any greater degree or more frequent extent than that normally experienced in an average residential structure in the zone in which located.

4. The home occupation use must satisfy the home occupation parking requirements in addition to the residential parking requirements.

#### **J. Junkyards and Automobile Graveyards as defined in Title 30-A M.R.S. § 3753-3755**

1. Junkyards and Automobile Graveyards shall be set back at least twenty five (25') from all lot lines.
2. Initial permit applications for Junkyards and Automobile Graveyards must receive approval from the Planning Board.
3. Junkyards and Automobile Graveyards are Commercial Uses

Exception: Junkyards and Automobile Graveyards in possession of a valid Municipal Permit, issued by the Municipal Officers, as of the date of enactment of this section (V.J) are exempt from the requirements of the Tremont Zoning Ordinance for as long as the Junkyard or Automobile Graveyard continues to possess a valid Municipal Permit but shall comply with Title 30-A M.R.S. § 3753-3755.

#### **K. Hotel, Motel, Botel, Cabins, Cottages, etc.**

1. Hotels, motels and botels are principal commercial uses. Cabins and cottages may be considered as commercial uses or accessory commercial uses to a principal residential or commercial use.
2. Efficiency unit includes a food preparation area serving only that unit. If the occupant of the unit is in residence for more than 6 months, the unit must meet the minimum lot size requirements under Multi-Unit Residential.

#### **L. Marina Development**

The land use of this development shall comply with the applicable land use structure and performance standards. The water use shall satisfy the applicable standards and an opinion shall be requested from the Harbor Committee. Marina permit applications must contain the following information for referral to the Harbor Committee:

1. A storm evacuation plan;
2. A plan and/or documentation demonstrating the integrity of the proposed docks during storms;
3. A harbor traffic impact study; and
4. An overlay of the chart, showing the relationship of this facility to its abutters, detailed moorings in the area and those required for the proposal, and the rigging for securement purposes.

#### **M. Maritime Activities not Located on Land**

Those activities which have their principal use not located on land must have their accessory uses which are on land comply with the applicable land use and structure standards of the zone in which they are located and the performance standards.

## **N. Mineral Exploration and Extraction**

1. Mineral exploration to determine the nature or extent of mineral resources, which shall be accomplished by hand sampling, test boring or other methods which create minimal disturbance of less than 100 sqft. of ground surface shall not need a permit.
2. Approval by the Planning Board and a permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation.
3. 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.
4. Mineral extraction may be permitted under the following conditions:
  - a. 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 paragraph Section L.4.c. below.
  - b. No part of any extraction operation, including drainage and runoff control features shall be permit within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond and within seventy-five (75) feet horizontal distance of the normal high-water line of 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.
  - c. 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:
    - (1) All debris, stumps and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., Section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.
    - (2) The final graded slope shall be two and one-half to one (2 ½:1) slope or flatter.
    - (3) Top soil 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.
5. 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.

## **O. Mobile Home Park**

1. Each lot, dwelling unit, or principle structure within the shoreland zone must meet the standards of the applicable Zone.

2. Outside the shoreland zone, the standards are as follows:

a. Park lot size:

The area reserved for road rights-of-way, the area for buffer strips plus the area of all mobile home park lots.

b. Lot size:

Unsewered: Individual on-site subsurface septic system -20,000 sqft.

Unsewered: central on-site waste water system -12,000 sqft. (the gross density of the park must be 20,000 sqft./lot)

**P. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.**

1. Any permanent or seasonal "temporary" structure or use extending over or below the normal high-water line of a water body or within a wetland shall require a permit from the Planning Board subject to the following standards. Permanent structures projecting into or over water bodies may also require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act and from the Army Corps of Engineers; seasonal "temporary" structures may require a permit only from Army Corps.

2. Standards

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

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

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

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

e. No new structure shall be built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland unless the structures require direct access to the water body or wetland as an operational necessity. These permitted structures shall not exceed 20' in height above the pier, wharf, dock or other structure.

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

3. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

## **Q. Pond, Manmade**

1. All manmade ponds shall be considered a structure and shall conform to the standards appropriate for each district.
2. All ponds must conform to DEP Natural Resource Protection Act standards.

## **R. Timber Harvesting**

### 1. Resource Protection Zone Abutting a Great Pond

- a. There shall be no timber harvesting, except to remove safety hazards, within the strip of land extending 75' inland from the normal high-water line.
- b. Beyond the 75 foot strip referred to in Section V.P.1.a above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

### 2. Shoreland Zones Abutting Other Water Bodies and Wetlands

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

- a. Within 100' horizontal distance of the normal high-water line of a great pond and 75' of the normal high-water line of other water bodies, 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.
  - b. At distances greater than 100' horizontal distance of the normal high-water line of a great pond, and greater than 75' of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than 10,000 sqft. in the forest canopy. Where such openings exceed 5,000 sqft., they shall be at least 100' apart. Such clear-cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
3. Timber harvesting operations exceeding the 40% limitation in Section P.2. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.
  4. No accumulation of slash shall be left within 50' horizontal distance of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than 4' above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
  5. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters are frozen and the activity will not result in any ground disturbance.

6. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which composed of gravel, rock or similar hard surface would not be eroded or otherwise damaged.
7. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
8. Except for water crossings, skid trails and other sites where the operation of machinery results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75' horizontal distance in width for slopes up to 10% shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland.
9. For each 10% increase in slope, the unscarified strip shall be increased by 20' horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body, or wetland, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25' horizontal distance from the normal high-water line of a water body or upland edge of a wetland.

**P-1 Timber Harvesting Statewide Standards [Effective on effective date established in Section I.C.1.a]**

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section V.P-1(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
  - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  - (b) Adjacent to great ponds, rivers and wetlands:
    - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
    - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
  - (a) Option 1 (40% volume removal), as follows:

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

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

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

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
- (c) Setbacks:
  - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
  - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section P-1(7) of this rule.
  - (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
    - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
    - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
    - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
  - (b) The minimum 100 foot setback specified in Section P.1(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section P.1(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
  - (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road

must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section P-1(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section P-1. (5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section P-1.(5). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
  - (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section P-1.(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of water bodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section P-1.(5): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section P-1.(5). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section P-1.(5).

- (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
  - (i) a map showing the location of all proposed permanent crossings;
  - (ii) the GPS location of all proposed permanent crossings;
  - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section P-1.(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
  - (i) concentrated water runoff does not enter the stream or tributary stream;
  - (ii) sedimentation of surface waters is reasonably avoided;
  - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
  - (iv) fish passage is not impeded; and,
  - (v) water flow is not unreasonably impeded.

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

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
  - (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
  - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section P-1.(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
    1. use of temporary skidder bridges;
    2. removing culverts prior to the onset of frozen ground conditions;
    3. using water bars in conjunction with culverts;
    4. using road dips in conjunction with culverts.
  - (iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
  2. be seated on firm ground;
  3. have soil compacted at least halfway up the side of the culvert;
  4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
  5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- (iv) River, stream and tributary stream crossings allowed under Section P-1.(5), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
- (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section P-1.(6)(i) below.
  - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
  - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

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

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

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section P-1.(5), but in no case shall be less than shown in the following table.

