



**TOWN OF EDGECOMB**  
**LAND USE ORDINANCE**

---

As amended through

May 19, 2018

# Edgecomb Land Use Ordinance

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## **Town of Edgecomb Land Use Ordinance**

Enacted May 21, 2005. Amended May 20, 2006; September 20, 2006; May 19, 2007; May 17, 2008; October 14, 2010; May 21, 2011; January 9, 2012; May 19, 2012; May 11, 2013; May 16, 2015; substantially amended May 21, 2016, May 2018

In publishing the Land Use Ordinance, formatting and section numbering may be corrected, provided such correction is noted in a foot- or end-note by the person making same. Tables of Contents and an Index may be provided for convenience but are not part of the Land Use Ordinance. *[per Article 50, Town Meeting of May 17, 2008]*

### **Article I - General Provisions**

#### **Section 1 - Title**

This Ordinance shall be known as the Edgecomb Land Use Ordinance, enacted on May 21, 2005 and amended this May 21, 2016.

#### **Section 2 - Scope**

This ordinance regulates the location, design, construction, alteration, occupancy and use of structures and the use of land in the Town of Edgecomb and divides the Town into Land Use Districts.

#### **Section 3 - Authority**

This Ordinance is adopted pursuant to Title 30-A MRSA 3001, 4352 and 4401-4407.

#### **Section 4 – Administration**

4.1 The Code Enforcement Officer shall have the following authority and duties, among others, in enforcing this Ordinance:

4.1.1 Examine preliminary plans.

4.1.2 Act upon all applications and collect any fees due; refer/process all applications as required by this Ordinance.

4.1.3 Inspect sites where building permits have been issued to ensure compliance with all local, state and federal laws, codes and/or ordinances. Keep all activities within the jurisdiction of these laws/ordinances under surveillance at all times.

4.1.4 Investigate complaints and reported violations.

4.1.5 Keep written inspection reports and thorough records.

4.1.6 Issue building permits, occupancy permits and violation notices.

4.1.7 Participate in appeals procedures.

4.1.8 Process or act on consent agreements involving violations of this Land Use Code or appear in court when necessary.

4.1.9 Offer advice and opinions to citizens upon request.

4.1.10 Attend meetings of the Planning Board and Board of Appeals.

#### 4.2 Planning Board.

4.2.1 The Edgecomb Planning Board shall be responsible for reviewing and acting upon applications for site plan review approval in accordance with this Land Use Ordinance. Following site plan review approval, the applicant shall return to the Code Enforcement Officer for building and other permits.

4.2.2 The Planning Board shall also review subdivision applications in accordance with this Land Use Ordinance. Following subdivision approval, the applicant shall return to the Code Enforcement Officer for any building or land use permits.

### **Section 5 - Severability**

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

### **Section 6 - Conflicts**

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land or structures, the provisions of this Ordinance shall prevail.

### **Section 7- Amendments**

An amendment to this Ordinance may be initiated by the Planning Board provided that a majority of the Board has so voted; by request of the Selectmen to the Planning Board; or by written petition to the Selectmen signed by 10% of the number of registered voters of the Town of Edgecomb who voted in the last gubernatorial election.

All proposed amendments shall be referred to the Planning Board for its recommendation. The Planning Board shall hold a public hearing on any proposed amendment within 30 days of its receipt and shall inform the Selectmen of its recommendation within 30 days of the public hearing. The amendment may be adopted by a majority vote of the Town at any Town Meeting.

## **Section 8 - Penalty for Violation**

In accordance with Title 30-A MRSA Section 4452, any person or persons, firm or corporation owning or having control of any structure or premises or other persons such as subcontractors who assist in the violation of this Ordinance or of any permit issued hereunder shall be guilty of a civil violation and upon conviction thereof shall be fined a minimum of \$100 and a maximum of \$2500 for each offense. The Code Enforcement Officer, acting in accordance with his duties and responsibilities in connection with the enforcement of this Ordinance, shall serve written notice on the owner(s), or others assisting, of such violation or violations. When this action does not result in the correction or abatement of the violation(s), the Board of Selectmen are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, seeking injunctions of violations and impositions of fines that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Edgecomb. Each day of continuance of the violation(s) shall constitute a separate offense.

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## **Article II – Land Uses**

### **Section 1 – Land Use Map**

#### 1.1 Official Zoning Districts Map

As identified in Section 2 of this article, the Town of Edgecomb is hereby divided into the following zoning districts, which shall be shown on an official map to be created by the Planning Board, certified by the Town Clerk, and made a part of this ordinance.

EDGECOMB GATEWAY DISTRICT  
EDGECOMB THOROUGHFARE DISTRICT  
COMMERCIAL GROWTH DISTRICT  
ROUTE 27 CORRIDOR, AREA I  
ROUTE 27 CORRIDOR, AREA II  
ROUTE 27 CORRIDOR, AREA III  
WOODLAND DISTRICT  
RURAL DISTRICT  
MARINE DISTRICT

##### 1.1.1 Scale of Map

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

##### 1.1.2 Certification and Amendments to the Map

The official Zoning Districts Map shall be certified by the attested signature of the Edgecomb Town Clerk and shall be located in the Edgecomb Town Office.

Amendments to the official Zoning Districts Map shall be in accordance with Article I, Section 6 of this ordinance.

### **Section 2 - Land Use Zoning Districts**

#### 2.1 Shoreland Zone

The four Shoreland districts are: Stream Protection, Limited Residential, General Development and Resource Protection. See Article VI, Section 1 - Shoreland Overlay District - for definition and applicability. The district land use requirements below shall be superseded by any land use requirements of the Town of Edgecomb Shoreland Zoning Ordinance if any portion of said use is located within the Shoreland Zone.

## 2.2 Edgecomb Gateway District

As the area that creates the first visual impression of the community coming from Wiscasset, the Edgecomb Gateway District provides for both residential and commercial land uses and lot design standards for the district. Because of its close proximity to the Town of Wiscasset, the opportunity to contract municipal sewer and water has allowed the EGD a higher density and more intensive use, dependent on Town of Edgecomb municipally-controlled sewer and water.

The Edgecomb Gateway District shall include the following areas:

- 2.2.1 All portions of Davis Island lying northerly of a line defined as the northerly line of 2011 Tax Map U-5, Lot 4.2, extended easterly to Cod Cove and westerly to the Sheepscot River.

## 2.3 Edgecomb Thoroughfare District

The Edgecomb Thoroughfare District maintains both Edgecomb's rural character and Route 1's mobility and at the same time encourages both residential and commercial growth.

The Edgecomb Thoroughfare District shall include the following areas:

- 2.3.1 Starting at the eastern end of Davis Island, one thousand (1000) feet north of the centerline of Route 1, extending to the eastern end of Lot 3, shown on 2001 Tax Map U-2 (opposite the east end of Atlantic Highway).
- 2.3.2 Starting at the eastern end of Davis Island, one thousand (1000) feet south of the centerline of Route 1, extending easterly to the western edge of the Central Main Power Easement.

## 2.4 Commercial Growth District

The Commercial Growth District encourages the use of side roads as service roads, while its function mixes commercial and residential uses.

The Commercial Growth District shall include the following areas:

- 2.4.1 Starting at the eastern end of 2001 Tax Map U-2, Lot 3, one thousand (1000) feet north of the centerline of Route 1, extending easterly to the Edgecomb town line, shown on Tax Map U-2 (opposite the east end of Atlantic Highway)
- 2.4.2 Starting at the western edge of the Central Maine Power Easement, two thousand (2000) feet south of the centerline of Route 1, extending easterly to the western edge of Dodge Road.

The Route 27 Corridor areas preserve the historic character and rural appearance of Route 27. While recognizing the public's right to develop property, it is also in the public's interest to maintain the historic pattern of development, rural fields and wooded areas that characterize much of Route 27.

## 2.5 Route 27 Corridor Area I

An area 500 feet on either side of Route 27, as measured from the centerline of Route 27, with frontage on Route 27, starting at the southern end of the Route 1 Thoroughfare District boundary and extending southerly to the center line of Middle Road and the southeasterly boundary of 2002 Tax Map R-2, Lot 98.

## 2.6 Route 27 Corridor Area II

An area 500 feet on either side of Route 27, as measured from the centerline of Route 27, with frontage on Route 27, extending southerly on the easterly side of Route 27 from the centerline of Middle Road to the centerline of McKay Road and on the westerly side of Route 27 extending from the northwesterly boundary of 2002 Tax Map R-2, Lot 97 to the southwesterly boundary of 2002 Tax Map U-15, Lot 10

## 2.7 Route 27 Corridor Area III

An area 500 feet on either side of Route 27, as measured from the centerline of Route 27, with frontage on Route 27, extending southerly from the centerline of McKay Road on the easterly side and from the northeasterly boundary of 2002 Tax Map U-15, Lot 9 on the westerly side to the town line.

The Marine, Rural and Woodland Districts are based on historic and traditional use patterns. All districts allow commercial and residential uses. The deep interior of town, or Woodland District, encompasses the Schmid Preserve and lands suitable for recreational uses that require limited infrastructure (hunting, fishing, hiking, etc.), for wildlife habitat and for land-based uses. Surrounding the Woodland District is the Rural District where both the infrastructure and the lands are suitable for land-based uses. The Marine District includes the eastern and western perimeters that border saltwater rivers where the land is suitable for productive uses of maritime resources and for commercial uses.

## 2.8 Marine District

This district includes the area bounded by the tidal high-water line of the Sheepscot River, the Cross River, the Damariscotta River, and their inlets and bays, and extends 1000 feet inland from the centerline of River Road, Mill Road, and Cross Point Road, and abuts the Edgcomb Gateway District, Edgcomb Thoroughfare District, the Route 27 Corridor Areas I, II, and III, and the Rural District 1000' west of the centerline of Cochran Road.

## 2.9 Rural District

This district includes the area

2.9.1 between 1000' and 2000' inland from the centerline of River Road, Mill Road, and Cross Point Road,

2.9.2 between 500' and 2000' east of the centerline on Route 27

2.9.3 1000' on either side of the centerline of McKay Road, Middle Road, Dodge Road, Spring Hill Farm Road, Mount Hunger West, and Cochran Road and abuts the Edgecomb Gateway District, Edgecomb Thoroughfare District, the Commercial Growth District, and the Route 27 Corridor Areas I, II, and III.

## 2.10 Woodland District

This district includes all areas of the town interior to the Rural District, that is, the area:

2.10.1 beyond 2000' inland from the centerline of River Road, Mill Road, and Cross Point Road,

2.10.2 beyond 1000' from the centerline of McKay Road, Middle Road, Dodge Road, Spring Hill Farm Road, Mount Hunger West, and beyond 1000' east of the centerline of Cochran Road, and abuts the Edgecomb Thoroughfare District, Commercial Growth District, and the Route 27 Corridor Areas I and II.

## **Section 3 – Land Uses**

See chart on following pages.

Land Uses	Marine	Rural	Woodland	Gateway	Thoroughfare	Comm. Growth	Rte. 27
Abattoir	NO	PB	PB	NO	NO	NO	NO
Adult Book/Video Store	NO	NO	NO	NO	NO	NO	NO
Adult Entertainment Facility	NO	NO	NO	NO	NO	NO	NO
Agricultural/Lawn equip. Sales and Service	PB	PB	PB	PB	PB	PB	PB
Agriculture	YES	YES	YES	YES	YES	YES	YES
Airport	NO	NO	NO	NO	NO	NO	NO
Animal Boarding	PB	PB	PB	NO	PB	PB	PB
Antique Shop	PB	PB	PB	PB	PB	PB	PB
Aquaculture	PB	PB	PB	PB	PB	PB	PB
Assisted Living Facility	PB	PB	PB	PB	PB	PB	PB
Auction Barn	PB	PB	PB	PB	PB	PB	PB
Automobile Graveyard/Junkyard	NO	NO	NO	NO	PB	PB	NO
Barbershop	PB	PB	PB	PB	PB	PB	PB
Bed and Breakfast	PB	PB	PB	PB	PB	PB	PB
Boat Building and Repair	PB	PB	PB	PB	PB	PB	PB
Boat Storage, Indoor/outdoor	PB	PB	PB	PB	PB	PB	PB
Bottling Facility	NO	NO	NO	PB	PB	PB	PB
Brewery Distillery	PB	NO	NO	PB	PB	PB	PB
Campground, Commercial	PB	PB	PB	PB	PB	PB	PB
Cemetery	PB	PB	PB	PB	PB	PB	PB
Charitable/Educational Institution	PB	PB	PB	PB	PB	PB	PB
Church/Parish House	PB	PB	PB	PB	PB	PB	PB
Civic Service Facility, Clubhouse	PB	PB	PB	PB	PB	PB	PB
Clinic, Medical or Dental	PB	PB	PB	PB	PB	PB	PB
Community Living Arrangement	PB	PB	PB	PB	PB	PB	PB
Convenience Store	PB	PB	PB	PB	PB	PB	PB
Convenience Store w/fuel sales	NO	NO	NO	NO	PB	PB	PB
Day Nursery	PB	PB	PB	PB	PB	PB	PB
Day Care Facility	PB	PB	PB	PB	PB	PB	PB
Drinking Establishment	PB	NO	PB	PB	PB	PB	PB
Earth Moving and Filling >100 cu. Yds.	PB	PB	NO	PB	PB	PB	PB
Earth Moving and Filling <100 cu. Yds.	YES	YES	YES	YES	YES	YES	YES
Essential Services/ Essential Services Bldg.	PB	PB	PB	PB	PB	PB	PB

