

TOWN OF PARSONSFIELD

634 NORTH ROAD

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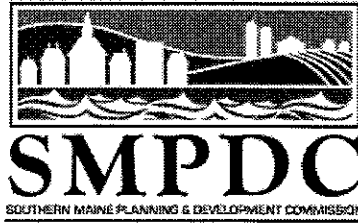
This package contains the proposed changes to the Land Use and Development Ordinance (Zoning Ordinance) being proposed by the Planning Board. There will be a Public Hearing to discuss these changes on Tuesday, August 29, 2017, at 7pm at Town Office, and the changes will be voted on at Town Meeting on Saturday, September 9, 2017.

Aside from some minor administrative corrections, these changes will make our ordinance consistent with the state shoreland regulations.

The first two sheets after this one note the sections and type of changes for each change. After these sheets are the proposed changes. These sheets are all marked DRAFT in the lower border, and the circled numbers from the first two sheets are in the margins where each change starts.

After the proposed changes sheets, copies of the current Zoning Ordinance appear with the circled numbers also in the margins. You may compare the two versions to see the differences.

Feel free to contact the Town Office if you have any questions.



Serving the Municipalities of Southwestern Maine For Over 50 years

To: Town of Parsonsfield, Planning Board
From: Jamel Torres, Transportation & Land Use Planner
Date: 5/26/16
Re: Land Use & Subdivision Ordinance – List of Suggested Amendments, Spring 2017

Land Use and Development Ordinance

Article 1. General Provisions

Section 2.

- ① • Updated M.R.S.A. Sections
- Updated “Certification of Code Enforcement Officers” language

Section 3.

- ② • Updated M.R.S.A Title / Section language

Section 6.E.

- ③ • New language here suggested by CEO

Section 7.

- ④ • Updated M.R.S.A. Title / Section language
- Updated “State Department of Conservation’s Director of the Bureau of Forestry l language

Article II. Land Use Districts and Uses

Section 8.C.1.

- ⑤ • Deleted old Non-Conforming language and replaced it with new Non-Conforming Structures language based on Chapter 1000 update in 2015

Section 8.C.3.

- ⑥ • Updated M.R.S.A Title / Section language

Section 8.E.2.e.II.

- ⑦ • Updated M.R.S.A Title / Section language

Section 8.E.3.h.

- ⑧ • Updated M.R.S.A Title / Section language

Section 8.E.14.a.

- ⑨ • Updated M.R.S.A Title / Section language

Section 8.E.15.

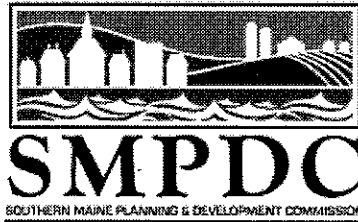
- ⑩ • Deleted old Timber Harvesting language and replaced it with new Timber Harvesting language based on Chapter 1000 update in 2015

Section 8.E.17.

- ⑪ • Added this section because it is now included in Chapter 1000

Section 8.E.18.

- ⑫ • Added this section because it is now included in Chapter 1000



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- (13) Section 8.E.19
- Added this section because it is now included in Chapter 1000

Article III. Site Plan Review

Section 6

- X
- Noted that the Title-30 references the State's subdivision statutes, not Site Plan Review Section 6.D.

- X
- Noted that this language is not currently in Title 30-A, Section 4404 but the Town can keep the provision if you want to

Section 6.K.

- ✓
- Noted that this language is not currently in Title 30-A, Section 4404 but the Town can keep the provision if you want to

Appendix A. Definitions

- (14)
- Added "Basement" definition – noted that this definition is adequate as long as it is consistent with the Town's building code

Subdivision Ordinance

Article 3. Definitions

- (15)
- Deleted the definition for "Average Annual Traffic (ADT)" and inserted "Annual Average Daily Traffic (AADT)" along with a new definition

ARTICLE I. GENERAL PROVISIONS

Section 1. Title

This Ordinance is known and may be cited as the "Land Use and Development Ordinance of the Town of Parsonsfield, Maine", and will be referred to herein as "this Ordinance".