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

**S. Business Uses:**

The standards in this subsection apply to business establishments with hours of operation open and/or available for public access and use extending into the period between 10:00 pm and 4:00 am.

EXCEPTION: This subsection does not apply to rental of residential buildings and/or dwelling units including but not limited to, bed and breakfasts, inns, and campgrounds.

Standards:

1. Road Safety

- a. Entrance(s) to the business shall intersect only Routes 102 or 102A.
- b. Entrance(s) may not be grandfathered. All entrances must meet current Maine DOT technical standards.

2. Sound Attenuation

- a. Buildings containing businesses having amplified sound shall be constructed of materials designed to reduce sound transmission. Walls and ceilings shall meet or exceed a Sound Transmission Class of 60. Sound attenuating structures shall be designed and certified by a Licensed Architect or Licensed Professional Engineer.

- b. Buildings having amplified sound shall not be operated with doors, windows, sky lights, ventilator openings or other wall or ceiling penetrations in a fixed open position which will allow unattenuated transmission of sound to the outside.
- c. Amplified sound shall be generated only within the building(s) conforming to the standards in paragraphs 2a and 2b of this subsection.

### 3. Light Attenuation

- a. Direct or indirect (glare or reflection) illumination shall not exceed 0.6 foot-candle upon abutting residential properties or 1.0 foot-candle upon any other abutting properties. For purpose of this paragraph, abutting properties shall include properties that are separated from the lot by a street, road, or right-of-way. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by or do not create or constitute a hazard or nuisance to motorists, pedestrians, or neighboring residents and so that the maximum apex angle of the cone of illumination is restricted to one hundred fifty degrees (150°).
- b. The maximum height of freestanding lights shall be the same as the principle building but not exceeding twenty-five feet.
- c. Spotlight-type fixtures attached to building are not allowed.
- d. Parking area may be illuminated with a maximum average of 1.5 foot-candles.
- e. Exterior lighting, except for minimal security lighting, shall be turned off during hours when the use is not in operation.

### 4. Visual Buffering

The desired effect of these types of buffering is complete visual screening of the activity on the lot.

- a. The business use, including all buildings and parking areas, shall be enclosed by a perimeter of landscape buffering composed of one or more of the following:
  - Natural features such as topography, stands of trees, shrubbery, or rock outcrops. When such natural features do not exist, or are insufficient to provide the required screening, other kinds of screening defined in this section must be provided.
  - Evergreen trees planted in two staggered rows (spaced a maximum of 7 feet apart) spaced a maximum of 8 feet on-center. All screening trees shall be installed at a minimum height of 5-6 feet and have a minimum expected mature spread of 8 feet.
  - An earthen berm topped by evergreen plantings. The berm shall be a minimum of 5 feet high. Evergreen plantings shall be installed at a minimum height of 3-4 feet, spaced a maximum of 4 feet on-center, and have a minimum expected mature spread of 6 feet.
  - If, due to soil conditions or other factors, that would make installation of plantings impractical, the applicant may, at the discretion of the Planning Board, install suitable fencing a minimum of 8 feet in height.
- b. Buffers shall be located and maintained as follows:
  - All buffer strips shall be maintained in a neat and sanitary condition by the owner.
  - If any of the trees, shrubs, or other plantings constituting the buffer should die, the owner of the property shall replace them within six months at a ratio of one-to-one for each tree, shrub, or planting loss. The replacement plantings shall be comparable in size to those that had died or meet the minimum criteria specified in paragraph 4a of this subsection.
  - Fencing and screening shall be durable and properly maintained at all times by the owner.
  - The finished side of all fences shall face the abutting properties or the public road.
- c. All buffers shall be installed in accordance with the requirements specified in paragraph 4a of this subsection before commencement of the normal activities of the use for which the site was intended. If winter conditions prevent the installation of plantings, activities at the site may commence but installation of plantings shall proceed at the earliest opportunity in the immediately following spring and be completed by July 1 of the same year.

## SECTION VI. PERFORMANCE STANDARDS

### A. Buffering Standards

1. Purpose: To screen buildings or activities land uses that could create nuisances, to divert, block or soften lights, to reduce noise, to preserve privacy; and to reduce smells and dust. The depth of the screen and the nature of the planting required will depend upon the potential impact of a development on its neighbors. Among the factors to be considered are the number of parking spaces, the type and number of vehicles which may use the premises, and the likely frequency or intensity of use and the sheer size of very large buildings, such as storage sheds.
2. Every development shall provide sufficient buffering when the Planning Board determines that there is a need and the topography and other barriers do not satisfy the requirements.
3. Buffers are required within side and rear property lines of commercial, industrial, mobile home parks that are more dense than would be required for single family residential use and multi-family uses which abut residential or vacant properties in all zones that allow such uses. In addition, buffers are required within the front property lines of heavy commercial, heavy industrial and multi-family uses.
4. Minimum requirement: The buffer may consist of any combination of the following as long as the end result meets the performance standard.
  - a. effective natural area 25' deep;
  - b. planted evergreen belt 15' deep;
  - c. wooden fence.
5. Plant specifications: The natural area or planted belt shall be of sufficient number and species selected and planted according to generally accepted horticultural practices, to yield an effective year-round screen within 4 years. A wooden fence, berm, wall or other such construction may be included in such buffers if the Planning Board determines that it meets the performance standard.
6. Maintenance: Plantings shall be maintained by the property owner.

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

#### 1. Resource Protection Zone

##### a. **Buffer Strip**

In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line except to remove safety hazards.

- b. Elsewhere, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in the Resource Protection Zone.

#### 2. Rest of the Shoreland Zones - Buffer Strip

Except in areas as described in Section B.1, above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond, 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 sqft. in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
  
- b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. Adjacent to a great pond or a stream flowing into a great pond, a "well-distributed stand of trees " shall be defined as maintaining a minimum rating score of 24 or more per each 25-foot by 50-foot (1250) square feet) area as determined by the following rating system.

| Diameter of Tree at 4-1/2'<br>Above Ground Level (inches) | Points |
|---|--------|
| 2 - <4 inches   | 1      |
| 4 - <8 inches   | 2      |
| 8 - <12 inches  | 4      |
| 12 inches or greater                                      | 8      |

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

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

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

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

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section B.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 4-1/2 feet above ground level, may be removed in any 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 B.2 above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree, is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section B.2. above 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. **Rest of Shoreland Zones- Areas Beyond the Buffer Strip Within 250' of the Normal High-water Line**

- a. At distances greater than one-hundred (100) feet, horizontal distance, from a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any 10-year period, selective cutting of not more than 40% of the volume of trees 4" or more in diameter, measured 4-1/2' above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.
  - b. 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 10,000 sqft., whichever is greater, including land previously cleared. This provision shall not apply to the Commercial Fisheries/Maritime Activities Zone.
- 4. Legally existing non-conforming 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 this section.