<b>Land Use</b>	<b>Marine</b>	<b>Rural</b>	<b>Woodland</b>	<b>Gateway</b>	<b>Thoroughfare</b>	<b>Comm. Growth</b>	<b>Rte. 27</b>
Floating Structure	NO	NO	NO	NO	NO	NO	NO
Funeral Home	PB	PB	PB	PB	PB	PB	PB
Gravel Pits	NO	PB	PB	NO	NO	NO	NO
Grocery Store	PB	NO	NO	PB	PB	PB	PB
Group Home	PB	PB	PB	PB	PB	PB	PB
Home Occupation	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Hospice	PB	PB	PB	PB	PB	PB	PB
Hospital	PB	NO	NO	PB	PB	PB	PB
Hotel/Motel	PB	NO	NO	NO	PB	PB	PB
Industrial	PB	NO	NO	NO	PB	PB	PB
Industrial, light	PB	PB	PB	PB	PB	PB	PB
Kennel/Dog Daycare	PB	PB	PB	PB	PB	PB	PB
Library	PB	PB	PB	PB	PB	PB	PB
Lumber Yard	PB	NO	NO	NO	PB	PB	PB
Marina	PB	NA	NA	PB	NA	NA	NA
Marine Research Facility	PB	PB	PB	PB	PB	PB	PB
Micro-breweries & Brew Pubs	PB	PB	PB	PB	PB	PB	PB
Mineral Extraction	PB	CEO	CEO	CEO	CEO	CEO	CEO
Mobile Home Park	PB	PB	PB	PB	PB	PB	PB
Multi-family Dwelling	PB	PB	PB	PB	PB	PB	PB
Municipal Use	PB	PB	PB	PB	PB	PB	PB
Municipal Solid Waste Facility	NO	NO	NO	NO	NO	NO	NO
Museum	PB	PB	PB	PB	PB	PB	PB
Office	PB	PB	PB	PB	PB	PB	PB
Park/Playground	PB	PB	PB	PB	PB	PB	PB
Parking Lot/Facility	PB	PB	PB	PB	PB	PB	PB
Professional Building	PB	PB	PB	PB	PB	PB	PB
Public and Private Recreational Areas	PB	PB	PB	PB	PB	PB	PB
Public Utility Installation	PB	PB	PB	PB	PB	PB	PB
Race Track	PB	NO	NO	NO	NO	NO	NO
Recreational Use (bowling alley, theater, Dance hall)	PB	PB	PB	PB	PB	PB	PB
Recycling Facility	NO	NO	NO	NO	NO	NO	NO
Redemption Center	PB	NO	NO	PB	PB	PB	PB
Research Laboratory	PB	PB	PB	PB	PB	PB	PB
Restaurant	PB	PB	PB	PB	PB	PB	PB
Restaurant w/Drive-thru	NO	NO	NO	NO	NO	NO	NO
Retail/Wholesale Outlet	PB	PB	PB	PB	PB	PB	PB
Room Rental in Private Dwelling	YES	YES	YES	YES	YES	YES	YES
<b>Land Use</b>	<b>Marine</b>	<b>Rural</b>	<b>Woodland</b>	<b>Gateway</b>	<b>Thoroughfare</b>	<b>Comm. Growth</b>	<b>Rte. 27</b>

Sawmill	PB	PB	PB	NO	PB	PB	PB
Service Establishment	PB	PB	PB	PB	PB	PB	PB
Shopping Center	PB	NO	NO	PB	PB	PB	PB
Single-Family Dwelling	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Small Engine Repair	PB	PB	PB	PB	PB	PB	PB
Social/Fraternal Organization	PB	PB	PB	PB	PB	PB	PB
Spa, Health Club	PB	PB	PB	PB	PB	PB	PB
Structure Accessory to Allowed Use	PB	CEO	CEO	CEO	CEO	CEO	CEO
Subdivision	PB	PB	PB	PB	PB	PB	PB
Transportation Facility	NO	NO	NO	PB	PB	PB	PB
Trucking/Distribution Terminal	NO	NO	NO	NO	PB	PB	PB
Two-family Dwelling	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Vehicle Body Shop	PB	PB	PB	PB	PB	PB	PB
Vehicle Sales and/or Service	PB	PPBB	PB	PB	PB	PB	PB
Veterinary Clinic	PB	PB	PB	PB	PB	PB	PB
Warehousing	PB	PB	PB	PB	PB	PB	PB
Uses similar to use Requiring CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Uses similar to use Requiring PB approval	CEO	CEO	PB	PB	PB	PB	PB

Key

CEO – Allowed with approval by Code Enforcement Officer

NA – Not applicable

NO – Not allowed

PB – Allowed with approval by Planning Board

Yes – Allowed

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## **Article III – Land Development**

### **Section 1 – Purpose**

The purpose of this ordinance is to accomplish the following objectives with the least possible regulation:

- 1.1 To establish a procedure whereby town officials may review proposals to construct, enlarge, or move buildings.
- 1.2 To establish a fair and reasonable set of standards for evaluating such proposal.
- 1.3 To balance the right of the land owners to use their land with the right of abutting and neighboring land owners to live without undue disturbance.

### **Section 2 – Applicability**

The provisions of this article shall apply to new construction, exterior enlargement, location and relocation of buildings and mobile homes, retail, industrial and institutional use; multiple family (more than one dwelling unit per lot) residential development and single-family homes. If the building is located within the Shoreland District or requires Planning Board approval under the terms of the Site Plan Review section, Subdivision section, or Mobile Home Park section, the Code Enforcement Officer shall act upon the request for a Building Permit only after the Planning Board has reviewed and approved the proposed development.

### **Section 3 – Administration**

Before the construction, exterior enlargement, location or relocation or change in use of any building or part thereof shall be commenced the owner or lessee, or authorized agent shall obtain from the Code Enforcement Officer of the Town of Edgecomb a permit covering such proposed work. Up to two detached buildings of 100 square feet or less are allowed per lot without a building permit in the Town of Edgecomb, including buildings in existence prior to May 18, 1985. A permit is not required for fences, boundary walls, walks, and radio or other towers and antennas less than fifty feet above ground. However, all structures and buildings shall conform to all setback requirements.

**Section 4 – Development Criteria Table**

District	Min. Lot Size	Dwelling Units/Lot	Max. Lot Coverage	Min. Lot Frontage	Max. Curb Cuts	Min. Bldg. Front Setback	Min. Side & Rear Setbacks	Max. Bldg. Height	Min. Buffer	Min. Separation of Residential Bldgs.
Gateway	1 A.	1	75%	200 ft.	1	100 ft. <sup>1</sup>	5 ft.	35 ft.	20 ft.	30 ft.
Thoroughfare	2 A.	1	35%	250 ft. <sup>3</sup>	1	100 ft. <sup>2</sup>	20 ft.	35 ft.	50 ft.	30 ft.
Comm. Growth	2 A.	1	35%	250 ft. <sup>3</sup>	1	100 ft. <sup>2</sup>	20 ft.	35 ft.	50 ft.	30 ft.
Rte.27 I	3 A. <sup>4</sup>	1	20%	300 ft. <sup>4</sup>	1	100 ft. <sup>5</sup>	15 ft.	35 ft.	50 ft. <sup>6</sup>	30 ft.
Rte.27 II	1 A.	1	20%	100 ft.	1	See <sup>7</sup>	15 ft.	35 ft.	50 ft. <sup>6</sup>	30 ft.
Rte.27 III	3 A. <sup>4</sup>	1	20%	300 ft. <sup>4</sup>	1	100 ft. <sup>5</sup>	15 ft.	35 ft.	50 ft. <sup>6</sup>	30 ft.
Marine	2 A.	1	20%	100 ft.	NA	50 ft. <sup>8</sup>	15 ft.	35 ft.	NA	30 ft.
Rural	3 A.	1	15%	100 ft.	NA	50 ft. <sup>8</sup>	15 ft.	35 ft.	NA	30 ft.
Woodland	5 A.	1	10%	100 ft.	NA	50 ft. <sup>8</sup>	15 ft.	35 ft.	NA	30 ft.

**Footnotes:**

<sup>1</sup> Route 1, 100 ft.; other roads 50 ft. from front lot line or 75 ft. from centerline of public or private road abutting the lot, whichever is greater.

<sup>2</sup> Route 1 100 ft. from centerline of road or 50 ft. from property line whichever is greater; other roads, 50 ft. from front lot line or 75 ft. from centerline of road whichever is greater.

<sup>3</sup> Route 1, 250 ft.; other roads 200 ft.

<sup>4</sup> 3 acres (requires 300 ft. of frontage on Route 27); 2 acres (requires 200 ft. of frontage on Route 27 and is served by a single access that is shared with an adjacent lot); or 1.5 acres (requires 50 ft. of frontage on Route 27 if lot is served by a single access that is shared with an adjacent lot and setback for all structures must be 200 ft. from Route 27 right of way)

<sup>5</sup> 100 ft. for 2-acre lots or greater; 200 ft. for 1.5 acres.

<sup>6</sup> No buffer required on Route 27; 50-foot buffer required on other roads.

<sup>7</sup> Route 27: Average setback of existing principal structures located within 500 ft. with frontage on Route 27; other roads 50 ft. from front lot line or 75 ft. from centerline of road, whichever is greater.

<sup>8</sup> 50 ft. from front lot line or 75 ft. from centerline of public or private road abutting the lot, whichever is greater.

## **Section 5 – General Provisions**

### **5.1 Non-Conformance as to Use**

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

5.1.2 Any non-conforming use may continue and may be maintained, repaired, and improved in a manner consistent with the provisions of this Ordinance and the Building Code. No such non-conforming use may be expanded, changed to another non-conforming use, replaced by another non-conforming structure of a similar type, moved, (or renewed after it has been discontinued for a period of twelve calendar months or more) without a permit from the Code Enforcement Officer in accordance with the provisions of this Ordinance. No structure which has less than the required setback from the road shall be expanded so as to further reduce that setback.

### **5.2 Non-Conformance as to Dimensional Requirements**

5.2.1 No lot may be reduced in size making it more non-conforming.

5.2.2 Reconstruction: If any structure is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, it may be restored or reconstructed on its original footprint within 5 years of the date of said damage or destruction even though the lot may not be of the required size or have the required frontage or setbacks.

5.2.3 Division of Existing Lots: In dividing a lot or parcel of land where a residence or business exists, it shall be mandatory to retain enough land so that the existing residence or business will have the same road frontage and area as is required by the Ordinance for a new installation.

5.2.4 Lot Size Requirement Exception: A single lot of record prior to May 15, 1987 which does not meet the area or width requirements, or both, in the Town of Edgecomb, may be built upon provided that such lot shall be in separate ownership, and that all other provisions of this Ordinance shall be met. If two or more contiguous lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of the Ordinance, the lands involved shall be considered to be a single parcel for the purpose of this Ordinance, provided, however, that lots of record shown on a recorded subdivision plan which was approved by the Planning Board as of May 22, 2004 and which were in single ownership as of that date shall not merge until five years from the date of subdivision approval at which point any lots still in single ownership shall merge pursuant to this section. A structure lawful at the time of adoption or subsequent amendment to this may continue although it does not conform to the provisions of this Ordinance.

### **5.3 – Nuisance**

5.3.1 – Noise: The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by

the time period and by the abutting land use as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.

**Table 5.2.1. Sound Pressure Level Limits Using the Sound Equivalent Level of One Minute (leg 1) Measured in decibels in the ‘A’ Scale (dBA)**

Abutting Use	7 am - 10 pm	10 pm - 7 am
Residential	55	45
Residential located in Commercial-Industrial district	65	55
Pub, Semipublic, and Industrial	60	55
Vacant or Rural	60	55
Commercial	65	55
Industrial	70	60

The following temporary activities are exempt from the requirements of this section: parades, agriculture, forestry, and emergency signals.

Activities of a temporary nature unable to meet these requirements shall require development review by the Planning Board. Noise associated with construction may achieve a maximum equivalent sound level measured in dBA of 75 between the hours of 7:00 a.m. and 7:00 p.m.

The sound level meter shall meet American National Standards Institute (ANSI) standards and must be calibrated using the manufacturer’s specifications before and after conducting the measurement.

5.3.2 Dust, Fumes, Vapors, Gases and Odors: Emission of dust, dirt, flyash, fumes, vapors or gases which could damage human health, animals, or vegetation, or which could be detrimental to the enjoyment of adjoining or nearby properties, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating the emission, are prohibited.

All gaseous and particulate emissions shall comply with applicable minimum federal, state and local requirements, including receipt of all required permits. The maximum permitted density of smoke, dust and other particulate emissions during normal operations of any activity shall not exceed the maximum allowable under the regulations of the Maine Department of Environmental Protection and/or the United States Environmental Protection Agency.

In addition, no land use or establishment shall be permitted to produce harmful, offensive, or bothersome odors, scents, or aromas (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, fish sales, rendering, fermentation processes, decaying organic matter, and incinerators) perceptible beyond their lot lines, either at ground or habitable elevation. The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on the plan, with a description of the source materials.

During the permit review process, the Planning Board or the Code Enforcement Officer may require a developer to submit detailed plans showing how these performance standards will be met. During operation, the Code Enforcement Officer may employ such independent, qualified consultants as necessary, at the expense of the business or individual in question, to assure compliance with these performance standards and all other requirements of this Ordinance related to the public health, safety and welfare and the abatement of nuisances. Violations of these standards shall be considered as public nuisances.

### 5.3.3 Lighting

5.3.3.1 No lights or reflective surface shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any vehicle upon that roadway.

5.3.3.2 Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

5.3.3.3 Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky.

5.3.3.4 No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.

5.3.3.5 The applicant shall submit plans for all proposed exterior lighting, drawn at a scale of at least one inch equals twenty feet. These plans shall include the location, type of lighting equipment, manufacturer's specification sheets and, if requested by the Planning Board, a point-by-point calculated illuminance values noted on a ten-foot grid (maximum).

5.3.3.6 The following design standards shall be followed unless waived by the Planning Board if it finds that because of special circumstances related to a particular plan, or they are not necessary to provide for the public health, safety and general welfare.

5.3.3.6.1 The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

5.3.3.6.2 The maximum height of freestanding lights and any exterior lights mounted on the structure shall not exceed twenty (20) feet.

5.3.3.6.3 All lights shall have shielding to provide a beam cut-off at no more than 75 degrees above nadir (the point on the ground directly below the lighting element).

5.3.3.6.4 Lighting shall not exceed the guidelines and recommendations published by the Illuminating Engineering Society of North America for the given area.

5.3.3.6.5 Pathways, sidewalks and trails, if lighted, must be lighted with low or mushroom-type standards.

## 5.4 Minimum General Construction Standards

5.4.1 All building materials used, and practices followed, in the construction of structures shall conform to generally accepted standards of good practices.

5.4.2 Underwriters' Laboratories-approved smoke detectors shall be installed in all new dwelling units.

5.4.3 All pumping and sewage disposal shall be in strict conformance with the State of Maine Law and the State Plumbing Code. New overboard discharge systems are prohibited.

5.4.4 All newly erected structures that are to be wired shall meet the National Electrical Code, as revised.

5.5 Buffer: A visual buffer consisting of either existing vegetation or proposed landscaping must be of a height and character to be effective year-round. If the Code Enforcement Officer, or Planning Board for projects that require Planning Board approval, determines that existing vegetation is insufficient to meet the above standards, the applicant shall substitute a plan for adding new vegetation provided that the new vegetation will provide effective buffering within two years of planting. The reviewing authority may take into consideration the size and orientation of the lot, topography, existing vegetation, presence of wetlands or ledge, available sight distance and road frontage provided that the plan meets the above standards to the greatest extent possible. See also Site Plan Review, Article IV, Section 4.7 and Subdivision, Article V, Section 4.12.