Section 2. Legal Authority

This Ordinance has been prepared in accordance with the provisions of Title 30-A, Maine Revised Statutes Annotated (M.R.S.A.), Chapter 141, Sections 4401-4408, Subdivisions, 4351-4360, Land Use Regulation, and 4451-4452, Certification of Code Enforcement Officers, and Title 38, M.R.S.A., Section 435-448, Mandatory Shoreland Zoning Act, as amended. This Ordinance has also been prepared to be consistent with Parsonsfield's adopted Comprehensive Plan of 1990 as amended.

Section 3. Purpose

The purpose of this Ordinance, in accordance with the Town's adopted Comprehensive Plan, is to promote the health, safety and general welfare of the residents; to encourage the most appropriate use of land throughout the Town by controlling building sites, placement of structures and land uses; to promote traffic safety; to promote fire safety and prevention of harm from natural hazards; to provide adequate light and air and prevent overcrowding of land areas; to prevent housing development in unsanitary or unsafe areas; to provide an adequate street system and public services; to promote the coordinated development of land; to encourage the formation of community neighborhoods and provide an allotment of land area in new developments sufficient for all requirements of community life; to protect and foster existing village and neighborhood areas; to maintain the rural character of the town; to further the maintenance of safe and healthful conditions; to conserve natural resources; to prevent and control water pollution; to protect fish spawning grounds, fish, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 4. Applicability

Notwithstanding the provisions of Title 1, M.R.S.A., Section 302, this Ordinance applies to any and all applications and proceedings pending upon the date of adoption of this Ordinance or filed on or after the date of adoption of this Ordinance.

Section 5. Conformity Required

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

Section 6. Non-conformance

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

- b. Any other nonconforming vacant lot of record as of the effective date of this Ordinance or amendment thereto, may be built upon, without the need for a variance from the Zoning Board of Appeals, 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 those lot size, lot width or lot frontage requirements which have made the lot nonconforming can be met. Any other requirements shall not be varied, unless a variance is obtained by action of the Board of Appeals. Water setbacks required under Shoreland District Requirements shall not be reduced by variance.
- c. If two or more contiguous lots or parcels of record are in the same single or joint ownership on or after the effective date of this Ordinance (or applicable amendments) and these lots do not individually meet the dimensional requirements, if one or more of the lots are vacant or contain only an accessory structure, then the lots must be combined, to the extent necessary, to meet the dimensional requirements for newly created lots.

2. Built Lots

A nonconforming lot of record that was built upon prior to the enactment of this Ordinance or the applicable amendment to this Ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) can not meet the dimensional requirements of this Ordinance, a variance must be obtained from the Board of Appeals.

If two or more contiguous lots or parcels of record are in the same single or joint ownership on or after the enactment (or applicable amendment) of this Ordinance and 1) if either or both of these lots do not meet the dimensional requirements of this Ordinance, *and* 2) if a principal use exists on each lot, the nonconforming lots may be conveyed separately or together in accordance with the State Minimum Lot Size Law and State Plumbing Code.

3. Rear Lots

A rear lot (lacks frontage) that meets size requirements but is accessible only by a right-of-way that does not meet the width requirements may be used for a single dwelling or other single permitted use provided that the right-of-way existed at the effective date of this Ordinance or amendment, and that a wider right-of-way cannot be negotiated with abutting landowners, and that all other relevant provisions of this Ordinance can be met.

E. Creating Rear Lots

3 Rear lots without the required road frontage may be created if they meet the following requirements:

- Must meet lot size and dimension requirements (see Article II, Section 5), except road frontage
- Must have an access at least 50' wide as part of the property, or a deeded right of way at least 50' wide from a state, town or private road. If deeded right of way, the deed must state that the rear lot owner has the right to construct an access way at least to the standards the town requires.
- Access road quality – If serving up to two outbuildings or a single residence with up to two outbuildings, the access road must meet the construction requirements for a driveway (Article II, Section 6, S 2, pg 39). If serving a business or more than one residence, the access road must meet the construction requirements of road construction (see Article II,

Section 6, N, pg 27). More than one residence or two outbuildings would require a Site Plan Review. The access road must be maintained year round once any buildings are constructed on the parcel.