**C. Cluster Development Standards**

- 1. The purpose of this development option is to allow an alternative zoning provision which provides for desirable and proper open space, tree cover, recreation areas or scenic vistas, all with the intent of preserving the natural beauty of the site. At the same time, the necessary maximum dwelling unit density limitations of the particular zone will be maintained.

2. Cluster development shall apply only to residential development and no clustered development shall exceed 40 units, with a maximum of 10 units in a cluster.
3. For a cluster development in which individual lots will be created or conveyed, the developer may reduce the minimum lot size requirements of the zone in which the development is located provided that the total area of common open space within the development equals or exceeds the sum of the areas by which any individual lots are reduced below the minimum lot size normally required in that zone. When individual lots will not be created or conveyed, the total land area within the development shall equal or exceed the total area required within the zone for the number of dwelling units to be created. Land not utilized for buildings, roads or accessory structures shall be preserved as common open space. The minimum lot area and shore frontage requirements of Section IV. shall not be reduced for any portion of any lot within the shoreland zone.
4. All structures subject to setback requirements of this Ordinance shall be set back the required distance from the lines of the parcel being developed as well as the lines of the individual lots and such requirements shall not be reduced except pursuant to a duly granted variance. When individual lots will not be created or conveyed and all land will be commonly owned, no buildings within the development shall be closer to one another than twice the distances set forth in the setback requirement of the zone in which the lot is located. No building may be closer to any road created by the developer than the setback requirement of the zone. The shoreline setback requirements of Section IV. shall not be reduced for any structure within the shoreland zone.
5. For a cluster development in which individual lots will be created or conveyed, the developer may increase the maximum lot coverage on the individual lots provided that in no event shall lot coverage of non-vegetated surfaces exceed 90%; and provided further that the combined coverage of the lots being developed, including any common open space, shall not exceed the maximum lot coverage set forth for the zone in which the lots being developed is located. When individual lots will not be created or conveyed and all land will be commonly owned, the maximum lot coverage for the lot being developed shall not exceed the maximum lot coverage set forth for the zone in which the lot is located. Maximum lot coverage standards of Section IV. shall not be increased for any portion of any lot within the shoreland zone.
6. For a cluster development in which individual lots will not be created or conveyed and in which all land will be commonly owned, each residential building shall have such access to a public road, or to a private road giving access to a public road, as will reasonably ensure access to the building by emergency vehicles and as to provide for the safe passage and circulation of pedestrian and vehicular traffic.
7. In any cluster development there shall be maintained as common open space an area of land equal to or greater than the open area that would otherwise remain in the development if individual lots of the minimum size required in the zone were created and if said lots were each built upon to the maximum lot coverage allowed in the district. Further development of the common open space, except for easements for utilities, shall be prohibited by deed restrictions or recorded easements. All common open space shall be shown on the development plan with appropriate notation.
8. Private ownership of open space. It shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any other specifications deemed necessary by the Planning Board.

9. The developer shall present the Planning Board with proposed language for incorporation into deeds, recorded plans and declarations designed to ensure the integrity, protection and maintenance of the common open space. Such language shall be subject to the approval of the Town Attorney to be sure it will accomplish its intended purposes. The developer will comply with all reasonable requests of the Town to incorporate such language in appropriate documentation to ensure the purposes of this section will be met. Any violation of the conditions is a land use violation enforceable by the CEO.
10. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common open space.
11. All dwelling units shall be connected to a common water supply and distribution system unless the developer clearly demonstrates to the Planning Board that:
  - a. adequate ground water is available at all locations proposed for individual water systems; and
  - b. the groundwater source(s) proposed for individual water systems is safe from both on-site and off-site contamination.
12. All structures with required plumbing in the development shall be connected to a private central collection and treatment system or individual septic systems in accordance with minimum standards set forth in the State of Maine Plumbing Code. The developer shall clearly demonstrate to the Planning Board that:
  - a. adequate soils and land area are available at all locations proposed for the central system and/or to the individual septic systems;
  - b. the proposed system(s) shall in no way endanger ground water supplies which are currently being utilized as a water source for any existing development; and
  - c. the proposed system(s) shall in no way endanger ground water supplies which will be utilized by any proposed common or individual water system in the cluster development.
13. When a private central collection and treatment system is to be utilized, the developer must produce an engineering study to show there is adequate soakage capacity available for the number of units involved.
14. The developer or subsequent owner shall not create any dwelling units in excess of the number originally granted site plan approval unless said developer or owner receives approval from the Planning Board for a revised plan.

#### **D. Erosion and Sedimentation Control Standards**

1. The Planning Board shall require that all activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit have a written soil erosion and sedimentation control plan. That plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - a. Mulching and re vegetation 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 1 (one) week from the time it was last actively worked, by use of rip rap, 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 minimize 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. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap .

#### **E. Fill and Excavation Standards**

A separate fill or excavation permit is required for the moving of 100 cu.yds. or greater of inert fill if the operation is not associated with permitted construction. Upon completion of work, the permit shall require the site to be properly graded (not steeper than 1:2, or such lesser slope as may be necessary to prevent erosion) and to be revegetated.

#### **F. Fire Protection Standards**

Plans for transient accommodations, marinas, nursing homes, convalescent centers, multi-family developments, hospitals, schools, theaters, mercantile developments over 3000 sqft., business occupancy of 2 or more stories, etc. shall be approved by the State Fire Marshall's Office.

#### **G. Flood Hazard Area Standards**

A Flood Hazard Development Permit must be obtained from the Planning Board before any change caused by individuals or entities to improved or unimproved real estate begins within any areas of special flood hazard identified on the Federal Insurance Rate Maps (FIRM) for Tremont.

(Including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities; and the placement of manufactured homes.)

#### **H. Parking Standards**

1. Standards:

- a. If the applicant demonstrates to the Planning Board that the proposed project, which is outside the shoreland zone, will not have an adverse impact on parking congestion in the area, the Board may waive the parking standards. Otherwise, any additions, modifications or change in use will require compliance with the parking standards for the existing use, the addition and/or modification, or the change in use. Those land uses which are unable to comply with the above will provide as much of the parking and loading for the existing use as they can, and all the additional parking and loading required by the addition, modification or use change.

EXCEPTION: All marinas must provide actual .75 parking stalls/boat slip and mooring. Grandfathered parking is prohibited. Other uses on the site shall meet their own parking requirements. Dedicated drop-off areas are required at the dockside at the rate of 1/20 slips and moorings.

- b. Parking space shall be provided in accordance with the following standards:

1) (a) The minimum parking bay shall be 9-1/2' by 18'.

(b) The minimum parking bay for a vehicle and boat trailer shall be 9-1/2 feet by forty (40) feet long.