5.6 Curb Cuts: Curb cuts on some Edgecomb roads are regulated by the Maine Department of Transportation (Rockland Office). Approval is required from MDOT on these roads before filing an application.

## 5.7 Provisions for Back Lots

The provisions of this section apply only to back lots created on or after May 17, 2003. The provisions of this section do not apply to any lots in existence before May 17, 2003.

Back lots may be developed for single-family residential use if they are served by a back lot driveway approved by the Planning Board and comply with the following provisions.

5.7.1 The back lot driveway must be located within a right-of-way with a minimum width of 50 feet. The right-of-way must be conveyed by deed recorded in the Lincoln County Registry of Deeds to the owner of the back lot.

5.7.2 A legal description of the back lot right-of-way by metes and bounds shall be attached to any building permit application for construction on the back lot.

5.7.3 A back lot right-of-way shall be created only over a front lot that is conforming to frontage and lot size at the time of creation of the right-of-way. That portion of the front lot within the right-of-way shall be considered part of the front lot for purposes of space and volume regulations. Existing buildings on the front lot need only be set back from the right-of-way by a distance equivalent to the minimum side setback in the Building Code

Ordinance. For front lots that are vacant on the effective date of this ordinance, access to future buildings on the front lot shall be from the right-of-way.

- 5.7.4 If the front lot is already developed, the existing driveway shall be relocated to the back lot right-of-way unless the Board determines that it is prohibited by site conditions or the orientation of existing buildings.
- 5.7.5 A back lot driveway shall serve no more than two back lots unless it is improved to meet the standards for streets or private roads in the Subdivision Regulations. Prior to the creation of a second back lot, the applicant shall submit for review and approval a proposed revision of the back lot driveway plan previously approved by the Board and a driveway maintenance plan.
- 5.7.6 No more than one back lot right-of-way may be created out of a single front lot unless each subsequent right-of-way is created from at least an additional amount of frontage as required in the Building Code Ordinance. The entrance of such rights-of-way onto the road shall be separated by a distance equivalent to at least the required frontage in the Building Code Ordinance plus half the right-of-way width. Only one curb cut shall be allowed for more than one back lot right-of-way on Route 27 and Route 1.

5.7.7 A back lot driveway shall conform to the following standards:

Minimum Right-of-way Width	50 feet
Minimum Travel Way Width	12 feet
Maximum Grade	12%
Minimum Angle of Street Intersections	75 degrees
Minimum ROW Radii at Intersections	10 feet
Minimum Width of Shoulders (each side)	2 feet

- 5.7.8 Each dwelling constructed on a back lot shall be set back at least 200 feet from the front lot line of the original lot.
- 5.7.9 The back lot must comply with all standards in the applicable district. For purposes of this section, the portion of the right-of-way within the back lot may not be used to satisfy the minimum lot area requirement, and frontage for the back lot shall be measured from the front lot right-of-way to the back lot.

## 5.8 Size Standards

Notwithstanding any other provision of this Ordinance, except in the Edgecomb Gateway District, no single retail business, whether located in a single structure, a combination of structures, single tenant space, or aggregate of structures or tenant spaces in an aggregate of structures, shall exceed 35,000 square feet of floor area. All adjacent retail or service establishments which share a common check stand, management, controlling ownership or storage areas shall be considered a “single retail business” and their aggregate square footage of floor area shall be used to determine compliance with the standards of this Ordinance. This maximum floor area restriction shall apply to all new retail businesses and to all expansions of existing retail businesses.

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## **Article IV – Land Development, Site Plan Review**

### **Section 1 - Purpose**

Site plan review provisions set forth in this article are intended to protect the public health and safety, promote the general welfare of the community and conserve the environment by assuring that multi-family and nonresidential construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

### **Section 2 – Applicability**

Site plan review and approval by the Planning Board shall be required for:

2.1 The construction or placement of any new building or structure for commercial, office, industrial, recreational or institutional uses greater than 1,000 square feet except temporary or seasonal vendors occupying one or more leased spaces. The construction or placement of any new building or structure for commercial, office, industrial, recreational or institutional uses less than 1,000 square feet shall be reviewed and approved by the Code Enforcement Officer. At any time, the CEO can elevate a project to full Board review if it is deemed necessary. If the applicant for a building permit for a building or structure having a total floor area of 1,000 square feet or less seeks a waiver of one (1) or more standards of this Ordinance, then such a proposal shall receive site plan review by the Planning Board.

2.2 The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five (5) year period by more than 1,000 square feet or 25% in total floor area, whichever is smaller.

2.3. Construction of new multifamily housing or the enlargement of existing multifamily building if the construction, modification or expansion results in three or more new or additional dwelling units in a five year period. Such multi-family housing is also subject to the provisions of Article V.

2.4 The conversion of an existing building from residential to nonresidential use.

2.5 The conversion of an existing nonresidential use to another nonresidential use when the new use is designated in Article II, Section 3 as requiring site plan approval from the Planning Board and when the new use increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review.

2.6 The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than 10,000 square feet within a five-year period.

2.7 Any new use designated in Article II, Section 3 as requiring site plan approval from the Planning Board.

2.8 The establishment of a new nonresidential use or expansion of an existing nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, golf courses, groundwater

extraction, extractive industries, which shall comply with the Town of Edgecomb Ordinances, and other nonstructural nonresidential uses.

2.9 Any permitted use that includes construction of one or more drive-up windows or remote teller facilities.

2.10 Resumption of uses which have been discontinued for at least one year and which are designated in Article II, Section 3 as requiring site plan approval from the Planning Board

### **Section 3 – Administration**

No activity or use described in Article II, Section 3 shall commence until the property owner has received site plan approval from the Planning Board and has received any necessary permits from, but not limited to, the Department of Transportation, Department of Environmental Protection, Department of Health and Human Services, State Fire Marshal's Office or the Code Enforcement Officer. If the project also requires subdivision approval, no work shall commence until the final subdivision plan has been recorded in the Lincoln County Registry of Deeds and the subdivision complies with the requirements of general health, safety and welfare of the town.

Before formal application, an owner or his authorized agent may request an informal review of the site plan by the Planning Board, which review is not binding on either party.

The following procedures and requirements shall apply to all applications for site plan review:

3.1 All applications for site plan review shall be made in writing to the Planning Board on the forms provided for this purpose. Applicant must submit eight copies of all materials. The application shall be made by the owner of the property or his agent, as designated in writing by the owners, and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application (see Fee Schedule, Article IX). One copy of the approved application and accompanying documents shall be retained in the Planning Board's permanent file.

3.2 Within thirty (30) days of the acceptance of an application as complete, the Planning Board shall hold a hearing to afford the public the opportunity to comment on the application. The Board shall give written notice of the date, time and place of such hearing to the person making the application and also publish such notice in a newspaper of general circulation in Edgecomb at least two (2) times, the date of the first publication to be at least seven (7) days before the hearing. The applicant shall notify abutting property owners by certified mail at least seven (7) days in advance of a pending application for Site Plan Review indicating the time, date and place of Planning Board consideration of the application and shall provide proof of such notification to the Planning Board. Within thirty (30) days of the hearing, the Planning Board shall act to approve or disapprove the application. This period may be extended by mutual written agreement. The Board shall inform the applicant in writing of its decision within seven days of its action.

3.3 At the discretion of the Planning Board, applications may be reviewed by the Fire Chief and his recommendations shall be submitted to the Planning Board before the public hearing.

3.4 At the discretion of the Planning Board, applications may be reviewed by the Road Commissioner where driveway entrances from town roads are involved to insure installation of culverts where needed and to see that the road drainage flows are not interfered with, and his recommendations shall be submitted to the Planning Board before the public hearing.

3.5 Before final approval of any plan, the Planning Board may require a bond, agreement or letter of credit in such amount as is approved by the Board as being reasonably necessary to insure completion of all improvements required as conditions of approval of such plan, and in such form as approved by the Board and the Selectmen.

3.6 The Planning Board may attach reasonable conditions to approvals to ensure conformity with the purpose and provisions of this ordinance.

3.7 If the application concerns property which in whole or part is within any Shoreland zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with the Site Plan Review.

3.8 All approvals shall expire unless work thereunder is commenced within one year from the date of approval. If work is not completed within two years from the date of approval, a new application shall be made. Any approvals outstanding at the date of the adoption of this section shall expire one year later unless work thereunder is commenced within one year from the date of approval.

#### **Section 4 – Criteria and Standards (See also Section 5, Large Scale Development)**

In addition to the Development Criteria Table and General Provisions in Article III, Sections 4 and 5, the following criteria shall be utilized by the Planning Board in reviewing applications for site plan review. These standards are intended to provide a guide for the applicant in the development of site and building plans as well as a method of review for the board.

##### 4.1 Vehicular Access, Parking and Circulation

The layout and design of all means of vehicular and pedestrian circulation shall be safe and convenient.

4.1.1 Parking areas shall be off-street, setback from the front lot line at least 50 feet or from any vehicular right of way centerline at least 75 feet, whichever is greater, and designed so that vehicles can enter and leave the parking area in a forward motion. With the exception of one line of perpendicular parking in front of structures, any parking areas used in the districts identified in Table 4.1 below shall be set behind and to the sides of structures, with minimum side and rear property line setbacks as defined in said table:

**Table 4.1 Side and Rear Parking Area Setback for Specified Districts**

<u>District</u>	<u>Minimum Side Setback</u>	<u>Minimum Rear Setback</u>
Edgecomb Gateway	no setback required	no setback required
Edgecomb Thoroughfare	10 feet	10 feet
Commercial Growth	10 feet	10 feet
Route 27 Corridor, Area I	15 feet	15 feet
Route 27 Corridor, Area II	10 feet	10 feet
Route 27 Corridor, Area III	15 feet	15 feet

4.1.2 Parking areas provided will meet the following standards:

Size

Minimum parking space dimensions: 18 feet x 9 feet  
Minimum width of parking lot aisle: 22 feet

Usage

Parking Spaces Required

Multi-family residential	Two spaces per dwelling unit
Retail business and service establishments	One space for each 180 square feet of usable area plus one space per employee
Commercial and industrial establishments	One and one-fifth spaces per employee per shift
Tourist home, boarding or lodging house, motel or hotel, bed & breakfast	One space for each sleeping room, plus one space for each employee
Restaurants	One space for each two seats and one space for each employee.

4.1.3 The proposed layout will be of such nature to minimize potentially hazardous conditions using the following table of sight distances from the vehicle access point(s):

<u>Posted Speed</u>	<u>Required</u>
25 mph	250'
30 mph	300'
35 mph	350'
40 mph	400'
45 mph	450'
50 mph	500'
55 mph	550'

Maine Department of Transportation required sight distances on State roads will govern when they exceed the sight distances above.

4.1.4 The Planning Board may require a traffic analysis for projects that do not meet the standards of the M.D.O.T. or if the Board believes that public safety and neighboring roadways may be adversely affected by a proposed project.

4.1.5 Curb cuts on some Edgecomb roads are regulated by Maine Department of Transportation (Rockland office). Approval is required from MDOT on these roads before filing an application.

4.2 Surface Water Drainage

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a ten-year storm frequency.

4.3 Utilities

Whenever feasible, electric, telephone, and other utility lines shall be installed underground.

The site plan shall show what provisions are being proposed for water supply and wastewater disposal.

Subsurface sewage disposal systems shall provide for adequate sewage disposal and shall be located and evaluated in accordance with the Subsurface Wastewater Disposal Rules and Site Evaluation for Subsurface Wastewater Disposal Design in Maine, and the use of that location is mandatory. The plan shall show the septic site locations and all required setbacks from water bodies and wetlands and from tidal waters under the Shoreland Zoning Ordinance, and from existing wells or planned well locations on the lot and adjacent lots. The application shall include for each septic site the Soil Profile, depth to the mottled zone, Classification and Condition of the soil, and the Disposal Area Rating according to Table 6-1 of the Subsurface Wastewater Disposal Rules or as amended. New system variances are not permitted.

Undue water pollution is defined by the State of Maine Primary Drinking Water Standards in groundwater and surface water at any existing or planned well sites or at water bodies and wetlands wholly or partially within the site as defined appropriately in the Subsurface Wastewater Disposal Rules (chapter 241, State Plumbing Code), in the State Protection of Natural Resources Act (Section 480-B), and in the permit requirements of the Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; or at any point on the boundary of the site. Whether or not pollution will occur shall be determined by the hydrogeologic studies utilizing site-specific hydrogeologic, soils, and test data including background nitrate-nitrogen levels, performed by professionals certified by the State to make such studies. These definitions and requirements shall govern the number of septic systems and the rate of wastewater discharge permitted in the area of the site.

An additional hydrogeologic survey at the applicant's expense may be required by the Planning Board so that the impact on groundwater by the proposed development may be reasonably assessed. This survey shall be carried out by a hydrogeologist of the Board's selection.

#### 4.4 Advertising Features

All exterior signs and outdoor advertising features shall conform to the Town of Edgecomb Sign Ordinance.

#### 4.5 Special Features

Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, satellite dishes, microwave dishes and similar accessory areas and structures shall be set back from the front lot line at least 50 feet or from the centerline of the road at least 75 feet, whichever is greater. In the Edgecomb Gateway, Edgecomb Thoroughfare, and Commercial Growth districts, special features shall be placed to the side or rear of the structure(s) and shall include such screen plantings or other screening methods as shall reasonably be required.

#### 4.6 Emergency Vehicle Access.

Provisions shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

#### 4.7 Landscaping

Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up and to define parking areas.

For the districts identified in Article III, Section 4, a minimum front buffer of trees, grass and shrubs shall separate all structures from the edge of the right-of-way. Existing natural vegetation shall be preserved as far as practical and appropriate and shall be consistent with the area in both appearance and density of vegetative growth. All landscaping materials used in the buffer areas shall be maintained.

## 4.8 Municipal Structures

Notwithstanding the requirements set forth in other provisions of this section, the dimensional requirements applicable to projects for municipal structures shall be as set forth in the table below.