- No building can be erected in the access way.
- Any business use of a new rear lot, other than a home business, requires a site plan review.
- A turn around for emergency vehicles must be available. Either a cul-de-sac, constructed to subdivision standards (Property line setback: same as building setback; outer edge of pavement: 50 feet; inner edge of pavement: 30 feet.) or an area to back into that is least 25' along the road by 50' deep and perpendicular to the road on flat ground, maintained year-round once any buildings are constructed, must be available within 75' of all residences or out buildings.
- Setbacks from all boundaries must meet the rear setback requirement for a lot in the same zone (ie – any buildings on a rear lot in the rural residential zone must be 50' from all boundaries, the rear setback requirement).
- The use of the access road to access multiple lots, whether developed or not, will require a Site Plan Review.
- A lot created under this section will be classified as a rear lot unless the access road becomes a public road.
- All rear lots must be recorded in the York County Registry of Deeds within 90 days of creation in a format provided by the Town.

F. Exceptions for Utilities

The Planning Board may grant an exception for public utility installation and accessory structures, including substations and pumping stations, occupying lots not meeting lot area, lot width, or lot frontage requirements, provided that no attendant is regularly on the premises. The usual setback requirements still apply. Such exemptions are subject to Site Plan Review.

Section 7. Repeal of Prior Ordinances, and Automatic Repeal and Amendment of Timber Harvesting Standards in the Shoreland Zone

Land Use and Zoning Ordinance (adopted 5/30/87) and the Building Code (adopted 3/14/70) are repealed, and replaced by this Ordinance, adopted 3/5/1994, along with any subsequent amendments to this Ordinance.

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The municipal regulation of timber harvesting is repealed on the statutory date established under Title 38, M.R.S.A. Section 438-B, at which time the State of Maine Department of Conservation's Director of the Bureau of Forestry shall administer timber harvesting standards in the Shoreland Zone within the Town of Parsonsfield. On the date established under Title 38, M.R.S.A. 438-B, the following provisions of this Chapter shall be repealed or amended as follows:

1. Section 8.E, Table 1A, Table of Land Uses in the Shoreland Districts, delete the symbols "Y" or "P" indicated in each district next to the uses "Timber Harvesting*", "Forest management activities except for timber harvesting & land management roads," and "land management roads," (items 3,4 & 27) and replace with the symbol "BF." Amend the table key to indicate that "BF" means "Allowed use, requires permit issued by Maine Bureau of Forestry"

2. Section 8.E.14 Timber Harvesting, repeal in its entirety.

Section 8. Shoreland District Requirements

A. Applicability

This section applies to the Shoreland District which is defined as all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This section also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

B. Shoreland District Map

The Shoreland Districts in this Ordinance are as follows and are shown on the Official Land Use District Map.

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. General Development
5. Stream Protection

C. Non-conformance

1. Non-conforming Structures

- 5
- a. Expansions: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section (8)(E)(2)(a). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs i.) and ii.) below.
 - i.) Expansion of any portion of a structure within 25 feet 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. 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, tributary stream, or wetland setback requirement.
 - ii.) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section (8)(C)(1)(a).

- (a) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- iii.) All other legally existing nonconforming 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 other applicable municipal land use standards are met and the expansion is not prohibited by Section (8)(C)(1)(a) or Section (8)(C)(1)(a)(i), above.
 - (a) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - (b) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section (8)(C)(1)(a)(ii)(a) and Section (8)(C)(1)(a)(iii)(a) above.
 - (c) In addition to the limitations in subparagraphs (a) and (b), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section (8)(C)(1)(a)(ii)(a) and Section (8)(C)(1)(a)(iii)(a), above.
- iv.) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of

approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

- b. Foundations: 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 (8)(C)(1)(c) Relocation, below.
- c. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section (8)(E)(21). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- i.) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- ii.) 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.