2) Aisle width: 24' two way  
16' one way only for 60 degree parking  
12' one way only for 45 and 30 degree parking

3) Space required by use:

Dwellings:

Single family unit - 2/family unit  
Additional family unit - 1/family unit  
Multi-family units - 2/unit

Health Institutions:

1/3 beds and 1/2 employees

Hotels, inns, cabins, cottages, etc.:

1/1 sleeping room plus 1/2 employees

Maritime activities - commercial and recreational:

.75/slip and/or mooring and 1/2 employees

Maritime activities - industrial:

1/2 employees

Offices and public buildings:

1/200 sqft. of gross floor area

Restaurants, other eating and drinking establishments:

1/4 seats and 1/2 employees

Retail stores:

1/200 sqft. of floor area used for retailing - not storage

Schools:

1/classroom and 1/4 employees

Theaters, churches and other assembly places:

1/200 sqft. of gross floor area

Warehouses and storage facilities:

1/employee plus loading bay

- c. The joint use of a parking facility by two or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.

2. Site Layout

- a. Provision shall be made for providing and maintaining convenient and safe emergency vehicle access at all times.
- b. Parking shall be arranged so that vehicles do not back into the street.
- c. All driveway entrances and exits shall be kept free from visual obstructions higher than 3' above street level for a distance of 25' measured along the intersecting driveway and street lines in order to provide visibility for entering and leaving vehicles.
- d. Off-street parking and loading spaces, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than 6' in height and 15' in width along exterior lot lines adjacent to residential properties, except that driveways shall be kept open to provide visibility for entering and leaving.
- e. Shade trees - Any parking lot with 10 spaces shall require 1 tree, 20 spaces requires 2 trees, etc. in increments of 1 tree/10 spaces. (This is to be applied to parking spaces already in existence at the time of this amendment - May, 1992 -if the lot is expanded.)
- f. Off-street/off-site parking shall be considered accessory to the principal use and shall be permitted only when parking requirements cannot be met on-site. The following criteria shall apply to an off-site area:
  - 1) All of the requirements for an on-site parking area.
  - 2) The distance between the proposed off-site parking area must be a reasonable and convenient distance for the proposed user.
  - 3) The proposed access route between the off-site parking area and the site must provide for safe pedestrian and vehicle traffic.
  - 4) Drop-off areas shall be provided at the site and the off-site parking area.
- g. Parking spaces shall be provided for use at the same time the building is ready for use.
- h. Parking areas shall meet the shoreline setback requirements for structures for the zone in which such areas are located, except that in the Commercial Fishery/Maritime Activity Zone parking areas shall be set back at least twenty-five (25) feet horizontal distance from shoreline. The setback requirement for parking areas serving public boat launching facilities, in zones other than the Commercial Fishery/Maritime Activity Zone, shall be reduced to 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.

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

## I. Roads, Driveways and Driveway Openings Standards

1. Any public road requiring acceptance by the Town shall be designed and constructed to the specifications of the Road Ordinance of the Town of Tremont.
2. Any road not requiring acceptance by the Town shall be designed and constructed to the following standards:

- a. Design standards:

|  |         |
|--|---------|
| Minimum right-of-way                                       | 30'     |
| Minimum grade  | 0.5%    |
| Maximum grade  | 10%     |
| Minimum tangent between curves of reverse alignment        | 100'    |
| Minimum angle of road intersection                         | 60 deg. |
| Maximum grade at intersection (within 50' of intersection) | 3%      |
| Minimum sight distance                                     | 150'    |
| Minimum radii of intersection                              | 30'     |

3. a. Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance from the normal high-water line of a great pond and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board.

EXCEPTION: 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.

- b. On slopes of greater than 20% the road and/or driveway setback from the normal high-water line shall be increased by 10' horizontal distance for each 5% increase in slope above 20%.
  - c. Section I.3 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 this section except for that portion of the road or driveway necessary for direct access to the structure.
4. Existing public roads may be expanded within the legal road right-of-way regardless of the setback from a water body, tributary stream, or wetland.

5. No part of any driveway or road shall be located within a minimum of 6' of a side property line. The Planning Board may permit:
  - a. a driveway serving adjacent sites to be located within the 6' area of the side property line between the adjacent sites; and
  - b. a driveway or road which does not meet these standards if the lot frontage prohibits compliance.
6. A road opening permit must be obtained from the Town for any driveway or road opening onto a Town road; a highway entrance and road opening permit must be obtained from MDOT if the driveway or road opens onto a State road.
  - a. The Town road must be returned to its original condition upon completion of the driveway opening construction.
  - b. Specifications for the required storm water drainage culvert size are contained in the Road Ordinance of the Town of Tremont.
  - c. The Code Enforcement Officer shall be notified of the date of construction of the driveway or road opening.
7. Road and driveway banks shall be no steeper than a slope of 2 (horizontal): 1 (vertical), and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subsection D. above.
8. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed and maintained to empty onto an unscarified buffer strip at least 50' 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 unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
9. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:
  - 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<br>% | Spacing<br>in 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 down slope 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.
10. 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.
  11. New roads and driveways are prohibited in a Resource Protection Zone except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the zone, A road or driveway in the Resource Protection Zone may also be approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the zone. When a road or driveway is permitted in a Resource Protection Zone, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, stream or upland edge of a wetland.
  12. When the Town posts roads restricting allowable weight over them, the maximum weight allowed shall be 23,000 pounds. It shall be a violation of this Ordinance to use larger vehicles and any damage to the roads shall be borne by the violator.

**J. Septic Waste Disposal Standards**

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (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
2. The Rules, among other requirements, include:
  - a. The minimum setback for new subsurface sewage disposal facilities systems, shall be no less than 100 horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.
  - b. Replacement systems shall meet the standards for replacement systems as contained in the Rules.
  - c. The following minimum setbacks from the Maine State Plumbing Code shall apply:

| Distance in Feet<br>Between | Treatment<br>Tank | Disposal<br>Area |
|-----------------------------|-------------------|------------------|
| Buildings                   |                   |                  |
| With basements              | 8                 | 20               |
| Without basements           | 8                 | 15               |
| Property Line               | 10                | 10*              |

\*Sufficient distance shall be maintained to assure that all fill remains on property.

## K. Sign Standards

1. Within the shoreland zone, signs relating to goods and services sold on the premises shall be allowed, provided such signs do not exceed 6 sq. ft. in area on each side except in the Harbor Zone and Commercial Fishery/Maritime Activity Zone where they cannot exceed 24 sqft. The number of signs shall not exceed 2 signs per premise or business. (This number does not include directional signs; i.e., In, Out, Do Not Enter, etc.) Signs relating to goods and services not rendered on the premises shall be prohibited.
2. Outside the shoreland zone, 4 signs/premise or business may be permitted no greater than 24 sqft. per sign. Tremont official business directional signs are only allowed within the right-of-way of state or town roads.
3. Name signs shall not exceed 2 signs per premises not to exceed 4 square feet per sign, and shall not exceed 12 square feet in the aggregate within the shoreland zone.
- ..
4. Residential users may display a single sign not over 3 sqft. in area relating to the sale, rental or lease of the premises.
5. Signs relating to trespassing and hunting shall be allowed without restriction as to number, provided that no such sign shall exceed 2 sqft. in area.
6. Signs relating to public safety shall be allowed without restriction.
7. No free-standing sign shall extend higher than 20' above the ground. No sign attached to a building shall extend higher than the roof line.
8. Signs may be illuminated only by shielded, non-flashing lights.
9. A sign with a double signboard or display area shall be construed to be one sign for the purpose of this Ordinance. The area of one face of a two-sided sign shall be deemed to be the total area of the sign.
10. A home occupation shall have only one (1) sign and it shall not exceed six (6) square feet.
11. All signs exceeding six (6) square feet require a permit.