**Table 4.8 Dimensional Requirements for Municipal Structures**

Parking Area Setbacks	10 ft. from front, side and rear lot lines, and driveways allowed within 1 ft. of lot line
Special Features Setback	25 ft. from front lot line
Minimum Buffer Depth	Not applicable

## Section 5 – Large Scale Development

In addition to the criteria and standards set forth in Section 4 above, all large-scale development; commercial development with a drive-thru facility and/or outdoor fuel sales; and formula restaurants shall also conform to the following performance standards. However, this section shall not apply to large-scale development; commercial development with a drive-thru facility and/or outdoor fuel sales; and formula restaurants constructed or approved for construction before May 19, 2007 except that additions to such structures constructed after May 19, 2007 shall comply with this section when such additions, either individually or cumulatively within a ten (10)-year period, meet the threshold for large-scale development. The Planning Board may modify or waive specific performance standards for such additions, and for all projects in the Edgecomb Gateway District, if it finds that, due to the design, location, function or layout of the principal structure, the application of specific performance standards is impractical or inappropriate.

The purpose of these performance standards is not to prohibit new development on the basis of size, but rather to ensure that new development will reflect the positive characteristics of the Town of Edgecomb. The performance standards are as objective as possible because it is important for both the developer and the Planning Board to have a common understanding of how they can be satisfied.

5.1 Building appearance. The building shall employ varying setbacks, heights, roof treatments, doorways, window openings, and other structural or decorative elements to reduce apparent size and scale of the building.

5.1.1 Pitched roofs with a minimum pitch of 6/12 may be required by the Planning Board to complement existing buildings or otherwise establish a particular aesthetic objective.

5.1.2 Rear and side building façades that are visible from public streets, residential neighborhoods or adjacent properties shall be designed to complement the architectural treatment of the primary façade.

5.1.3 Building façade colors shall be non-reflective, subtle, neutral, or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on façades shall be prohibited. Building trim and architectural accent elements may feature bright colors or black, but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.

5.1.4 Exterior building materials shall be of comparable aesthetic quality on all sides. Building materials such as glass, brick, tinted and decorative concrete block, wood, stucco, and exterior insulation and finish systems (EIFS) shall be used. Decorative architectural metal with concealed

fasteners or decorative tilt-up concrete panels may be approved if incorporated into the overall design of the building.

5.1.5 Ground floor façades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than fifty (50) percent of their horizontal length. The integration of windows into building design is required and shall be transparent glass between three (3) to eight (8) feet above the walkway along any façades facing a public street. The use of blinds shall be acceptable where there is a desire for opacity. Any blinds shall comply with the color standard of subsection 5.1.3, above.

5.1.6 Ground floor façades of retail buildings that face public streets or contain the principal access to the building and which exceed 150 feet in length shall be designed to appear as a series of attached, individual storefronts even though the building itself may consist of a single retail occupancy.

5.1.7 Public building entryways shall be clearly defined and highly visible on the building's exterior design and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all public building entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details. Where additional stores will be located in the principal building, each additional store that exceeds 2,500 sf in floor area shall have at least one exterior customer entrance that shall conform to the above requirements.

5.1.8 The building's architecture shall reflect traditional New England building forms including pitched roofs, dormers, windows (rather than plate glass), and clapboard or brick siding. Freestanding accessory structures, such as ATM's, gas pump canopies, sheds, etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site.

## 5.2 Parking

5.2.1 Parking areas shall provide safe, convenient, and efficient access for vehicles and pedestrians. They shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface.

5.2.2 Parking lots over 100 spaces shall be segmented visually and functionally into distinct parking areas of no more than 60 spaces by landscaped and curbed medians with a minimum curb to curb width of 10 feet.

5.2.3 No more than 10% of off-street parking shall be sited between the front façade of the principal building and the primary abutting streets with the exception of parking areas used for the display of vehicles for sale. The Planning Board may increase this limit to 50% if it determines that the building and parking are screened from view by out lot development consisting of buildings less than 10,000 sf of floor area and by the use of additional tree plantings, berms, fencing, low walls, shrubs and/or perennials.

## 5.3 Landscaping

5.3.1 The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. The applicant shall also submit a planting schedule keyed to the site landscaping plan that lists the botanical and common names, size at planting and quantity of all project plantings. Landscaping shall be considered an integral component of the approved project. The applicant shall replace within 30 days any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant can demonstrate to the satisfaction of the code enforcement officer that site conditions require an alternative species of comparable size.

5.3.2 A minimum of 30% of the building's total foundation, including a minimum of 50% along the building's front façade, shall be planted with landscaping consisting of one 1.5" caliper tree native to Maine and 4 shrubs per ten (10) linear feet of foundation. This landscaping shall be near entrances and façades facing public streets as well as in parking areas.

5.3.3 One 2.5" caliper canopy tree native to Maine, one 4-foot high understory tree native to Maine, and five 12" high evergreen or 15" high deciduous shrubs shall be planted within each parking lot island.

5.3.4 Landscaping consisting of three 2.5" caliper street trees, six 4-foot high understory trees, ten 12" high evergreen or 15" high deciduous shrubs and five 3-foot evergreen trees shall be planted every 50' along and within a minimum 30-foot wide green strip buffer adjacent to all public streets and along and within a minimum 20-foot wide green strip buffer adjacent to all private streets and drives including parking lot connectors, circulation drives (including those adjacent to building) and loading areas.

5.3.5 Where the building site abuts property with at least one residence, a six-foot high berm shall be provided and planted with double offset row of 4-foot high evergreens spaced 15' on center.

## 5.4 Lighting

5.4.1 Plans shall be submitted for all proposed exterior lighting drawn to a scale of 1" = 20' and shall include the location and type of lighting equipment, manufacturer's specification sheets and point-by-point calculated luminance values noted on a 10-foot grid.

5.4.2 The following lighting criteria shall not be exceeded:

5.4.2.1 Parking lots: an average of 1.0 foot-candle throughout, a maximum of 6 foot-candles and a maximum-to-minimum uniformity ratio of 20:1 foot-candles;

5.4.2.2 Intersections: an average of 3 foot-candles throughout, a maximum of 6 foot-candles and a maximum-to-minimum uniformity ratio of 20:1 foot-candles;

5.4.2.3 Maximum at property lines: 0.1 foot-candles.

5.4.3 The maximum height of freestanding lights shall be the same as the principal building, but shall not exceed 20 feet.

5.4.4 All lights shall have shielding to provide a beam cut-off at no more than 75 degrees nadir.

5.4.5 The applicant shall demonstrate to satisfaction of the Planning Board that the proposed lighting is appropriate for the intended use. The Planning Board shall consider the hours of operation, characteristics of the neighborhood and the specific activities proposed in making its determination. When the activity is not in use, lighting shall be turned off unless there is a demonstrated need for illumination as determined by the Planning Board.

5.4.6 Lighting shall be located along streets, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split.

5.4.7 Pathways, sidewalks and trails shall be lighted with low or mushroom-type standards.

5.4.8 Flag poles may not be illuminated by lights directed upward or at any angle above horizontal.

## 5.5 Screening.

5.5.1 Ground- and wall-mounted mechanical equipment, refuse containers and permitted outdoor storage must be fully concealed from on and off-site ground level views with materials identical to those on building exterior.

5.5.2 All trash collection areas that are not within an enclosed building or underground must be screened or recessed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties and at least 50 feet from any lot line. Screening and landscaping of these areas shall conform to the predominant materials used on the site.

5.5.3 Rooftop equipment must be screened by parapets, upper stories or exterior walls from view from public streets within 1,000 feet.

5.5.4 Gates and fencing may be used for security and access but not for screening. Chain link, wire mesh or wood fencing is not acceptable for screening.

5.5.5 Loading docks must be screened from surrounding roads and properties by walls matching the building's exterior or fully opaque landscaping.

5.6 Outdoor sales. Additional standards applicable only to largescale development consisting of retail establishments greater than 10,000 sf of floor area. The Planning Board may modify or waive one or more of the following standards for vehicle display areas if it finds that the application of such standards is impractical or inappropriate.

5.6.1 Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping and shall be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall be similar in materials and colors to those that are predominantly used on the building facade. Outdoor sales areas shall be considered as part of the gross floor area of the retail establishment.

5.6.2 Except for agricultural, landscaping, nursery and similar products normally stored outdoors, outdoor storage of products for sale in an area where customers are not permitted is prohibited unless it is visually buffered from adjacent streets and abutting developed properties. This prohibition includes outdoor storage sheds and containers.

5.6.3 Outdoor sales areas must be clearly depicted on site plan and separated from motor vehicle routes by physical barrier and 10 feet.

5.7 Bicycle and pedestrian facilities. Additional standards applicable only to large-scale development consisting of retail establishments greater than 10,000 sf in floor area.

5.7.1 Pedestrian walkways internal to the development shall be no less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all large commercial buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than fifty (50) percent of the length of the walkway.

5.7.2 Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public street.

5.7.3 Sidewalks at least five (5) feet in width, shall be provided along the full length of the building along any façade featuring a customer entrance, and along any façade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the façade of the building to provide planting beds

for foundation landscaping, except where features such as arcades or entryways are part of the façade. Weather protection features such as awnings or arcades are required within thirty (30) feet of all customer entrances.

5.7.4 All internal pedestrian walkways and crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

5.7.5 The development shall provide exterior pedestrian furniture in appropriate locations at the rate of one seat for every 5,000 sf of gross floor area and secure, integrated bicycle parking at the rate of three bicycle rack spaces for every 50 vehicle parking spaces.

5.8 Building reuse. Additional standards applicable only to large scale development consisting of retail establishments greater than 20,000 sf in floor area.

5.8.1 A form of surety approved by the Planning Board must be established by the applicant to ensure the building and all amenities on the site are maintained if the building becomes vacant. The amount of such surety shall be based on estimates prepared by a licensed professional engineer of the cost of four years of maintenance of all site improvements and the cost of razing the building and removing all demolition materials. The surety must be of a form that cannot lapse or be discontinued without consent of the Board of Selectmen.

5.8.2 The estimates shall be increased by 50% to reflect inflation. If the building remains vacant for a period of one (1) year and site improvements are not maintained over this period, the selectmen may vote to exercise the surety to pay for site maintenance.

5.8.3 If the building remains vacant for a period of four (4) years, the selectmen may vote to exercise the surety to remove the building from the site.

5.8.4 Where the building will replace an existing building within the community, the applicant shall submit evidence that there will be no private prohibition on the type or reuse of the previously occupied building through conditions of sale or lease.

5.9 Location. Additional standards applicable only to large-scale development consisting of retail establishments greater than 20,000 sf in floor area. These standards are intended to ensure such large buildings are placed in suitable locations and that they are not visible from designated roads as listed in subsection 5.9.3, below, unless they are sited close to the road in a manner similar to traditional village commercial development.

5.9.1 Retail buildings over 20,000 sf in floor area that are set back more than 50 feet from a designated road shall not be visible from such road. This may be accomplished by existing vegetation and topography as well as proposed site improvements such as landscaping, berms and similar site design features. In determining if existing vegetation and/or proposed landscaping will satisfy this standard, the Planning Board may consider the projected height and substance of such vegetation and/or landscaping seven years after construction of the large retail building is completed.

5.9.2 Alternatively, the standard in subsection 5.9.1, above, may be satisfied by the siting of smaller commercial buildings on pads or out lots between the large-scale retail building and the designated road. This technique shall be employed for the full width the development site along the road that provides its principal vehicular access except for access locations and landscaped public open spaces that the Planning Board determines will provide effective visual buffering of the large retail building.

5.9.3 The following are designated roads within the meaning of subsections 5.9.1 and 5.9.2, above:

Routes 1 and 27

McKay Road  
Eddy Road  
River Road

## Section 6 – Submission Requirements

6.1 When the owner of the property or his authorized agent makes formal application for site plan review, his application shall contain eight copies of at least the following exhibits and information:

6.1.1 A fully executed and signed copy of the application for site plan review.

6.1.2 Evidence of right, title or interest in the property such as a deed, option to purchase, lease, or agreement.

6.1.3 A site plan drawn at a scale sufficient to allow review of the items under the preceding general standards, but at not more than 50 feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:

6.1.3.1 Names and addresses of all abutters on the plan.

6.1.3.2 Sketch map showing general location of the site within Town.

6.1.3.3 Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.

6.1.3.4 The bearings and distances of all property lines and the source of this information. The Board may waive the requirement of a formal boundary survey when sufficient information is available to establish, on the ground, all property boundaries.

6.1.3.5 Zoning classification(s) of the property and the location of zoning district boundaries if the property is located in two or more zoning districts.

6.1.3.6 Soil types and location of soil boundaries suitable for waste water disposal as certified by a licensed engineer or soil scientist

6.1.3.7 The location of all building setbacks required by the zoning ordinance and/or building code.

6.1.3.8 The location, size, and character of all signs and exterior lighting

6.1.3.9 The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements, and landscaping.

6.1.3.10 The location of all buildings within 50 feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.

6.1.3.11 Existing and proposed topography of the site at two foot contour intervals if major changes to the existing topography are being proposed.

6.1.3.12 A stormwater drainage plan showing:

a. The existing and proposed method of handling run-off.

b. The direction of flow of the run-off through the use of arrows.

c. The location, elevation, and size of all catch basins, wells, drainage ditches, swales, retention basins, and storm sewers.

d. Engineering calculations used to determine drainage requirements based upon a ten-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.

6.1.3.13 A utility plan showing provisions for water supply and waste water disposal including the size and location of all piping, holding tanks, leach fields, etc.

6.1.4 A planting schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs, and other plants to be planted on the site.

6.1.5 Building plans showing, as a minimum, floor plans and all elevations, together with a schedule detailing the type, color, and texture of all exterior surfacing materials of all proposed principal buildings and structures and all accessory buildings and structures.

6.1.6 Copies of any proposed or existing easements, covenants, deed restrictions, etc.

6.1.7 Copies of all applicable State approvals and permits.

6.2 The Planning Board may waive the submission of these requirements when the Board determines that the scale of the project makes the information unnecessary.

## **Article V – Land Development, Subdivision**

### **Section 1 - Purpose**

The purpose of these subdivision regulations shall be to assure the comfort, health, safety, and general welfare of the people, to protect the environment, and to provide for the orderly development of a sound and stable community.

### **Section 2 – Applicability**

The provisions of this article shall apply to all land area of all proposed subdivisions, as defined, located in the Town of Edgcomb.

### **Section 3 - Administration**

#### **3.1 Procedures for Subdivision Review**

##### **3.1.1 Pre-Application Meeting and Submission of a Sketch Plan.**

3.1.1.1 Before submitting an application for subdivision approval and the Preliminary Subdivision Plan, the subdivider or his authorized agent shall appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.

3.1.1.2 The subdivider shall present to the Board for informal review and comment a sketch plan of the proposed subdivision. The sketch plan shall consist of a rough outline of the proposed subdivision and may be a free-hand, penciled sketch of the parcel.