2. Non-conforming Uses

- a. Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Article II, Section 8, C (1) (a) (i) above.
- b. 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 five (5) year period.
- c. Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact must be made according to criteria listed in Article II, Section 8,C (1) (d) above.

3. Non-conforming Lots

- a. Non-conforming Lots. A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance from the Zoning Board of Appeals, 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 those lot size, lot width and shore frontage requirements which have made the lot nonconforming can be met. Any other requirements shall not be varied, unless a variance is obtained by action of the Board of Appeals. Water setbacks required under Shoreland District Requirements shall not be reduced by variance.
- b. Contiguous Built Lots. If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (Title 12 M.R.S.A., Section 4807-A through 4807-G) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

- d. Contiguous Lots-Vacant or Partially Built. If two or more contiguous lots or parcels are in a 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.

- (a) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
- (b) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
- (c) Only native species may be used to establish the buffer area;
- (d) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- (e) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer

II. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four (4) feet in width, that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A. Section 480-C), and that the applicant demonstrates that no reasonable alternative exists on the property.

3. 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.
- a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 - b. The location shall not interfere with existing developed or natural beach areas.
 - c. The facility shall be located so as to minimize adverse effects on 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, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
 - 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.

Article II. Land Use Districts and Uses

- i. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- h. Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the State of Maine Natural Resources Protection Act, Title 38, M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

4. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and all of the standards required by Article II, section 9.K.

5. Individual Private Campsites

Individual, private campsites not associated with campgrounds are allowed and shall conform to all of the standards required by Article II, section 9.L.

6. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the Shoreland District adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA.

- 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
- l. Printing

7. Parking Areas

- a. Parking areas shall meet the shoreline and tributary stream setback requirements for structures in the district in which such areas are located. The setback requirements for parking areas serving public boat launching facilities (in districts

- d. Replacement systems must meet all of the standards for replacement systems as contained in the Rules.

12. Essential Services

- a. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- b. The installation of essential services, other than road side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- c. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

13. Mineral Exploration and Extraction

Mineral Exploration and Extraction uses shall conform to the requirements of Article II, section 9.E.

14. Agriculture

- 9
- a. 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 Title 7, M.R.S.A. Section 4204, Subsection 4-7).
 - b. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland District must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
 - c. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
 - d. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (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.
 - e. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond classified GPA, within seventy-five (75) feet, horizontal distance, of other water bodies, or 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.

15. Timber Harvesting

10

- (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 (8)(E)(15) 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 the following:
 - a. 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.

- (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 (8)(E)(15)(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 (8)(E)(15)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section (8)(E)(15)(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 (8)(E)(15)(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 (8)(E)(15)(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 (8)(E)(15). 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 (8)(E)(15)(5)(a) if, prior to

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extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- i. Additional Measures: In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of Waterbodies: Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- a. Determination of Flow: Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section (8)(E)(15): 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 (8)(E)(15). 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 (8)(E)(15).
 - c. Other Agency Permits: Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - d. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - e. Notice to Bureau of Forestry: Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - i. a map showing the location of all proposed permanent crossings;
 - ii. the GPS location of all proposed permanent crossings;
 - iii. for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and

- iv. a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

- f. Water Crossing Standards: All crossings of rivers require a bridge or culvert sized according to the requirements of Section (8)(E)(15)(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 (8)(E)(15)(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 25 year frequency water flows or with a cross-sectional area at least equal to 3 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 (8)(E)(15)(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.

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- iv. River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- v. Exception: Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- h. Skid Trail Closeout: Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - i. Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section (8)(E)(15)(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;

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2. it shall be designed to provide an opening with a cross-sectional area at least 3½ 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 (8)(E)(15), 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

- (8) Definitions: Unless otherwise provided herein, this Section incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, "Forest Regeneration and Clearcutting Standards", and Chapter 21, "Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas".