## L. Soils

1. All land uses shall be located on soils in or upon which the proposed uses 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 must comply with the following standards.
2. The Planning Board may determine that proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses shall require a soils report prepared by and based on an on-site investigation by State-certified professionals. (Submittal of a soils report is required for any proposed uses within the shoreland zone) 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.
3. The report shall be based upon any of the following relevant criteria:

- a. the analysis of the characteristics of the soil and surrounding land and water areas;
  - b. maximum ground water elevation;
  - c. presence of ledge;
  - d. drainage conditions;
  - e. other pertinent data which the evaluator deems appropriate; and
  - f. the GIS maps of Tremont soils, wetlands and contours in the Town Office.
4. The soils report shall include any recommendations for a proposed use to counteract soil limitations where they exist.

#### **M. Storm Water Runoff Standards**

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

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

#### **N. Water Quality**

1. 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.
2. The following activities may require a permit under the Natural Resources Protection Act from the Department of Environmental Protection if performed in, on or over any freshwater or coastal wetland, great pond, river or stream, or adjacent\* to said natural resources such 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;
  - d. Any construction, repair or alteration of any permanent structure.

\*The DEP has defined "adjacent" to mean any land within the floodway of a river, stream or brook; or any land area within 100' of the normal high-water line or upland edge of a coastal wetland, freshwater wetland, river, stream or brook.

## **O. Lake Watershed Phosphorous Protection**

These provisions shall apply to all proposed development lying within the Seal Cove and Hodgdon Pond lake watersheds as shown on the Tremont Comprehensive Plan, Water and Marine Resources Map. A participant in a permit proceeding wishing to show that the location of the proposed activity is, or is not, in fact within one of the watersheds may rebut the presumption of the accuracy of the watershed map only by the production of clear and convincing evidence, including expert testimony, that the location is, or is not, in fact within the relevant watershed.

The proposed development will be designed to retain an absorbent vegetative buffer of at least 75 feet down slope of any developed area. The Board may require larger buffer areas for slopes exceeding 15 percent.

The following practices and activities are restricted within the buffer, unless approved by the Planning Board:

- Clearing of existing vegetation.
- Soil disturbance by grading, stripping, or other practices.
- Filling or dumping
- Drainage by ditching, underdrains, or other systems.

Refer to the Maine Department of Environmental Protection's manual: "Storm water Management for Maine: Best Management Practices" for guidance.

The buffer shall be located, designed and vegetated in such a manner as to effectively prevent any channelization of water or measurable amount of sediment from leaving the site, thus minimizing phosphorous runoff. If access must be provided through the buffer area, drainage shall be designed to guide storm water from the accessway into the buffer area to prevent phosphorous runoff.

The property owner shall be responsible for construction and maintenance of the buffer.

The Board may require larger buffer areas or interruption of impervious surfaces of over one acre in extent with buffer areas if necessary to effectively prevent channelization and absorb runoff on site. On non-conforming lots legally created before enactment of this provision, the Board may reduce the size of the buffer proportionally. Alternative measures (e.g., detention ponds) to accomplish this objective may be proposed to the Planning Board for approval

All plats prepared for recording and all right-of-way plats shall clearly:

- Show the extent of any buffer on the subject property.
- Label the "Absorbent Vegetative Buffer."
- Provide a note to reference any buffer stating: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the Planning Board."
- Provide a note to reference any protective covenants governing all buffer areas stating: "Any buffer shown hereon is subject to protective covenants which may be found in the Zoning Ordinance and which restrict disturbance and use of these areas."

All lease or sale agreements must contain a notation regarding the presence and location of absorbent vegetative buffers.

## **P. Lighting - Outdoor**

1. Purpose. To establish requirements for outdoor lighting that enhance visibility and public safety by preventing uncontrolled intrusion into adjacent properties and the natural environment. Recommended best practices are intended to promote energy conservation and preserve the Town's night sky which is an important part of the Town's character.

### **2. Requirements**

These requirements apply only to construction with outdoor lighting permitted after

May 12, 2009.

1. Full cutoff. All lights greater than or equal to 1800 lumens (a 100 watt incandescent light produces 1800 lumens) shall be shielded to direct all light towards the ground.
2. Light trespass. All light shall be directed away from adjacent properties. The light sources in flood and spot lights shall not be directly visible from adjacent properties nor be directly visible to motorists on public roads.
3. Structural Canopies. Areas under structural canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum illumination) shall be no greater than 5:1 with an average illumination level of not more than 30 foot candles. Light fixtures located on structural canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.

### **3. Exceptions to article 2. Requirements stated above**

All lighting less than 1800 lumens and lighting of churches, flags, emergency lighting, and holiday lighting.

NOTE: Recommended Best Practices

1. Motion sensors. Use motion sensors to control flood and spot lights.
2. HPS lights. Use high pressure sodium (HPS) lights to minimize sky glow where color recognition is not needed.
3. Non-security parking lights. Turn off non-security parking lot lights after business hours to save energy and protect the night sky.
4. Minimum amount of lighting. Provide the minimum amount of light needed to achieve safe uniform lighting with lights that consume the lowest amount of power possible.
5. Shield or flush mount lights. Fully shield or horizontally flush mount all lights.
6. Signs and flags. Illuminate signs and flags from above and shield all sports lighting.
7. Guidelines for professional design. Request that professionals follow Illuminating Engineering Society guidelines for intensity and uniformity and not to exceed the minimum recommended values.

## **SECTION VII. NON-CONFORMANCE**

**A. Purpose** - It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that legally existed before the effective date of this Ordinance and subsequent amendments shall be allowed to continue, subject to the requirements set forth in Section VII. Except as otherwise provided in this ordinance, a non-conforming condition shall not be permitted to become more non-conforming

### **B. General**

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

### C. Non-conforming Structures

#### 1. Expansions:

- a. 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 Section C.1.a(1) below. For the purposes of this section, a basement is not counted toward floor area.
  - (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 high-water 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 floor area for all portions of those structures within that 75 foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet horizontal distance of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
    - (d) For structures located less than 100 feet horizontal distance from the normal high-water line of a great pond, the maximum combined total floor area for all portions of those structures within that 100 foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet horizontal distance from the normal high-water line of a water body, tributary stream or the upland edge of a wetland must meet the floor area and height limits of subparagraph (c) above.
    - (e) The addition of a deck or other structures as defined with floor area shall constitute an expansion.
    - (f) 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 C.2.c. Relocation, below. If the completed

foundation does not extend beyond the exterior dimensions of the structures, except for expansion in conformity with Section C.1.a(1) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill,) it shall not be considered to be an expansion of the structure.