3.1.1.3 No binding commitments shall be made between the subdivider and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

3.1.2 Inspection of the Site. In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the Planning Board. The on-site inspection may be conducted at or shortly after the time of submission of the sketch plan. The pre-application phase of the application process will not be considered complete until such inspection has been made. The Planning Board may at its own discretion perform additional on-site inspections following submission of either a Preliminary or a Final Subdivision Plan.

##### **3.1.3 Submission of a Preliminary Subdivision Plan.**

3.1.3.1 Requirements: Written application for approval shall be filed with the Planning Board, together with the Preliminary Subdivision Plan at a regularly scheduled meeting of the Planning Board. The Preliminary Subdivision Plan and any supporting documentation shall be submitted in ten copies. The Plan shall be drawn at a scale of not less than 1" = 100' and not greater than 1" = 40'. Sheet size of drawings shall be not less than 8 ½" x 11" nor larger than 24" x 36. The applicant may request in writing a waiver of listed requirements not relevant or not of substantial import to his proposal. In instances where the Preliminary Subdivision Plan shows less than five lots or dwelling units, the Planning Board may waive the requirement for the Preliminary Subdivision Plan, in which case the following information shall be submitted with the Final Subdivision Plan. At the discretion of the Planning Board, applications may be reviewed by the Fire Chief and his recommendations shall be submitted to the Planning Board before the public hearing.

3.1.3.1.1 Information on the Applicant.

- a. Name of owner.
- b. Name of Applicant (if other than owner).
- c. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of the Secretary of State's Registration.
- d. Name of applicant's authorized representative.
- e. Name, address, and registration number of the Licensed Professional Engineer, Licensed Land Surveyor, Licensed Landscape Architect and/or Licensed Architect responsible for preparation of the Subdivision Plan and related documentation.
- f. Address to which all correspondence from the Planning Board should be sent.
- g. Applicant's interest in the parcel to be subdivided, (option, land purchase contract, record of ownership, etc.).
- h. Applicant's interest in any abutting properties.
- i. State whether Preliminary Subdivision Plan covers entire contiguous holdings of applicant.

3.1.3.1.2 Information on Property to be Subdivided.

- a. Location of property: Book and page (from Registry of Deeds).
- b. Location of Property: Map and Lot (from Assessor's Office).
- c. Boundary survey of the property to be subdivided showing any easement or other encumbrances tied to established reference points, and certified by a Licensed Land Surveyor. The plan shall show the names of the owners of abutting properties and those on the opposite side of any road abutting the property.
- d. Current zoning of property.
- e. Acreage of parcel to be subdivided.
- f. Contour lines at an interval of not more than 2 feet, referenced to U. S. Coastal and Geodetic Survey benchmarks if such exist within 1,000 feet of the property. The Planning Board may permit 5-foot contour intervals in instances where there would be little impact upon existing drainage, and no underground utility systems are to be constructed.
- g. Location and size of existing buildings, water-courses, wetlands, and other essential existing physical features.
- h. Location and size of any existing sewers and water mains, drainage courses, and culverts.
- i. A soils report, prepared by a Licensed Soil Scientist, Geologist or Site Evaluator, identifying soil types and location of soil test areas. There shall be at least one soils test pit per lot.

3.1.3.1.3 Information on Subdivision

- a. Proposed name of subdivision.
- b. Number of lots.
- c. Date, north point, graphic map scale.
- d. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells.
- e. Location of temporary markers adequately located to enable the Planning Board to locate lots readily and appraise basic lot layout in the field.
- f. Location of all parcels to be dedicated to public use, the conditions of such dedication, and the location of all natural features or site elements to be preserved.
- g. A location map, consisting of a USGS Topographic Map, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within 2,000 feet of any proposed subdivision.
- h. Location, names and widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces.
- i. Vertical profile of proposed road centerlines drawn at a vertical scale of either 1" = 4' or 1" = 5'; and a typical cross-section of the proposed roadway and storm drainage facilities drawn at a horizontal scale of either 1" = 40' or 1"=50'. Where the Planning Board deems it appropriate, a vertical profile of existing or proposed stormwater drainage facilities may also be required.
- j. A stormwater management plan in conformance with Section 4.15.
- k. A description of any restrictive covenants to be placed on the deeds.
- l. In the instance of a condominium development, the applicant shall also be required to submit a draft of the Condominium Declaration and Bylaws.
- m. An erosion and sedimentation control plan in conformance with Section 4.6.
- n. If the subdivision is in the watershed of a great pond, a phosphorus control plan in conformance with Section 4.13.
- o. For subdivisions greater than 5 lots that are not served by public sewer, a hydrogeologic assessment prepared in accordance with Section 4.8 by a certified geologist or licensed professional engineer experienced in hydrogeology.
- p. Preliminary designs of any bridges or culverts which may be required.
- q. Base flood elevation data.
- r. The location of significant resources including important deer wintering yards, other important plant or wildlife habitats and areas with visual significance.
- s. A copy of the letter sent by certified mail, return receipt requested, to the State Historic Preservation Officer submitting information on the location of the development to the following address:

State Historic Preservation Officer  
Maine Historic Preservation Commission  
55 Capitol Street  
State House Station 55  
Augusta, Maine 04333

and including a request that the Edgecomb Planning Board be notified of any comments. The applicant shall submit to the Planning Board proof that the State Historic Preservation Officer has been notified.

t. For six or more dwelling units in a subdivision, a plan for ensuring an adequate on-site water supply for fire suppression, which shall consist of a minimum 10,000-gallon underground storage tank, together with appurtenant piping and hydrants, designed by a licensed professional engineer, or an approved building sprinkler system. The plan shall include any existing or proposed perpetual easements necessary to ensure access to firefighting water supply or hydrants.

u. Other information not indicated above, as specified by the Board on the application form.

#### 3.1.4 Issuance of Dated Receipt.

Upon receipt of the Preliminary Subdivision Plan and the application form, the Planning Board shall issue the subdivider a dated receipt.

#### 3.1.5 Public Hearing

Within thirty (30) days of the acceptance of an application as complete, the Planning Board shall hold a hearing to afford the public the opportunity to comment on the application. The Board shall give written notice of the date, time and place of such hearing to the person making the application and also publish such notice in a newspaper of general circulation in Edgecomb at least two (2) times, the date of the first publication to be at least seven (7) days before the hearing. The applicant shall notify abutting property owners, including those located directly across a public or private road from the parcel proposed to be subdivided, and also shall present proof to the Planning Board that such action by the developer to described abutters has occurred.

#### 3.1.6 Planning Board Action on the Preliminary Subdivision Plan.

Within 30 days of the date of a public hearing, the Planning Board shall notify the applicant in writing either that:

3.1.6.1 With the exception of the submission of a Final Subdivision Plan, the application is complete, or

3.1.6.2 In addition to the submission of a Final Subdivision Plan, there are specific additional materials, which will have to be submitted to make a complete application. The Planning Board shall list the specific additional items that are required to make the application complete except for the Final Subdivision Plan; and/or,

3.1.6.3 The Planning Board has determined that there are apparent deficiencies with the proposal, which need to be addressed before submission of the Final Subdivision Plan. The Planning Board shall indicate in writing the nature of these deficiencies. Submission of the Final Subdivision Plan without correcting these deficiencies shall be grounds for disapproval of the application for subdivision approval.

The Planning Board shall maintain a permanent record of its action on the Preliminary Subdivision Plan.

### 3.1.7 Submission of a Final Subdivision Plan

Within 6 months of the date of Planning Board action on the Preliminary Subdivision Plan, the subdivider shall submit the Final Subdivision Plan to the Planning Board with a check for fees (see Fee Schedule, Article IX). The check shall be payable to the Town of Edgecomb. Failure to submit the Final Subdivision Plan within the designated time period shall require the submission of a new subdivision application.

The Final Subdivision Plan shall consist of 1 original transparency and 8 copies of one or more maps or drawings similar to the maps or drawings prepared for Preliminary Subdivision Plan submission. In addition to all the items required for the Preliminary Subdivision Plan, unless otherwise indicated by the Planning Board, the following items shall be required as part of the Final Subdivision Plan submission:

- 3.1.7.1 Licensed Land Surveyor. The name, registration number, and seal of the registered land surveyor who prepared the Final Subdivision Plan.
- 3.1.7.2 Streets. The street names, and lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings.
- 3.1.7.3 Open Spaces. The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider.
- 3.1.7.4 Lots: The location, bearing, and length of every line, with all lots to be numbered in accordance with local practices.
- 3.1.7.5 Permanent Reference Monuments. The location of permanent markers set at all lot corners, as shown on the Plan.
- 3.1.7.6 Performance Bond. A performance bond to secure completion of all public improvements shall be required by the Planning Board.
- 3.1.7.7 Approval Space. Suitable space to record on the approved subdivision plan the date and conditions of approval, if any. This space shall be similar to the following example:

Approved: Town of Edgecomb Planning Board  
Signed \_\_\_\_\_ Chairman  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Space for  
all members  
to sign)  
Date \_\_\_\_\_  
Conditions \_\_\_\_\_

### 3.1.8 Notification of Completed Subdivision Application.

After the Planning Board has received the Final Subdivision Plan and all of the information required to be submitted with it, the Planning Board shall notify the subdivider in writing that a completed subdivision application has been filed, and shall begin its evaluation.

### 3.1.9 Planning Board Decision on Final Subdivision Plan.

3.1.9.1 The Planning Board shall within 60 days of having received a completed application, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30-A, M.R.S.A., Section 4401-4407 to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and Title 30-A, M.R.S.A, Section 4401. Upon arrival of the Plan, a majority of the Board shall sign all four copies. The original transparency shall be filed with the Registry of Deeds. One copy shall be retained by the subdivider, one copy shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of its action on the Final Plan.

3.1.9.2 Substantial start of construction of an approved subdivision shall be made within one year from the date of approval of the Final Subdivision Plan, or approval of the Final Subdivision Plan shall become null and void.

## **Section 4 – Criteria and Standards**

In addition to the Development Criteria Table and General Provisions in Article III, Sections 4 and 5, the following criteria shall be utilized by the Planning Board in reviewing applications for subdivision approval. These standards are intended to provide a guide for the applicant in development of site and building plans as well as a method of review for the board.

4.1 Guidelines for Reviewing Subdivisions in Subdivision Law: In reviewing any proposed subdivision, the Planning Board shall consider the criteria set forth in the guidelines contained in the State Subdivision Law, Title 30-A, M.R.S.A., Section 4401-4407, and before granting approval shall determine that they have been or will be met. In all instances, the burden of proof shall rest with the applicant.

4.2 Conformance with Other Laws, Regulations: The proposed subdivision shall be in conformance with all pertinent local, state and federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of subdivision as defined in the Site Location Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Department of Environmental Protection and the Planning Board. When a proposed subdivision requires approval of the Planning Board and the Department of Environmental Protection, each review may be conducted simultaneously. However, each review will be conducted independently, and the Planning Board may deny approval of the subdivision even though the Department of Environmental Protection has granted an approval under the provisions of the Site Location Act.

4.3 Construction Prohibited: No utility installations, no ditching, grading or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the subdivision until a Final Subdivision Plan has been prepared, submitted, reviewed, approved, and endorsed as provided by these regulations, nor until an attested copy of the Final Subdivision Plan so approved and endorsed has been recorded by the subdivider in the Registry of Deeds.

4.4 Easements: The Planning Board may require easements for sewerage, drainage, or other utilities.

4.5 Erosion and Sediment Control Plan: An erosion and sediment control plan shall be prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:

- 4.5.1 The name, address, and telephone number of the person responsible for implementation of the plan.
- 4.5.2 A vicinity map showing the location of waterbodies and wetlands that may be affected by erosion and sedimentation from the project.
- 4.5.3 Existing and proposed drainage patterns, including drainage channels that drain to surrounding waterbodies and wetlands.
- 4.5.4 A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
- 4.5.5 Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
- 4.5.6 Description of temporary and permanent erosion control practices that will be used.
- 4.5.7 Identification of the locations of the temporary and permanent erosion control practices.
- 4.5.8 Identification of how and where collected sediment will be disposed.
- 4.5.9 Dust control measures.
- 4.5.10 Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

#### 4.6 Hydrogeologic Assessment

- 4.6.1 When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - 4.6.1.1 A map showing the basic soils types.
  - 4.6.1.2 The depth to the water table at representative points throughout the subdivision.
  - 4.6.1.3 Drainage conditions throughout the subdivision.
  - 4.6.1.4 Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - 4.6.1.5 An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision and at the subdivision boundaries. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
  - 4.6.1.6 A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- 4.6.2 Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

- 4.6.3 No subdivision shall increase any contaminant concentration in the ground water, at any on-site well or at the subdivision boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at any on-site well or at the subdivision boundary to more than the Secondary Drinking Water Standards.
- 4.6.4 If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- 4.6.5 If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- 4.6.6 Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

4.7 Phosphorus Control Plan: For subdivisions located within the watershed of a great pond, phosphorous export from construction and long-term operation shall be equal to or less than that which is calculated using the methodology established by the Maine Department of Environmental Protection and described in "Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development (January 2008 or most current)".

4.8 Stormwater Management Facilities: A stormwater management plan, prepared by a licensed professional engineer, shall be designed so that the post-development stormwater runoff does not exceed the pre-development storm water runoff for the 24-hour, 2-,10-, and 25- year frequency storm events. The stormwater plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices*, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part hereof. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the stormwater plan and calculations by the Knox-Lincoln Soil and Water Conservation District.

#### 4.9 Lots and Density.

- 4.9.1 The lot size, width, depth, shape and orientation and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated and shall conform to the lot size, frontage and setback requirements of the zone in which it is located.
- 4.9.2 For cluster developments, overall net density shall not be greater than the density that would result from the creation of individual, non-clustered lots. Such density shall be calculated by dividing the total developable acreage within the subdivision (including open spaces or common recreational areas) by the number of proposed units. In areas outside of the Shoreland Zone, the required minimum lot size or minimum land area per dwelling unit may be reduced to no less than one-half acre.
- 4.9.3 Where individual, on-site sewage disposal systems are to be utilized, the size of each lot shall be based on soil characteristics and shall conform to the Minimum Lot Size Guide contained in Appendix 1 of the State of Maine Plumbing Code, Part 11, dated April 25, 1975, as amended. At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots and open space, utilities including individual wells and septic systems may be located in designated portions of the open space, if necessary, provided the same shall not unreasonably

interfere with the open space purposes to be achieved under this performance standard and for the particular parcel(s) that is the subject of this subdivision application.