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

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

Elsewhere, in any Resource Protection District, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- b. Except in areas as described in paragraph (a) above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five

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

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

iii. 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 the paragraphs above.

iv. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

v. 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 trees species unless existing new tree growth is present.

The provisions contained in paragraph (b) above do not apply to those portions of public recreational facilities adjacent to public swimming areas. Clearing, however, must be limited to the minimum area necessary.

- c. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary system, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses is shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

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

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

- i. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - ii. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
 - iii. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - iv. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - v. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- b. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- i. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 1. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 2. Stumps from the storm-damaged trees may not be removed;
 3. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 4. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

- ii. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

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18. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section (8)(E)(16), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

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- a. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section (8)(E)(16) apply;
- b. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section(8)(E)(2) are not applicable;
- c. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- d. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- e. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant to Title 38 M.R.S.A section 343-E, and that is located along:
 - i. A coastal wetland; or
 - ii. A river that does not flow to a great pond classified as GPA pursuant to Title 38 M.R.S.A section 465-A.
- f. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - i. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - ii. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - iii. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:
http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

- g. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

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19. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section (8)(E)(16), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- c. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- d. Revegetation activities must meet the following requirements for trees and saplings:
 - i. All trees and saplings removed must be replaced with native noninvasive species;
 - ii. Replacement vegetation must at a minimum consist of saplings;
 - iii. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - iv. No one species shall make up 50% or more of the number of trees and saplings planted;
 - v. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - vi. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- e. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - i. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

- ii. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - iii. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - iv. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - v. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- f. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- i. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - ii. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - iii. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

20. Erosion and Sedimentation Control

- a. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
- i. Mulching and re-vegetation of disturbed soil.
 - ii. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - iii. Permanent stabilization structures such as retaining walls or rip-rap.
- b. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- d. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of 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:

Appendix A: Definitions

Airport Facilities: A tract of land or water with facilities for the landing, take-off, shelter, supply, and repair of aircraft.

Amusement Facility: A private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Animal Husbandry, Breeding or Care: The keeping or raising of four or more animals, including domestic animals and pets, for commercial use. This definition also includes kennels.

Authorized Agent: An individual or a firm who has written authorization signed by the property owner to act on behalf of a property owner.

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

Automotive Body Shop: A business engaged in automotive body, frame, or fender straightening and repair, or painting and undercoating.

Automobile Repair Shop: A business engaged in general automotive repair, engine rebuilding, and/or automotive parts replacement.

Barn: A building used for the storing farm products and sheltering livestock.

Basement: Any portion of a structure with a floor-to-ceiling height of 8 feet or more and having more than 50% of its volume below the existing ground level. NEW

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Comment [JT1]: As long as this definition is consistent with your building code.

Bed and Breakfast: A dwelling with individual guest rooms, in which transient lodging or boarding and lodging are provided and offered to the public for compensation for less than one week. The owner or manager must operate the facility and their residence must be in the Bed and Breakfast. There must be no provisions for cooking in any individual guest- room.

Boarding, Lodging Facility: A residential structure where lodging and/or meals are provided for compensation, for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There must be no provisions for cooking in any individual guest- room.

Bowling Alley: A building equipped with long narrow wooden lanes or alleys used for the game of ten-pins.

Buffers \ Screening: Buffers and screens are fences, vegetation, landscaping, berms, and mounds used to minimize any adverse impacts or nuisance conditions as experienced on the site or from adjacent areas.

Building: A three (3) dimensional enclosure using any building materials or any space, for any use or occupancy, temporary or permanent, including swimming pools, foundations or pilings in the ground, and all parts of any kind of structure above ground including decks, railings, dormers, and stairs. Excluding sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

Building/Structure Height: The vertical distance between the highest point of the roof and the average grade of the existing or original ground adjoining the building or structure, whichever distance is greater.

Business and Professional Offices: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like, or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales or activities utilizing trucks as part of the business operation.