2. Relocation:

- a. 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.
- b. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.
- c. 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, at least (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.
  - (2) Other woody and herbaceous vegetation and ground cover that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
  - (3) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation, which may consist of grasses, shrubs, trees, or a combination thereof.

3. Reconstruction or replacement:

- a. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause;
  - 1) 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 one year 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 C.1. above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the replaced 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 2, paragraph c. above.

2) 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.

b. In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board or its designee shall consider 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, the type and amount of vegetation to be removed to accomplish the relocation and the physical condition and type of foundation present, if any.

#### 4. Change of Use of a Non-conforming Structure

a. 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.

b. 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 water, natural beauty, floodplain management, archeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### D. **Non-conforming Uses**

##### 1. Expansions:

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

##### 2. Resumption Prohibited:

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use

except that the Planning Board, may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding 5-year period.

3. Change of Use:

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including functionally water-dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to the following criteria: 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 water, natural beauty, floodplain management, archeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

E. **Non-conforming Lots:**

1. Vacant lots: A vacant 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.

2. Built Lots: A non-conforming lot of record that was built upon prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions:

- a. Structures may be repaired or maintained, and may be enlarged in conformity with the standards of this Ordinance.
- b. If the proposed enlargement cannot meet the dimensional requirements of this Ordinance, a variance may be requested from the Board of Appeals.

3. Contiguous Built Lots:

a. If 2 or more contiguous lots are in single or joint ownership and if all or part of the lots do not meet the dimensional requirements of this Ordinance, or subsequent amendment of this Ordinance, and if a principal use or structure existed on each lot, at the time of adoption of this Ordinance or subsequent amendments thereto, the non-conforming lots may be conveyed, separately or together, provided that the State Minimum Lot Size (12 M.R.S.A. sections 4807-A through 4807-D) and the and State of

Maine Subsurface Wastewater Disposal Rules are complied with.

b. If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the law and rules of Section D.3.a. above are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

4. Contiguous Lots - Vacant or Partially Built: If 2 or more contiguous lots 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.

## **SECTION VIII. PERMIT APPLICATION AND REVIEW PROCEDURE**

### **A. Permit Applicability**

No building, structure or land shall hereafter be used or occupied; no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, altered to change the use, or demolished; no use will be changed; no new lot shall be created for a building, structure or activity; and no new land use activity as defined in Section V shall occur, except in conformity with all of the regulations herein specified for the zone in which it is located and the relevant performance standards, unless a variance is granted. A permit shall be obtained from the appropriate review authority. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **B. Review Authority**

#### **1. The Code Enforcement Officer:**

- a. All single family residential construction;
- b. Commercial additions 100 sq. ft. or less;
- c. Alteration of a residential or commercial building or structure which affects its footprint, height or location;
- d. Temporary structures in conformance with the provisions of this Ordinance for up to 7 months;
- e. Placement of signs;
- f. Timber harvesting in the Resource Protection Zone;
- g. Clearing or removal of vegetation for activities other than timber harvesting in the shoreland zones (unless such activity occurs as part of an application for the use);
- h. The moving or excavation of 100-500 cu.yds. of inert fill; or
- i. Residential driveways.

#### **2. The Planning Board**

- a. All new multi-family residential construction;
- b. Home occupation/profession;
- c. All new commercial buildings, and additions greater than 100 sq. ft.;
- d. Industrial, Government and Institutional activities;
- e. Mineral extraction including sand and gravel;
- f. Agriculture and Aquaculture;
- g. Campgrounds;
- h. Marinas;
- i. Piers, docks wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland;
- j. Road and commercial driveway construction;
- k. Parking facilities;
- l. Essential services;
- m. Filling or other earth-moving activity of more than 500 cu. yds.;
- n. Any change of use; and
- o. Any other activity not designated above.
- p. Junkyards and Automobile Graveyards
- q. Communication Towers

### C. **Plumbing Permit Required Prior to Building Permit**

No building permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities or an increase in the number of bedrooms unless a permit has been secured from the Local Plumbing Inspector by the applicant or his or her authorized agent, according to the requirements of this Ordinance. When a subsurface wastewater disposal system is required, the application approved by the site evaluator and the Plumbing Inspector must be included in the permit application.

### D. **Permit Application Submission Procedure**

#### 1. Filing of Application:

Every applicant for a permit shall submit a written application, on a form provided by the Town, to the appropriate official as indicated in Section B. 1. and 2. above. Each plan must include a scaled site plan. The Selectmen reserve the right to set an application fee from time to time reflecting the costs to the Town.

##### a. Review by the **Code Enforcement Officer:**

- 1) The original form and one copy shall be submitted with the plans for the project.
- 2) The original application shall be retained by the Town and filed with a copy of the permit; the copy of the application will be returned with the original of the permit to the applicant.

##### b. Review by the **Planning Board:**

- 1) The original form and nine copies shall be submitted with the plans for the project.
- 2) The original application shall be retained by the Town and filed with a copy of the permit; a copy of the application will be returned with the original of the permit to the applicant.

#### 2. Burden of Proof:

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the standards of this Ordinance. The Code Enforcement Officer or Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance.

#### 3. Right, Title or Interest.

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.

#### 4. Upon receiving an application and the appropriate application fee, the Town shall issue a dated receipt of this filing, to the applicant.

#### 5. Completeness of Application:

Within 35 calendar days from the dated receipt, the reviewing authority shall notify the applicant either that the application is a complete or an incomplete application. The decision will be dated and copies issued to the applicant.

- a. If an application is deemed to be incomplete, the additional material needed to make the application complete shall be specified to the applicant in writing.
- b. The applicant will have 30 calendar days to return with the specified material to make the application complete. The reviewing authority shall then determine if the application is complete.

- c. If the applicant is unable to meet the 30 day requirement an additional 30 calendar days may be requested by the applicant to the reviewing authority, who may grant one 30-day time extension for just cause.
  - d. If the applicant does not provide the requested material within 30 calendar days or request an extension of time, as noted in Section D.5.c. above, the reviewing authority shall deny the application as incomplete.
  - e. If the application is denied as noted in Section D.5.d. above, and if the applicant wishes to continue with the project, an entirely new application must be submitted and reviewed as a separate and new application.
6. Applications for approval under this Ordinance must include evidence that all appropriate local, state and federal agencies have been requested to determine if additional permits must be sought from them. Final approval will be given conditionally upon receipt of these permits if they are required.
7. When the reviewing authority has determined that the application is complete, the date shall be so noted on the application form. A dated receipt may be issued if so requested. An application is pending only after it has been determined to be complete by the reviewing authority.
8. The CEO shall act on completed applications presented to him/her according to the following procedure:
  - a. Within 35 calendar days after the application has been accepted as complete, the Code Enforcement Officer shall send notice of the application by first class mail to all abutting property owners.
  - b. On or after 7 calendar days from the date of notification, the CEO shall approve or deny in writing on the conformity of those uses which he has authority to hear as established in Section X. The CEO may request the advice and concurrence of the Planning Board on any application and shall refer any application to the Planning Board for decision, which in the CEO's judgment requires a public hearing or otherwise requires action by the Planning Board.
9. The Planning Board may conduct a workshop session with the applicant during a scheduled Planning Board meeting and before submission of the completed application.
10. The Planning Board shall act on completed applications presented to it according to the following procedure:
  - a. The Planning Board shall hold a public hearing on the application within 35 calendar days of determination that an application is complete. The Town shall send notice of each public hearing by first class mail to all abutting property owners.
  - b. The applicant or his duly authorized representative shall attend the meeting of the Board to discuss the application.
  - c. The Planning Board shall either approve or deny the application in writing within 35 calendar days of the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and applicant. Applications shall be approved only by majority decision that the proposed use is in conformance with the land use and land use standards of this Ordinance. If the permit is denied, the denial shall include a statement of findings of fact and of reasons in support of the decision. If the permit is approved, the approval may include a statement of findings of fact.