#### 4.10 Street Design and Construction.

4.10.1 Streets constructed within subdivisions or to provide access thereto shall conform to the following minimum design standards:

4.10.1.1 Right-of way width	50'
4.10.1.2 Pavement width	20'
4.10.1.3 Pavement material	2.5" bituminous concrete (1.5" base course and 1.0" surface course) or 1.0" penetrated cutback asphalt surface, 1.0 gal/sq.yd. in two applications.
4.10.1.4 Gravel base	12" extended under shoulder
4.10.1.5 Shoulder	4'
4.10.1.6 Side Slopes	3' hor. : 1' vert. maximum
4.10.1.7 Minimum Grade	0.5%
4.10.1.8 Maximum Grade	12.0%
4.10.1.9 Minimum angle of street intersections	60 degrees
4.10.1.10 Maximum grade within 75' of intersections	3%

#### 4.10.2 Exception to paving requirement

4.10.2.1 Where subdivision streets are to remain private roads, the requirement above titled "Pavement material" shall not be applicable and the following words shall appear on the recorded plan:

"All roads in this subdivision shall remain private roads to be maintained by a road association consisting of all subdivision lot owners and shall not be maintained by the Town or considered for acceptance by the Town until they meet all of the design standards contained in Paragraph 4.10.1 above."

#### 4.10.3 Homeowners' Association road maintenance responsibility

4.10.3.1 The formation of a homeowners' association with evidence of its accomplishment shall be submitted to the Planning Board within thirty (30) days of approval. No building permit shall be issued prior to the satisfaction of this requirement. The homeowners' association shall be governed by the following regulations:

- a. The organization shall be established by the developer and shall commence operation, with the financial support of the developer if necessary, before the sale of any lot in the development.

- b. Membership in the association shall be mandatory for all purchasers of lots in the subdivision and their successors.
- c. The association shall be responsible for the upkeep, maintenance and repair of all roads in the subdivision together with any road related open spaces.
- d. The association shall levy annual charges against all property owners in the subdivision to defray the costs of maintenance and repair of all roads and associated open spaces in the subdivision.
- e. The association shall have the power to place liens on the property of members who are more than six months in arrears on their annual association charges.
- f. The association shall have or hire adequate staff to maintain and repair the subdivision roads.

4.11 Basement Drainage: If lots are being created to accommodate structures with basements, the subdivider shall show that the basement can be drained by gravity to the ground surface, or storm sewers, if they are required to be installed, or that the water table is below the level of the basement.

4.12 Buffer Strip: The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.

#### 4.13 Open Space Provisions.

4.13.1 The Planning Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" or more in diameter), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic, or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as much as possible.

4.13.2 Where the proposed subdivision abuts a lake, pond, river or perennial stream, the Planning Board may require, where feasible and appropriate, that the subdivider reserve an area of land abutting the water body or water course as an open space and/or recreational area for use by property owners in the subdivision. The instruments of conveyance (deeds) from the subdivider to the property owners in the subdivision shall provide for an access right-of-way to this reserved land. The cost of maintenance and development of the reserved land shall be borne by the property owners of the subdivision.

4.13.3 The manner of providing for the cost of development and/or maintenance of the reserved open space shall be included in the instrument of conveyance to each property owner of the subdivision.

4.14 Land Not Suitable for Development: All portions of any proposed subdivision that are located on land below sea level, or on land within the 100-year flood plain, or on land which has been filled or drained, or on land created by diverting a watercourse shall not be included in the calculation of density or minimum dimensions. The Planning Board shall not approve a subdivision requiring filling of tidal land or filling or draining of a great pond.

#### 4.15 Performance Bond.

4.15.1 The Planning Board may require that the subdivider file with the Board at the time of submission of the Final Plan a performance guarantee in an amount sufficient to defray all expenses of the

proposed public improvements. This may be tendered in the form of a certified check payable to the Treasurer of the municipality and issued by a surety company acceptable to the municipality. The conditions and amount of such certified check or performance bond shall be determined by the Planning Board of the municipality with the advice of the municipal officers. The amount shall be at least equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage and utilities or other improvements specified on the Final Subdivision Plan within two years of the date of the certified check or performance bond.

- 4.15.2 The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the select board, good cause for such extension. Such recommendation shall be referred to the select board for official action.
- 4.15.3 Before a subdivider may be released from any obligation requiring his guarantee of performance, the Planning Board will require certification from the select board to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws, and regulations).
- 4.15.4 The Planning Board may, at its discretion waive the requirement of a performance bond and recommend a properly executed conditional agreement with the municipality. Such agreement, if executed with the municipality, shall be endorsed in writing on the Final Plan or any part thereof, on the condition that no lot in the subdivision may be sold and no permit shall be issued for construction of any building on any lot on any street in the subdivision until it shall have been certified in the manner set forth in paragraph 4.15.3 above that all improvements have been made within 2 years of the date of executing such conditional agreement.

4.16 Plan Revisions after Approval: No changes, erasures, modifications, or revisions shall be made in any Final Subdivision Plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first re-submitted and the Planning Board approves any modifications, provided, that the Code Enforcement Officer may approve the correction of typographic, arithmetic, and similar errors, providing a memorandum of such correction is sent to the Planning Board. In the event that the Final Subdivision Plan is recorded without complying with this requirement, the same shall be considered null and void and the Planning Board shall institute proceedings to have the Subdivision Plan stricken from the records of the Town and the Registry of Deeds.

## **Section 5 – Waiver and Modification of these Regulations**

- 5.1 Where the Planning Board finds that extraordinary and unnecessary hardships may result from the strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance.
- 5.2 In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

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## Article VI – Overlay and Supplementary Ordinances

### Section 1 – Shoreland Overlay District

*Amended May 13, 2017, May 19, 2018*

This Section may be referred to as the “Shoreland Zoning Ordinance,” and in this Section as “Ordinance.”

#### 1.1 Purposes and Authority

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

This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (MRSA).

#### 1.2 Applicability.

This Ordinance applies to the Shoreland Zone; to all land areas within 250 feet, horizontal distance, of the

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

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

The Shoreland Zone is an overlay district which provides additional or superseding requirements to any underlying zoning district. Land uses contemplated beyond the boundary of the Shoreland Zone shall adhere to the requirements of any underlying zoning district.

#### 1.3 Availability

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

#### 1.4 Severability

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

#### 1.5 Conflicts with Other Ordinances

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

## 1.6 Amendments

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

## 1.7 Districts and Zoning Map

### 1.7.1 Official Shoreland Zoning Map

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

- Resource Protection
- Limited Residential
- General Development
- Stream Protection

### 1.7.2 Scale of Map

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

### 1.7.3 Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Edgecomb Town Clerk and shall be located in the Edgecomb Town Office.

### 1.7.4 Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Article I, Section 6, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of Environmental Protection.

## 1.8 Interpretation of District Boundaries

District boundary lines are as set forth on the Official Shoreland Zoning Map. In the case of any locational or dimensional difference between the text of this ordinance and the map, the text shall control. Where uncertainty exists the Board of Appeals shall be the final authority as to location.

## 1.9 Land Use Requirements

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

## 1.10 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 in Article III, Section 5. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

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

### 1.10.1 Non-conforming Structures

1.10.1.1 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 1.13.2.1. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

(a) 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.

(b) 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 1.10.2.

(i) 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.

(c) 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 1.10.1.1 or Section 1.10.1.1 (a), above.

(i) 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.

(ii) 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 1.10.1.1.(b)(i) and Section 1.10.1.1.(c)(i), above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), 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 10.1.1(b)(i) and Section 1.10.1.1 (c)(i), above.

(d) 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.

1.10.1.2 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 1.10.1.3.

1.10.1.3 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 1.13.18. In addition, the area from which the relocated structure was removed shall be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to remove a structure shall be replanted with at least one native tree, three 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 shall 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 shall be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed shall be reestablished within the setback area. The vegetation and/or ground cover shall 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.

**1.10.1.4 Reconstruction or Replacement:** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced to increase its non-conformity. 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 1.10.1.1 above, as determined by the non-conforming footprint 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 to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 1.10.1.3 above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 1.10.1.2 above, the physical condition and type of foundation present, if any.

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

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety,

erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### 1.10.2 Non-conforming Uses

1.10.2.1 Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 1.10.1.1 (b) above.

1.10.2.2 Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period, provided, that the applicant applies for the extension before the expiration of the original one year 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.

1.10.2.3 Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 1.10.1.4 above.

#### 1.10.3 Non-conforming Lots

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

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

If two or more principal uses or structures existed on a single lot of record on 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 shall be as conforming as possible to the dimensional requirements of this Ordinance.

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

This provision shall not apply to two or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on 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 1.10.3 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.

#### 1.11 Establishment of Shoreland Districts

The Districts are as shown on the Official Shoreland Zoning Map or described herein by dimension or reference to tax map designations. The following are criteria to be used in amending said map.

##### 1.11.1 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 zone, exclusive of the Stream Protection District.

1.11.1.1 Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. This shall include Lily Pond.

1.11.1.2 Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

1.11.1.3 Areas of two or more contiguous acres with sustained slopes of 20% or greater.

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

1.11.1.4 Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

##### 1.11.2 Limited Residential District

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

The Limited Residential District shall include all shoreland areas not within the General Development District, including but not necessarily limited to:

1.11.2.1 All shoreland of the Sheepscot, Damariscotta and Cross Rivers not including those areas in the Resource Protection District.

1.11.2.2 All shoreland of freshwater wetlands as shown on the official Shoreland Zoning Map not including those areas in the Resource Protection District.

### 1.11.3 General Development District.

The General Development District includes the following types of areas:

1.11.3.1 Areas of two or more contiguous acres devoted to commercial or intensive recreational activities, or a mix of such activities including but not limited to the following:

1.11.3.1.1 Areas devoted to manufacturing or fabricating;

1.11.3.1.2 Areas devoted to wholesaling, retail trade and service activities or other commercial activities.

The General Development District shall include the following areas:

1.11.3.2 All property abutting the north side of U. S. Route One on Davis Island that is within the Shoreland Zone.

1.11.3.3 The property designated on the Town of Edgecomb Tax Map U-5 as Lot #7.

### 1.11.4 Stream Protection District

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

## 1.12 Land Uses

All land uses, as indicated in Table 1.12, shall conform to the applicable land use standards in Section 1.12.

### Key to Table 1.12:

yes - Allowed (no permit required but the use shall comply with all applicable land use standards)

no - Prohibited

PB - Allowed with permit issued by the Planning Board

LPI - Allowed with permit issued by the local Plumbing Inspector

CEO - Allowed with permit issued by the Code Enforcement Officer

### Abbreviations:

SP – Stream Protection

LR – Limited Residential

GD – General Development

RP – Resource Protection

**Table 1.12 Land Uses in the Shoreland Zone**

Land Uses	SP	RP	LR	GD
1. Non-intensive recreational uses not requiring structures (i.e. hunting, fishing, hiking)	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3. Clearing of vegetation for approved construction and other allowed uses	PB	PB <sup>1</sup>	yes	yes
4. Fire prevention activities	yes	yes	yes	yes
5. Wildlife management practices	yes	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes	yes
7. Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
8. Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB	PB
9. Surveying and resource analysis	yes	yes	yes	yes
10. Emergency operations	yes	yes	yes	yes
11. Agriculture	PB	no	PB	PB
12. Aquaculture	PB	PB	PB	yes
13. Principal structures and uses				
A. Single family residential, including driveways	PB <sup>4</sup>	PB <sup>9</sup>	PB	PB
B. Two family and multi-unit residential, including driveways	no	no	no	PB
C. Multi-unit residential	no	no	no	PB
D. Commercial	no	no <sup>10</sup>	no <sup>10</sup>	PB
E. Industrial	no	no	no	no
F. Governmental & institutional	no	no	PB	PB
G. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	PB	PB
H. Floating Structures	no	no	no	no
14. Structures accessory to allowed uses	PB <sup>4</sup>	PB	CEO	yes
15. Temporary or permanent piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland	PB	PB	PB	PB
16. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI
17. Home occupations	PB	PB	PB	yes
18. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
19. Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
A. Road side distribution lines (34.5kV and lower)	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
C. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
D. Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
20. Service drops, as defined, to allowed uses	yes	yes	yes	yes
21. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB
22. Individual, private campsites	CEO	CEO	CEO	CEO
23. Campgrounds	no	no <sup>7</sup>	PB	PB
24. Road construction	PB	no <sup>8</sup>	PB	PB
25. Parking facilities	no	no <sup>7</sup>	PB	PB

26. Marinas	PB	no	PB	PB
27. Filling and earth-moving of <10 cubic yards	PB	PB	yes	yes
28. Filling and earth-moving of >10 cubic yards	PB	PB	PB	PB
29. Signs (subject to Edgcomb Sign Ordinance regulations)	yes	yes	yes	yes
30. Uses similar to allowed uses	CEO	CEO	CEO	CEO
31. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
32. Uses similar to uses requiring a PB permit	PB	PB	PB	PB

Notes to Table 1.12

- 1 In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
- 2 Requires permit from the Planning Board if more than 100 square feet of surface area, in total, is disturbed.
- 3 In RP not allowed in areas so designated because of wildlife value.
- 4 Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- 5 Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
- 6 See further restrictions in Section 1.13.12.2.
- 7 Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
- 8 Except as provided in Section 1.13.8.3.
- 9 Single family residential structures may be allowed by special exception only according to the provisions of Section 1.14.4, Special Exceptions. Two-family residential structures are prohibited.
- 10 Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

1.13 Land Use Standards

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

1.13.1 Minimum Lot Standards

- 1.13.1.1 Any lot in any Shoreland district shall be at least two (2) acres in size, and have a minimum shore frontage of 200 feet.
- 1.13.1.2 Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- 1.13.1.3 Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- 1.13.1.4 The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- 1.13.1.5 No more than one principal structure for commercial use or one principal structure for residential use shall be constructed per two acres. A principal structure for commercial use constructed on two acres shall not contain any dwelling units. A principal structure for

residential use constructed on two acres shall not contain more than one dwelling unit and one accessory apartment. All dimensional requirements shall be met.

- 1.13.1.6 A lot in the Resource Protection District, Limited Residential District, General Development District, or Stream Protection District abutting a wetland, lake, pond, river, stream or tidal water shall have a minimum shore frontage of two hundred (200) feet measured in a straight line between the points of intersection of the side lot lines with the shoreline at the normal high water mark.

#### 1.13.2 Principal and Accessory Structures

**NOTE:** The *Natural Resources Protection Act*, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Permitting under the *Natural Resources Protection Act* for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

- 1.13.2.1 All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) disagree as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Licensed Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination.