DRAFT

- A. These regulations may be amended by:
1. The Legislative Body of the Town of Parsonsfield.
 2. The Planning Board if the Legislative Body has not adopted or amended the standards.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Parsonsfield Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: Housing units that meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Annual Average Daily Traffic (AADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road. The total number of vehicles you would expect to go by a specific location as a total of both directions (assuming the road allows traffic in both directions).

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Capital Improvements Program (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the Board to waive the

ARTICLE I. GENERAL PROVISIONS

Section 1. Title

This Ordinance is known and may be cited as the "Land Use and Development Ordinance of the Town of Parsonsfield, Maine", and will be referred to herein as "this Ordinance".

Section 2. Legal Authority

① This Ordinance has been prepared in accordance with the provisions of Title 30-A, Maine Revised Statutes Annotated, Chapter 141 Ordinances 4401-4407; 4351-4359, Land Use Regulation, and 4451-4452, Enforcement of Land Use Laws and Ordinances; and Title 38, M.R.S.A., Section 435-449, Shoreland Zoning; as amended. This Ordinance has also been prepared to be consistent with Parsonsfield's adopted Comprehensive Plan of 1990 as amended.

Section 3. Purpose

② The purpose of this Ordinance, in accordance with the Town's adopted Comprehensive Plan, is to promote the health, safety and general welfare of the residents; to encourage the most appropriate use of land throughout the Town by controlling building sites, placement of structures and land uses; to promote traffic safety; to promote fire safety and prevention of harm from natural hazards; to provide adequate light and air and prevent overcrowding of land areas; to prevent housing development in unsanitary or unsafe areas; to provide an adequate street system and public services; to promote the coordinated development of land; to encourage the formation of community neighborhoods and provide an allotment of land area in new developments sufficient for all requirements of community life; to protect and foster existing village and neighborhood areas; to maintain the rural character of the town; to further the maintenance of safe and healthful conditions; to conserve natural resources; to prevent and control water pollution; to protect fish spawning grounds, fish, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 4. Applicability

Notwithstanding the provisions of M.R.S.A. section 302, this Ordinance applies to any and all applications and proceedings pending upon the date of adoption of this Ordinance or filed on or after the date of adoption of this Ordinance.

Section 5. Conformity Required

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

Section 6. Non-conformance

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

- b. Any other nonconforming vacant lot of record as of the effective date of this Ordinance or amendment thereto, may be built upon, without the need for a variance from the Zoning Board of Appeals, 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 those lot size, lot width or lot frontage requirements which have made the lot nonconforming can be met. Any other requirements shall not be varied, unless a variance is obtained by action of the Board of Appeals. Water setbacks required under Shoreland District Requirements shall not be reduced by variance.
- c. If two or more contiguous lots or parcels of record are in the same single or joint ownership on or after the effective date of this Ordinance (or applicable amendments) and these lots do not individually meet the dimensional requirements, if one or more of the lots are vacant or contain only an accessory structure, then the lots must be combined, to the extent necessary, to meet the dimensional requirements for newly created lots.

2. Built Lots

A nonconforming lot of record that was built upon prior to the enactment of this Ordinance or the applicable amendment to this Ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) can not meet the dimensional requirements of this Ordinance, a variance must be obtained from the Board of Appeals.

If two or more contiguous lots or parcels of record are in the same single or joint ownership on or after the enactment (or applicable amendment) of this Ordinance and 1) if either or both of these lots do not meet the dimensional requirements of this Ordinance, *and* 2) if a principal use exists on each lot, the nonconforming lots may be conveyed separately or together in accordance with the State Minimum Lot Size Law and State Plumbing Code.

3. Rear Lots

A rear lot (lacks frontage) that meets size requirements but is accessible only by a right-of-way that does not meet the width requirements may be used for a single dwelling or other single permitted use provided that the right-of-way existed at the effective date of this Ordinance or amendment, and that a wider right-of-way cannot be negotiated with abutting landowners, and that all other relevant provisions of this Ordinance can be met.