## **E. Permit Application Review Criteria**

1. The permitting authority shall review a completed application and shall grant an approval only if the permitting authority makes a positive finding that the application complies with the requirements of this Ordinance.
  - a. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
    - (1) Will maintain safe and healthful conditions;
    - (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
    - (3) Will adequately provide for the disposal of all wastewater;
    - (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
    - (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
    - (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
    - (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
    - (8) Will avoid problems associated with floodplain development and use; and
2. The Permitting Authority may attach such restrictions or conditions as it deems necessary to ensure compliance.
3. If a permit is either approved with conditions or denied, the reasons as well as conditions shall be stated in writing.
4. 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 any State law which the Town is responsible for enforcing.

## **F. Modification and/or Amendment to an Approved Permit**

1. The permit shall have been approved within the last year.
2. The modification and/or amendment shall be minor; e.g., an accessory structure, a small addition or modification to the approved structure, under 100 sqft., etc.
3. The CEO shall be the permitting authority for the modification and/or amendment. The CEO will request the advice and concurrence of the Planning Board if the modification and/or amendment raises unusual questions or if, in the CEO's judgment, a public hearing should occur.
4. The procedure for a modification and/or amendment shall be the same as for any permit except that the Completeness of Application shall only refer to the modification and/or amendment.

## G. Fees

1. Each application submitted for review shall be accompanied by a nonrefundable administrative fee of \$15.00.
2. An approved application shall become subject to the following permit fees:
  - a. **New buildings, additions and modifications.**  
Residential Structures - 10 cents per square foot of floor area.  
Commercial Structures - 20 cents per square foot of floor area.  
**Minimum charge** - \$15
  - b. **Home Occupation** \$15
  - c. **Fill/Excavation permits** \$25 up to 500 yards, \$50 over 500 yards
  - d. **Road/Driveway permits** \$20
  - e. **Change of Use** \$20
  - f. **Sign permits** \$10
  - g. **Commercial towers** \$5 per linear foot
  - h. **Ponds** \$15
3. A minimum \$100.00 or a triple permit fee, (whichever is greater) shall be charged for After-the-Fact permit applications in order to encourage compliance with the Zoning Ordinance. This amount shall be determined from time to time by the Board of Selectmen.
4. All advertising and hearing costs shall be paid by the applicant.
5. The Planning Board reserves the right to obtain an independent evaluation of a proposed development, to assist them in making necessary findings of fact. If the Planning Board deems such study necessary, it will request a reasonable additional sum from the applicant to defray the cost of such study or studies. Any funds not utilized for consultant studies will be returned to the developer.

## H. Issuance of the Building Permit and the Life of the Permit

1. The CEO shall issue a Building Permit upon application approval by the appropriate review authority. Applicant must pick up and pay for this permit before proceeding.
2. Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void. A new permit must be obtained.
3. The project must be complete within 5 years of the effective date of the permit, except in the shoreland zone, where 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.

4. A request may be made to the original authorizing authority (Planning Board or CEO) for an extension to the start time or completion time of one year, but not to exceed two extensions , except in the shoreland zone, where if a substantial start is made within one year of the issuance of the permit, the applicant may request two additional years to complete the project, at which time the permit shall expire; should the project not be completed, a new permit must be applied for and any new requirements must be complied with.

## **SECTION IX. APPEALS**

### **A. Board of Appeals Ordinance**

1. The Ordinance of the Tremont Board of Appeals establishes their regulations, requirements and procedures. This is available at the Town Office.
2. An appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the CEO or the Planning Board within 30 days of the date of the decision appealed from, and not otherwise. In the event of a written decision, the date of decision is the date of written issuance.

### **B. The Board of Appeals has the following powers relating to this Ordinance:**

#### **1. Administrative Appeal**

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.

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 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.

#### **2. Variance Appeal**

To authorize variances upon appeal, within the following limitations:

- a. The establishment of a use otherwise prohibited shall not be allowed by variance.

- b. A variance shall not be granted because of the presence of nonconformities in the district or in an adjoining district.
  - c. Except as provided in Section B.2. d. and e. below, variances may be granted by the Board only from the following dimensional requirements: lot area, percent of lot coverage and setback requirements, and only where strict application of this Ordinance, or a provision thereof, would cause "undue hardship" to the applicant and his property. (This term is defined in the Board of Appeals Ordinance.)
  - d. Notwithstanding Section B.2.e below, the Board of Appeals may grant a variance to an owner of residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
  - e. To hear and authorize a setback variance subject to Title 30-A, Section 4353 (4-B) which establishes a special "undue hardship" definition for single family dwellings which are primary year-round residences.
  - f. Whenever the Board of Appeals grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed or deeds of ownership in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form and provided to the applicant for recording in the local registry of deeds. Variances not recorded within 90 days of final approval of the variance shall be invalid. No rights may accrue to the variance recipient or his heirs, successors or assigns unless and until the recording is made within 90 days.
  - g. 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
- 3. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
  - 4. The Board of Appeals shall state there 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.

## **SECTION X. ENFORCEMENT**

### **A. Nuisances**

Any violation of this Ordinance, including any building constructed or altered, any mobile home located or relocated, any new sign, or any fill/excavation operation which violates the provisions of this Ordinance shall be considered a nuisance.

### **B. Code Enforcement Officer:**

A Code Enforcement Officer shall be appointed or reappointed annually by July 1<sup>st</sup>.

1. It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done; removal of illegal buildings or structures, and abatement of nuisance conditions. The CEO shall require compliance with this written notice. A copy of such notices shall be submitted to the Planning Board, the Town officers and shall be maintained as a permanent record.
2. The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.
3. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

### **C. Legal Actions**

1. When the above action does not result in the correction or mitigation of the violation or nuisance condition, the Town officers, upon notice from the CEO, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
2. The Town 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 Town 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.
3. A decision of the CEO to take enforcement action for violations of this Ordinance or any permit issued pursuant to this Ordinance is not appealable to the Board of Appeals. This Ordinance shall be enforced in accordance with Title 30-A MRSa Paragraph 4452.

## **SECTION XI. DEFINITIONS**

Terms not defined herein shall be defined according to the latest version of Black's Law Dictionary or Webster's Dictionary. As used in this Ordinance, the following definitions shall apply.