On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

The Planning Board may increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

- 1.13.2.2 Principal or accessory structures and expansions of existing structures which are permitted shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

1.13.2.3 The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

1.13.2.4 With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located with the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located. In a General Development District located adjacent to coastal wetlands or rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of 70% of the portion of the lot located within the shoreland zone. For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following structures, driveways, parking areas and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

1.13.2.5 Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all the following conditions are met:

- (a) The site has been previously altered and an effective vegetated buffer does not exist;
- (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
- (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
- (d) The total height of the wall(s), in the aggregate is no more than 24 inches;
- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area shall meet the following characteristics:
  - (i) The buffer shall include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area shall be supplemented with leaf or bark mulch;
  - (ii) Vegetation plantings shall be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (iii) Only native species may be used to establish the buffer area;
  - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 1.13.15.2.1 may traverse the buffer.

**NOTE:** If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection

1.13.2.6 Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Planning Board, to provide shoreline access in areas of steep slopes or unstable soils provided that: the structure is limited to a maximum of four (4) feet in width; 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 the applicant demonstrates that no reasonable access alternative exists on the property.

### 1.13.3 Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland.

1.13.3.1 No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 1.13.1.1, a second structure may be allowed and may remain if the lot is not further divided.

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

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

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

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

1.13.3.6 No new structure for residential or other purpose including floating structures 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.

1.13.3.7 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.

1.13.3.8 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

1.13.3.9 Except in the General Development 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.

1.13.3.10 Vegetation may be removed in excess of the standards in Section 1.13.15 of this ordinance in order to conduct shoreline stabilization or an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board

(a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

(b) Revegetation must occur in accordance with Section 1.13.18.

**NOTE:** A permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection for Shoreline Stabilization activities

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

1.13.4.1 Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site.

1.13.4.2 The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

1.13.5. Individual-Private Campsites. Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

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

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

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

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

1.13.6.5 A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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

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

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

#### 1.13.7 Parking Areas

1.13.7.1 Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

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

1.13.7.3 In determining the appropriate size of proposed parking facilities, the following shall apply:

1.13.7.3.1 Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

1.13.7.3.2 Internal travel aisles: Approximately twenty (20) feet wide.

#### 1.13.8 Roads and Driveways

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

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

relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

1.13.8.2 Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

1.13.8.3 New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

1.13.8.4 Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 1.13.19.

1.13.8.5 Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

1.13.8.6 In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

1.13.8.7 Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

1.13.8.8 Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

#### 1.13.9 Signs

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

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

#### 1.13.10 Storm Water Runoff

1.13.10.1 All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

1.13.10.2 Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

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

#### 1.13.11 Septic Waste Disposal

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

**NOTE:** The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance

#### 1.13.12 Essential Services

1.13.12.1 Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

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

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

#### 1.13.13 Mineral Exploration and Extraction

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

Mineral extraction may be permitted under the following conditions:

1.13.13.1 A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Sec. 1.13.13.3.

1.13.13.2 No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

1.13.13.3 Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

**NOTE:** The *State of Maine Solid Waste Laws*, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

(b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

1.13.13.4 In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

#### 1.13.14 Agriculture

1.13.14.1 All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 MRSA sections 4201-4209).

1.13.14.2 Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

1.13.14.3 Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be a violation of this Ordinance.

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

1.13.14.4 There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained but may not be increased in area.

1.13.14.5 Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue but may not be increased, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

1.13.15 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

1.13.15.1 In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section 1.13.16.

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.

1.13.15.2 Except in areas as described in Section 1.13.15.1, above, 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, within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

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

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

Diameter of Tree at 4-1/2 feet

<u>Above Ground Level (inches)</u>	<u>Points</u>
2 - < 4	1
4 - < 8	2
8 - < 12	4
12 or greater	8

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

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

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

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

The following shall govern in applying this point system:

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

For the purposes of 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 1/2 feet above ground level may be removed in any ten (10) year period.

1.13.15.2.3 In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 1.13.15.2.1 above.

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

1.13.15.2.5 In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 1.13.16 below unless existing new tree growth is present.

1.13.15.2.6 In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 1.13.15.

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

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

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

1.13.15.5 Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

#### 1.13.16. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

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

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

(c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

(d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

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

(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

- (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- (ii) Stumps from the storm-damaged trees may not be removed;
- (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

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

#### 1.13.17 Exemptions to Clearing and Vegetation Removal Requirements

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

1.13.17.1 The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts to primarily woody vegetation, the requirements of Section 1.13.15 apply;

1.13.17.2 The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirement of section 1.13.2 are not applicable.

1.13.17.3 The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

1.13.17.4 The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 1.13.14 are complied with;

1.13.17.5 The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:

- (a) A coastal wetland; or
- (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

1.13.17.6 The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

- (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
- (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

**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](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

(7) 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.

#### 1.13.18. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 1.13.15 to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1.13.18.1 The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

1.13.18.2 Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at

a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

1.13.18.3 If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

1.13.18.4 Revegetation activities must meet the following requirements for trees and saplings:

- (a) All trees and saplings removed must be replaced with native noninvasive species;
- (b) Replacement vegetation must at a minimum consist of saplings;
- (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
- (d) No one species shall make up 50% or more of the number of trees and saplings planted;
- (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
- (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

1.13.18.5 Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
- (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
- (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
- (e) Survival of planted woody vegetation and vegetation less than three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

1.13.18.6 Revegetation activities must meet the following requirements for ground vegetation and ground cover:

- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

#### 1.13.19 Erosion and Sedimentation Control

1.13.19.1 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:

- (a) Mulching and revegetation of disturbed soil.
- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- (c) Permanent stabilization structures such as retaining walls or rip-rap.

1.13.19.2 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

1.13.19.3 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

1.13.19.4 Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

1.13.16.5 Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty- five (25) year storm or greater and shall be stabilized with vegetation or lined with riprap.

#### 1.13.20 Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists,

Maine Licensed Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

#### 1.13.21 Water Quality

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

#### 1.13.22 Archaeological Site

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

**NOTE:** Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

### 1.14 Administration

#### 1.14.1 Permits Required

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

A permit is not required for the replacement of an existing road culvert if:

1.14.1.1 The replacement culvert is not more than 25% longer than the culvert being replaced;

1.14.1.2 The replacement culvert is no longer than 75 feet; and

1.14.1.3 Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

A permit is not required for an archaeological excavation if the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

#### 1.14.2 Permit Application

1.14.2.1 Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Town of Edgcomb, to the appropriate official as indicated in Section 1.12. Ten complete sets shall be submitted.

1.14.2.2 All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with a letter of authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

1.14.2.3 All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

1.14.2.4 If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

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

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

#### 1.14.3 Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 1.12, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

If a public hearing is held, at least seven days before the hearing notice shall be given to abutting property owners, including those located directly across a public or private road from the parcel proposed to be developed, by delivery in person or by registered or certified mail, with restricted delivery and return receipt requested. Service by registered or certified mail shall be complete when the registered or certified mail is delivered and the return receipt signed or when acceptance is refused, provided that the applicant shall file with the Planning Board either the return receipt of, if acceptance

was refused, an affidavit that upon notice of such refusal a copy of the summons and complaint was sent to the abutter by ordinary mail. If service of the notice is made personally, an affidavit of the person making service shall be filed with the Planning Board stating the time, manner and place of service.

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with floodplain development and use; and
- (8) Is in conformance with the provisions of Section 1.13 Land Use Standards.

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

#### 1.14.4 Special Exceptions.

In addition to the criteria specified in Section 1.10.2 above, except structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management

Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

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

#### 1.14.5 Expiration of Permit

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

#### 1.14.6 Installation of Public Utility Service

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

1.14.7 Appeals and Variances in the Shoreland District: See Article VIII of the Edgecomb Land Use Ordinance.

#### 1.14.8 Enforcement

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

#### 1.14.8.2 Code Enforcement Officer

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

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

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

#### 1.14.8.3 Legal Actions

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

#### 1.14.8.4 Fines

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

### 1.15 Definitions

**Accessory structure or use** - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

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

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

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

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

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

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

**Bureau of Forestry** – State of Maine Department of Conservation’s Agriculture, Conservation, and Forestry, Bureau of Forestry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Floating Structure** – a residential or commercial structure on or in the waters of the Town of Edgecomb, floating or non-floating, which includes, but is not limited to a structure designed or fitted out as a place of habitation or commercial activity and is not principally used for transportation regardless of the capability of the structure to propel itself across the water. A floating structure is not a vessel as defined by the United States Coast Guard or watercraft as defined by the Inland Fisheries and Wildlife

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

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

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

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

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

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

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

(1.) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

(2.) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Native** – indigenous to the local forests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Fryeburg Hadley Limerick

Lovewell Medomak Ondawa

Alluvial Cornish Charles

Suncook Sunday Winooski

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

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

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

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

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

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

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

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

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

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

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

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

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

(1.) in the case of electric service

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

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

(2.) in the case of telephone service

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

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

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

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

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

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

**Significant River Segments** - See Appendix BA or 38 M.R.S.A. Section 437.

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

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

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

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

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

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

**Tidal waters** – all waters affected by tidal action during the maximum spring highest annual tide.

**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 1.13.15 *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

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

**Tributary stream** – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from the tributary stream are applicable.

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

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

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

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

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

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

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

**Wetland** - a freshwater or coastal wetland.

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

## **Section 2 – Floodplain Zone Ordinance** *(Revised May 16, 2015)*

This Section may be referred to as the “Flood Plain Zone Ordinance” and in this Section as “Ordinance.”  
*(added May 17,2008, amended May 16, 2015)*

### **2.1 – Purpose and Establishment**

Certain areas of the Town of Edgecomb, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Edgecomb, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Edgecomb, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Edgecomb has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Edgecomb having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Edgecomb, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of Edgecomb, Lincoln County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Lincoln County, Maine,” dated July 16, 2015 with accompanying “Flood Insurance Rate Map” dated July 16, 2015 with panels: 244D, 265D, 331D, 332D, 333D, 334D, 341D, 342D, 352D, 354D, 355D, 361D, 362D derived from the county wide digital Flood Insurance Rate Map entitled “Digital Flood Insurance Rate Map, Lincoln County, Maine,” are hereby adopted by reference and declared to be a part of this Ordinance.

### **2.2 – Permit Required**

Before any construction or other development (as defined in Section 2.8), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 2.1, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Edgecomb, Maine.

### **2.3 – Application for Permit**

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- 2.3.1. The name, address and phone number of the applicant, owner, and contractor;
- 2.3.2. An address and a map indicating the location of the construction site;
- 2.3.3. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- 2.3.4. A statement of the intended use of the structure and/or development;
- 2.3.5. A statement of the cost of the development including all materials and labor;
- 2.3.6. A statement as to the type of sewage system proposed;
- 2.3.7. Specification of dimensions of the proposed structure and/or development;

[Items 2.3.8-2.3.11.2 apply only to new construction and substantial improvements.]

2.3.8. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:

2.3.8.1. base flood at the proposed site of all new or substantially improved structures, which is determined:

a. in Zones AE, from data contained in the "Flood Insurance Study - Lincoln County, Maine," as described in Section 2.1 or,

b. in Zone A:

(1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model), including information obtained pursuant to Sections 2.6.11 and 2.8.4;

(2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

(3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2.3.8.2. highest and lowest grades at the site adjacent to the walls of the proposed building;

2.3.8.3. lowest floor, including basement; and whether or not such structures contain a basement; and,

2.3.8.4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

2.3.9. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 2.6;

2.3.10. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

2.3.11. The following certifications as required in Section 2.6 by a registered professional engineer or architect:

2.3.11.1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 2.3..8.4.; Section 2.6.7.; and other applicable standards in Section 2.6;

2.3.11.2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 2.6.12.2.a.;

2.3.11.3. a certified statement that bridges will meet the standards of Section 2.6.13;

2.3.11.4. a certified statement that containment walls will meet the standards of Section 2.6.14;

2.3.12 A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

2.3.13. A statement of construction plans describing in detail how each applicable development standard in Section 2.6 will be met.

## 2.4 – Application Fee and Expert’s Fee

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

## 2.5 – Review Standards for Flood Hazard Development Permit Applications

The Code Enforcement Officer shall:

2.5.1. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 2.6 (Development Standards) have been, or will be met;

2.5.2.. Utilize, in the review of all Flood Hazard Development Permit applications:

2.5.2.1. the base flood and floodway data contained in the "Flood Insurance Study - Lincoln County, Maine," as described in Section 2.1;

2.5.2.2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 2.3.8.1.b.; Section 2.6.11.; and Section 2.8.4., in order to administer Section 2.6 of this Ordinance; and,

2.5.2.3. when the community establishes a base flood elevation in a Zone A by methods outlined in Section 2.3.8.1.b., the community shall submit that data to the Maine Floodplain Management Program.

2.5.3. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 2.1 of this Ordinance;

2.5.4. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

2.5.5. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

2.5.6. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

2.5.6.1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Sections 2.6.6, 2.6.7 and 2.6.8. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2.5.6.2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are

not being elevated but that meet the floodproofing standards of Section 2.6.7.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

2.5.6.3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Section 2.6.10., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

2.5.7. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 2.9 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Sections 2.3, 2.6 and 2.7. of this Ordinance.

## 2.6 – Development Standards

All developments in areas of special flood hazard shall meet the following applicable standards:

### 2.6.1. All Development - All development shall:

2.6.1.1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2.6.1.2. use construction materials that are resistant to flood damage;

2.6.1.3. use construction methods and practices that will minimize flood damage; and,

2.6.1.4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

2.6.2. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

2.6.3. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

2.6.4. On Site Waste Disposal Systems - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

2.6.5. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

2.6.6. Residential - New construction or substantial improvement of any residential structure located within:

2.6.6.1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

2.6.6.2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 2.3.8.1.b.; Section 2.5.2 or Section 2.8.4.

2.6.7. Non-Residential - New construction or substantial improvement of any non-residential structure located within:

2.6.7.1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 2.3.11 and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2.6.7.2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 2.3.8.1.b.; Section 2.5.2 or Section 2.8.4., or

a. together with attendant utility and sanitary facilities meet the floodproofing standards of Section 2.6.7.1.

2.6.8. Manufactured Homes - New or substantially improved manufactured homes located within:

2.6.8.1. Zones AE shall:

a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) all components of the anchoring system described in Section 2.6.8.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

#### 2.6.8.2. Zone A shall:

a. be elevated on a permanent foundation, as described in Section 2.6.8.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 2.3.8.1.b.; Section 2.5.2 or Section 2.8.4.; and

b. meet the anchoring requirements of Section 2.6.8.1.c.