E. Creating Rear Lots

③ Rear lots without the required road frontage may be created if they meet the following requirements:

- Must meet lot size and dimension requirements (see Article II, Section 5), except road frontage
- Must have an access at least 50' wide as part of the property, or a deeded right of way at least 50' wide from a state, town or private road. If deeded right of way, the deed must state that the rear lot owner has the right to construct an access way at least to the standards the town requires.
- Access road quality – If serving up to two outbuildings or a single residence with up to two outbuildings, the access road must meet the construction requirements for a driveway (Article II, Section 6, S 2, pg 39). If serving a business or more than one residence, the access road must meet the construction requirements of road construction (see Article II,

Section 6, N, pg 27). More than one residence or two outbuildings would require a Site Plan Review. The access road must be maintained year round once any buildings are constructed on the parcel.

- Any business use of a new rear lot, other than a home business, requires a site plan review.
- A turn around for emergency vehicles must be available. Either a cul-de-sac, constructed to subdivision standards (Property line setback: same as building setback; outer edge of pavement: 50 feet; inner edge of pavement: 30 feet.) or an area to back into that is least 25' along the road by 50' deep and perpendicular to the road on flat ground, maintained year-round once any buildings are constructed, must be available within 75' of all residences or out buildings.
- Setbacks from all boundaries must meet the rear setback requirement for a lot in the same zone (ie – any buildings on a rear lot in the rural residential zone must be 50' from all boundaries, the rear setback requirement).
- The use of the access road to access multiple lots, whether developed or not, will require a Site Plan Review.

F. Exceptions for Utilities

The Planning Board may grant an exception for public utility installation and accessory structures, including substations and pumping stations, occupying lots not meeting lot area, lot width, or lot frontage requirements, provided that no attendant is regularly on the premises. The usual setback requirements still apply. Such exemptions are subject to Site Plan Review.

Section 7. Repeal of Prior Ordinances, and Automatic Repeal and Amendment of Timber Harvesting Standards in the Shoreland Zone

Land Use and Zoning Ordinance (adopted 5/30/87) and the Building Code (adopted 3/14/70) are repealed, and replaced by this Ordinance, adopted 3/5/1994, along with any subsequent amendments to this Ordinance.

④ The municipal regulation of timber harvesting is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the Shoreland Zone within the Town of Parsonsfield. On the date established under 38 M.R.S.A. 438-A(5), the following provisions of this Chapter shall be repealed or amended as follows:

1. Section 8.E, Table 1A, Table of Land Uses in the Shoreland Districts, delete the symbols "Y" or "P" indicated in each district next to the uses "Timber Harvesting*", "Forest management activities except for timber harvesting & land management roads," and "land management roads," (items 3,4 & 27) and replace with the symbol "BF." Amend the table key to indicate that "BF" means "Allowed use, requires permit issued by Maine Bureau of Forestry"

2. Section 8.E.14 Timber Harvesting, repeal in its entirety.

3. Appendix A, Definitions, Section 2, repeal definitions of the following terms:

Section 8. Conflict with Other Ordinances

Harvest area,

Section 8. Shoreland District Requirements

A. Applicability

This section applies to the Shoreland District which is defined as all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This section also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

B. Shoreland District Map

The Shoreland Districts in this Ordinance are as follows and are shown on the Official Land Use District Map.

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. General Development
5. Stream Protection

C. Non-conformance

1. Non-conforming Structures

- a. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs i and ii below .
- i.) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded:
- (a) by 30% or more during the lifetime of the structure, as measured either in floor area or volume; or
- (b) beyond a maximum of one thousand (1000) square feet in floor area, including both existing and expanded areas within the required setback;
- whichever is less.
- If a replacement structure conforms with the requirements of Section 8.C.1.c, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area or volume since that date.
- ii.) 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 basing its decision on the criteria specified in subsection 8.C.1.b below (Relocation).

- iii.) If the completed new, enlarged, or replacement foundation can not be relocated entirely outside of the required water setback, any portion of the foundation within the required water setback:
 - (a) shall not be constructed with interior walls higher than six feet;
 - (b) shall not extend beyond the existing exterior dimensions of the structure except for expansions in conformity with section 8.C.1.a.i above; and
 - (c) shall 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).