**Absorbent Vegetative Buffer** – A vegetated area, including trees, shrubs and herbaceous vegetation, which exists or is established to protect a stream system, lake reservoir, or coastal estuarine area. Alteration of this natural area is strictly limited.

**Accessory Structure or Use** - A use or structure which is incidental, accessory, 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** - A person whose land 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 and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

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

**Bed and Breakfast**- An owner-occupied dwelling in which lodging or lodging and meals are offered to guests for compensation.

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

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

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

**Bureau** – State of Maine Department of Conservation's Bureau of Forestry

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

**Campsites** - Any plot of ground within a campground intended for the occupancy by a recreational vehicle or a camping unit.

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

**Cluster Development** - A development approach for residential dwelling units in which building lots shall be reduced in size and buildings sited closer together, usually in groups or clusters, provided the total density does not exceed the density requirements of the zone in which the development is located. The additional land that remains undeveloped must be preserved as open space and recreational land.

**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.

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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.

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**Commenced** - Means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation; nor does it include the installation of streets and/or walkways; nor does it include excavation or erection of temporary forms; nor does it include the installation of accessory buildings.

**Commercial Use** - The use of lands, buildings or structures, other than a "home occupation," as 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 (except by transients).

**Communication Towers** - Towers, poles and their associated structures the purpose of which is to provide communication services, including but not limited to telephone and radio, beyond the boundaries of the parcel on which the facilities are located.

**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.

**Detention Pond** - An impoundment designed to temporarily store runoff and release it at a controlled rate.

**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.

**Developed Area** - Area in which any of the following activities take place: clearing, grading, excavation, filling, structural development, or the creation of impervious surfaces.

**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 a 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 educational, vocational rehabilitation or related services.

**Driveway** - A vehicular access-way less than 500' 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 cable 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 floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of Use** - The addition of one or more months to a use's operating season or the use of more floor area or ground area devoted to a particular use.

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

**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, as measured from the exterior faces of these walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Footprint** - Exterior perimeter of a structure

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

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

**Forested Wetlands** - A freshwater wetland dominated by woody vegetation that is six (6) meters (approximately 20') tall or taller.

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

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

1. of 10 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 and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.

**Great Pond** - Any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres, except for the purposes of this Ordinance, where the artificially formed 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.

**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. Filling or excavating for the placement of a building may not be done to circumvent the height limitation.

**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.

**Hotel, Motel, Motel, Cabins, Cottages, etc.** - A building or group of buildings containing rooms which are used or rented for sleeping purposes by transients.

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body,

tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing

nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

**Junkyards and Automobile Graveyards** - shall be defined in accordance with Title 30-A M.R.S. § 3753-3755

**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** - A parcel of land whose boundaries have been established by some legal instrument such as a current recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

**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 2 lots, if the lot has been created since May 12, 1992.)

**Lot Coverage** - The percentage of covered area to lot area. Covered area is defined as the extent of roofs and decks (including any overhanging structure) , except in the shoreland zone where coverage area includes all non-vegetated surfaces.

**Manufactured Housing** - A structural unit or units designed for occupancy, constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. This includes:

1. Units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with HUD standards (structures transportable in 1 or more sections which in the traveling mode are 14 body feet or more in width and 750 sqft. or more in area and are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities).

2. Units commonly called "modular homes" which the manufacturer certifies are constructed in compliance with the rules adopted under Title 10, Chapter 957 (structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities).

**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 repair, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**Maritime Commercial Uses** – Any one or more than one of the following uses:

1. Marinas
2. Sale, repair, and/or manufacture of boats, ships or vessels
3. Sale, installation, or repair of engines and/or electronic devices commonly used on boats
4. Fabrication, storage and/or repair of fishing equipment
5. Commercial and/or recreational fishing and/or shellfish
6. Processing and/or sale of finfish and/or shellfish
7. Manufacture and/or sale of ice, bait and/or nets
8. Boat charters and/or excursions
9. Maritime museums and /or aquariums or other related educational uses.

Stand-alone boat storage facilities are not a maritime commercial use.

**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 12 month period which removes more than 100 cu.yds. 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.

**Mobile Home Park** - A parcel of land under unified ownership approved by the Town for the placement of 3 or more manufactured homes.

**Mobile Home Park Lot** - The area of land on which an individual home is situated within the park and which is reserved for use by the occupants of that home.

**Mobile Home Subdivision or Development** - A parcel of land approved for the placement of manufactured houses on individually owned lots under the Subdivision Ordinance of the Town of Tremont.

**Multi-Unit Residential** - A residential structure or structures having two or more dwelling units in the aggregate on a single lot, provided that no structure shall contain less than two dwelling units or more than ten 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, did not meet the area, frontage, or width requirements of the district in which it is located.

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

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

**Normal High-Water Line (NHL)** - 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 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 great pond during the period of normal high-water are considered part of the great pond.

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

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**100-Year Flood** - The highest level of flood that, on the average, is likely to occur once every 100 years; i.e., that has a 1% chance in any year.

**One and one-half (1-1/2) Story Structure** - A structure whose outside walls extend above 1 story and less than 2 stories.

**One (1)-Story Structure** - A structure which has all its living quarters on the ground floor.

**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 below 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.

**Plat** - A plan or map showing land ownership, boundaries, and subdivisions with descriptions.

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

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

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

**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** - Recent flood plain soils include the following soils 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

**Rip rap** - Rocks, irregularly shaped, and at least 6" 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.

**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 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.

**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, lot lines, the road, parking space or other regulated object or area to the nearest part of a structure.

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

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

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

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

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

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

**Sound Transmission Class** – A numerical rating of the ability of a wall, floor/ceiling assembly or any other building element such as a door or window to minimize sound transmission

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

**Structure** - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes but excludes paving, signs and flagpoles. Incidental detached structures, with a footprint of 24 square feet or less not exceeding 4 feet in height, such as residential lawn furniture, picnic tables, bird feeders and water wells are not considered as structures under this definition provided they do not have substantial volume or visual impact.

**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.

**Temporary Structure or Use** - A use or placement of a structure for a period of up to 7 months in one year. The land use, structure and performance standards must be satisfied during this period.

**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. 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 VI.B, *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.

**Towers, Commercial** - Any towers used for communication purposes.

**Track** - Access formed for brush clearing and such purposes with no stone or gravel material introduced and which does not give access to a separate lot.

**Transient** - A person staying at a place that does not constitute his or her home or usual dwelling unit for less than 7 days.

**Tributary Stream** – 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 hydraulically with 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. (Note: 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.

**Two (2)-Story Structure** - A structure in which the outer walls extend to a full 2 stories.

**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) foot) tall or taller.

**Use** - A single activity occupying a lot; it may be recreational, residential or any number of commercial activities.

**Variance** - A reduction on the linear dimensions or area of a lot or setback, and can only be granted by the Board of Appeals.

**Vegetation** - All live trees, shrubs, ground cover and other plants including without limitation trees both over and under 4" in diameter, measured 4-1/2' 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 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.