If all of the above conditions are met, such foundation work shall not be considered to be an expansion of the structure.

- iv.) A structure that is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland may not be enlarged toward the water body, tributary stream, or wetland.

Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board. The applicant must also demonstrate that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

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

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Article III. Land Use Districts and Uses

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

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

c. Reconstruction or Replacement:

Any nonconforming structure which is located less than the required setback from a water body, tributary system, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board 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 8.C.1.a above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 8.C.1.b above.

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

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the Planning Board shall consider in addition to the criteria in paragraph 8.C.1.b above the physical condition and type of foundation present, if any.

d. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or

wetland, or on the subject or adjacent properties and resources, than the existing use.

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

2. Non-conforming Uses

- a. **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Article II, Section 8, C (1) (a) (i) above.
- b. **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 superceded 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 five (5) year period.
- c. **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact must be made according to criteria listed in Article II, Section 8,C (1) (d) above.

3. Non-conforming Lots

- a. **Non-conforming Lots.** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance from the Zoning Board of Appeals, 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 those lot size, lot width and shore frontage requirements which have made the lot nonconforming can be met. Any other requirements shall not be varied, unless a variance is obtained by action of the Board of Appeals. Water setbacks required under Shoreland District Requirements shall not be reduced by variance.
- b. **Contiguous Built Lots.** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 MRSA sec. 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that

Article 11. Land Use Districts and Uses
the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

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

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

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

D. Establishment of Districts

1. Resource Protection District

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

- a. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, 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 as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
- b. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard

- (a) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (b) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (c) Only native species may be used to establish the buffer area;
 - (d) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (e) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer
- g. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four (4) feet in width, that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C), and that the applicant demonstrates that no reasonable alternative exists on the property.
3. 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.
- a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 - b. The location shall not interfere with existing developed or natural beach areas.
 - c. The facility shall be located so as to minimize adverse effects on 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, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
 - 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.

6

- g. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- h. Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.



New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

4. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and all of the standards required by Article II, section 9.K.

5. Individual Private Campsites

Individual, private campsites not associated with campgrounds are allowed and shall conform to all of the standards required by Article II, section 9.L.

6. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the Shoreland District adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA.

- 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
- l. Printing

7. Parking Areas

- a. Parking areas shall meet the shoreline and tributary stream setback requirements for structures in the district in which such areas are located. The setback requirements for parking areas serving public boat launching facilities (in districts other than the General Development District) shall be no less than fifty (50) feet,

- d. Replacement systems must meet all of the standards for replacement systems as contained in the Rules.

12. Essential Services

- a. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- b. The installation of essential services, other than road side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- c. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

13. Mineral Exploration and Extraction

Mineral Exploration and Extraction uses shall conform to the requirements of Article II, section 9.E.

14. Agriculture

- 9
- a. 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).
 - b. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland District must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
 - c. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
 - d. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (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.
 - e. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond classified GPA, within seventy-five (75) feet, horizontal distance, of other water bodies, or within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and

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which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

15. Timber Harvesting

- 10
- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.
 - (c) Beyond the 75 foot strip referred to 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 1/2 inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
 - (2) Except in areas as described in the section (1) above, timber harvesting shall conform with the following provisions:
 - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - (b) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
 - (c) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

iii. 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 the paragraphs above.

iv. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

v. 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 trees species unless existing new tree growth is present.

The provisions contained in paragraph (b) above do not apply to those portions of public recreational facilities adjacent to public swimming areas. Clearing, however, must be limited to the minimum area necessary.

- c. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary system, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses is shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

17. Erosion and Sedimentation Control

- a. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
- i. Mulching and re-vegetation of disturbed soil.

2.3 Amendments.

- A. These regulations may be amended by:
 - 1. The Legislative Body of the Town of Parsonsfield.
 - 2. The Planning Board if the Legislative Body has not adopted or amended the standards.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Parsonsfield Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: Housing units that meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Capital Improvements Program (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.