#### 2.6.9. Recreational Vehicles - Recreational Vehicles located within:

##### 2.6.9.1. Zones A and AE shall either:

a. be on the site for fewer than 180 consecutive days,

b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 2.6.8.1.

2.6.10. Accessory Structures - Accessory Structures, as defined in Section 2.8, located within Zones A and AE, shall be exempt from the elevation criteria required in Sections 2.6.6 and 2.6.7. above, if all other requirements of Section 2.6 and all the following requirements are met. Accessory Structures shall:

2.6.10.1. be 500 square feet or less and have a value less than \$3000;

2.6.10.2. have unfinished interiors and not be used for human habitation;

2.6.10.3. have hydraulic openings, as specified in Section 2.6.12.2., in at least two different walls of the accessory structure;

2.6.10.4. be located outside the floodway;

2.6.10.5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

2.6.10.6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

#### 2.6.11. Floodways -

2.6.11.1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2.6.11.2. In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 2.6.11.3 unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

2.6.11.3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

2.6.12. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Section 2.6, including the elevation requirements of Section 2.6.6, 2.6.7 or 2.6.8 and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

2.6.12.1. Enclosed areas are not "basements" as defined in Section 2.8;

2.6.12.2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

- a. be engineered and certified by a registered professional engineer or architect; or,
- b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

2.6.12.3. The enclosed area shall not be used for human habitation; and,

2.6.12.4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

2.6.13. Bridges - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

2.6.13.1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2.6.13.2. a registered professional engineer shall certify that:

a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 2.6.11.; and

b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

2.6.14. Containment Walls - New construction or substantial improvement of any containment wall located within:

2.6.14.1. Zones A and AE shall:

a. have the containment wall elevated to at least one foot above the base flood elevation;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 2.3.11.

2.6.15. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water if the following requirements are met:

2.6.15.1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2.6.15.2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

## 2.7 – Certificate of Compliance

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

2.7.1. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 2.6.6, 2.6.7 or 2.6.8.

2.7.2. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

2.7.3. Within 10 working days, the Code Enforcement Officer shall:

2.7.3.1. review the Elevation Certificate and the applicant's written notification; and,

2.7.3.2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## 2.8 – Review of Subdivision and Development Proposals

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

2.8.1. All such proposals are consistent with the need to minimize flood damage.

2.8.2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

2.8.3. Adequate drainage is provided to reduce exposure to flood hazards.

2.8.4. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

2.8.5. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Section 2.6 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## 2.9 – Appeals and Variances

The Board of Appeals of the Town of Edgecomb may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the administration or enforcement of the provisions of this Ordinance. Where it is alleged that any error in any order, requirement, decision or determination made by or failure to act by, the Planning Board in the administration of this ordinance, appeal shall be taken to the Superior Court.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

2.9.1. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

2.9.2. Variances shall be granted only upon:

2.9.2.1. a showing of good and sufficient cause; and,

2.9.2.2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

2.9.2.3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

2.9.2.4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

- a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
- b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
- c. that the granting of a variance will not alter the essential character of the locality; and,
- d. that the hardship is not the result of action taken by the applicant or a prior owner.

2.9.3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

2.9.4. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

2.9.4.1. other criteria of Section 2.9 and Section 2.6.11. are met; and,

2.9.4.2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

2.9.5. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

2.9.5.1. the development meets the criteria of Sections 2.9.1, 2.9.2, 2.9.3, and 2.9.4. above; and,

2.9.5.2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

2.9.6. Any applicant who meets the criteria of Section 2.9.1 through Section 2.9.5. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

2.9.6.1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

2.9.6.2. such construction below the base flood level increases risks to life and property; and,

2.9.6.3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's

decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

#### 2.9.7. Appeal Procedure for Administrative and Variance Appeals

2.9.7.1. An administrative or variance appeal of a decision made by the Code Enforcement Officer may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision. An administrative appeal of a decision made by the Planning Board may be taken to the Superior Court by an aggrieved party within thirty days after receipt of a written decision of the Planning Board.

2.9.7.2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals or the Superior Court all of the papers constituting the record of the decision appealed from.

2.9.7.3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

2.9.7.4. The person filing the appeal shall have the burden of proof.

2.9.7.5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

2.9.7.6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

2.9.7.7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

#### 2.10 – Enforcement and Penalties

2.10.1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

2.10.2. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

2.10.3. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

2.10.3.1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2.10.3.2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

2.10.3.3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

2.10.3.4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

2.10.3.5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## 2.11 – Validity and Severability

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

## 2.12 – Conflict with Other Ordinances

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

## 2.13 - Definitions

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - means a small detached structure that is incidental and subordinate to the principal structure.

**Adjacent Grade** - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 2.1 of this Ordinance.

**Base Flood** - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - see **Structure**.

**Certificate of Compliance** - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Development** - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**Digital Flood Insurance Rate Map (FIRM)** – see **Flood Insurance Rate Map**

**Elevated Building** - means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section 2.6.12..

**Elevation Certificate** - An official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1. The overflow of inland or tidal waters.
  - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - see **Flood Elevation Study**.

**Floodplain or Flood-prone Area** - means any land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

**Floodway Encroachment Lines** - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section 2.6.12. of this ordinance.

**Manufactured Home** - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in Section 2.6.10., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**New Construction** - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)**- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or

footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

## 2.14 - Abrogation

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

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## Section 3 - Wireless Communications Facility Ordinance

This Section may be referred to as the “Wireless Communications Facility Ordinance,” and in this Section as “Ordinance.” *[added May 17, 2008]*

### 3.1 Purpose

To provide an environment in which the citizens want to live and work which takes into account aesthetics and the community character of Edgcomb. To ensure that service providers minimize the impact of their equipment as much as possible without overly restricting, and therefore discriminating against, any business.

### 3.2 Applicability

Except for non-business use, no building permit shall be issued for a new or significantly altered Wireless Communication Facility (WCF) until the provisions of Section 3.3 have been satisfied. The term “significantly altered” shall mean any change in the overall height or footprint of the WCF.

### 3.3 Criteria and Standards

#### 3.3.1 Setbacks

3.3.1.1 Antenna arrays for attached WCFs are exempt from the setback standards of this section. An attached WCF antenna array may extend up to ten (10) feet horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.

3.3.1.2 The center of the base of any WCF Support Structure shall be set back from all property lines the minimum required by existing ordinances or one foot for every foot of total tower height plus 15 feet, whichever produces the greater setback.

3.3.1.3 No part of the structure including anchors, guy wires, overhead lines, masts, etc. shall be located in the required setback.

3.3.1.4 Any equipment facilities are required to meet all applicable building code ordinances including setbacks.

#### 3.3.2 Construction

3.3.2.1 All WCF support structures shall comply with the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision E Standard entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

3.3.2.2 At the time of approval, the applicant for a new tower shall submit to the Town a bond or other financial surety, to be approved by the Town Selectmen, in the amount of 150% of the estimated demolition cost of the tower and the removal of

all accessory facilities as described in Section 3.3.7 below. Such cost to be determined by an independent Licensed Professional Engineer in the State of Maine and the amount shall be acceptable to the Town. The bond or other financial surety shall be in effect for as long as the tower is in place. *[amended May 17, 2008]*

3.3.2.3 The construction of any WCF support structure or equipment facility shall require a conforming building lot as defined by the appropriate Ordinance.

### 3.3.3 Screening

3.3.3.1 Antenna arrays located on an existing structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array and supporting structure and mechanical equipment shall be placed and colored to blend into the architectural detail and coloring of the host structure so as to make the antenna and related equipment as visually unobtrusive as possible.

3.3.3.2 Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the Tower Compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.

### 3.3.4 Noise Standards

3.3.4.1 Noise levels shall not exceed 5 dBA above ambient levels or 55 dBA Sound Pressure Level (SPL) at the boundary line of the WCF lot.

3.3.4.2 Operation of a back-up power generator in the event of power failure or the testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from this standard. No testing of back-up power generators shall occur between the hours of 9 p.m. and 8 a.m.

### 3.3.5 Lighting

3.3.5.1 Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the Town of Edgecomb may review the available lighting alternatives and approve the design that would cause the least disturbance in the surrounding area.

3.3.5.2 The Tower Compound may use lighting for security reasons that is compatible with the surrounding neighborhood.

3.3.6 Co-location: It is the policy of the Town of Edgecomb to minimize the number of wireless communication support towers and to encourage the co-location of antenna

arrays of more than one wireless communication service provider on a single support tower.

3.3.6.1 Any entity proposing a new WCF with a support structure shall provide documentation demonstrating that no existing or proposed site will practically or economically meet the required engineering standards for the proposed antenna array.

3.3.6.2 Any new WCF Support Structure shall be designed to accommodate co-location, even if only one user will locate on the tower at the time of site plan review and approval.

### 3.3.7 Abandonment and Obsolescence

3.3.7.1 Any WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such WCF shall remove the WCF within ninety (90) days of receipt of notice from the Town of Edgecomb notifying the owner of such abandonment. If such WCF is not removed within said ninety (90) days, the Town of Edgecomb may remove the WCF at the owner's expense.

3.3.7.2 If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.

3.3.7.3 Removal of the WCF shall include dismantling of any support structures, anchors, guy wires, overhead lines or masts, and the removal of all debris created as a result thereof. The Town may require the removal of any equipment facilities, fencing and access roads and the land returned to a condition as near to the original, pre-construction condition as possible.

### 3.3.8 Height

3.3.8.1 The maximum height of any WCF shall be limited to 200 feet above the mean level of the ground in a 10-foot radius of the Support Structure base.

### 3.3.9 Fencing

3.3.9.1 Tower Compounds shall be secured by fencing or other suitable materials capable of preventing access to the compound by children or other unauthorized persons.

### 3.3.10 Temporary WCF

3.3.10.1 In the event of an emergency or to provide temporary services an FCC Licensed Wireless Communications provider may set up a temporary WCF for a period of 90 days with the approval of the Town Selectmen.

### 3.3.11 Licensing

3.3.11.1 The entity proposing and accepting the responsibility for the operation of any WCF as defined in this Ordinance shall be licensed by the FCC to operate the proposed facility

3.3.11.2 Any entity operating a WCF in the Town of Edgecomb shall submit to the Town a copy of all applicable FCC licenses on an annual basis to verify activity for the purpose of determining abandonment.

### 3.3.12 Radio Frequency Emissions

3.3.12.1 The entity proposing and accepting the responsibility for the operation of any WCF shall certify, in writing, that its proposed facility will comply with the radio frequency (RF) emissions guidelines as outlined by Federal Communications Commission (FCC) rules located in Title 47 of the Code of Federal Regulations as amended by FCC Guidelines FCC 96-326.

## 3.4 Administration.

It is the intent of the permit processes to use the incentive of obtaining a building permit quickly to strongly encourage providers to locate WCFs on existing buildings and structures rather than on new support (tower) structures. By using these, both the community and the wireless industry can meet the common goal of siting WCFs in a manner which is consistent with community character and local concerns.

3.4.1 Any entity proposing a WCF where the antenna array is co-located on an existing tower or located on an existing building or structure, including public rights of way occupied by power lines or public utility properties such as electrical substations and power generation plants, and does not increase building/structure height more than 10 feet shall require a building permit.

3.4.2 Any entity proposing a WCF where the antenna array is to be located on an existing structure when the addition of an antenna array (including Attachment Device) would increase existing structure height by more than 10 feet and less than 20 feet shall require Planning Board review before the issuance of a building permit.

3.4.3 Any entity proposing the construction of a new support structure or increasing the height of an existing WCF by more than 20 feet shall require Planning Board review with mandatory site plan review before the issuance of a building permit. Any proposal brought before the Planning Board for the site plan review process must meet all of the requirements of the existing Site Plan Review Ordinance and submit eight copies of the following:

3.4.3.1 A description of the tower with documentation establishing its structural integrity for the proposed uses;

3.4.3.2 A statement describing excess space, if any, and whether it will be leased;

3.4.3.3 An area map identifying any existing wireless telecommunications towers; and

3.4.3.4 An analysis of the area containing existing topographical contours, tall buildings, and other factors influencing the tower location.

3.4.4 Review Process. As part of the review process the board should review the proposal for the following criteria:

3.4.4.1 Safety

3.4.4.1.1 Does it meet or exceed the structural standards specified in EIA/TIA 222 Revision E?

3.4.4.1.2 Does it meet special setbacks for support structures?

3.4.4.1.3 An Architectural or Engineering Design Review at the applicant's expense may be required under certain circumstances.

3.4.4.1.4 Has documentation certifying that the proposed facility will comply with the radio frequency (RF) emissions guidelines as described in Section 3.3.12 above been provided?

3.4.4.2 Other Applicable Ordinances including but not limited to:

3.4.4.2.1 Building Code Ordinance

3.4.4.2.2 Shoreland Zoning Ordinance

3.4.4.2.3 Site Plan Review Ordinance

3.4.4.3 Environmental Impact

3.4.4.4 Impact on the character of the community

3.4.4.4.1 Is screening sufficient?

3.4.4.4.2 Are noise standards met?

3.4.4.4.3 Has documentation required in Section 3.3.6 regarding co-location been provided?

3.4.4.4.4 Is the effect of tower and compound lighting minimized?

3.4.4.4.5 Is the proposed height within standards?

3.4.4.4.6 Are historical sites impacted?

3.4.5 Licensing

3.4.5.1 Is the responsible entity licensed by the FCC?

3.4.5.2 Is there a bond or other financial surety as required in Section 3.3.2.2 in place?

### 3.5 Definitions

Attached Wireless Communication Facility (Attached WCF). An Attached WCF is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, or other buildings having a primary purpose other than as a WCF.

Co-location. Co-location shall mean the use of a common Support Structure by two or more wireless license holders or by one wireless license holder for more than one type of communications technology.

Equipment Facility. An Equipment Facility is any structure used to contain ancillary equipment for a WCF, which includes cabinets, shelters, a building or an existing structure, pedestals and other similar structures. Equipment Facilities shall conform to existing ordinances for non-WCF structures.

Height. For the purposes of measuring the height of any structure located on a WCF site, all antennas mounted on a structure shall be considered part of the structure and shall be included in measurements to determine overall (i.e. combined) height.

Setbacks. When referring to a Support Structure, Setback shall mean the required distance from the Support Structure to the property line of the parcel on which the WCF is located.

Temporary Wireless Communication Facility (Temporary WCF). Temporary Wireless Communication Facility shall mean a WCF that is to be placed in use for a limited period of time and is not deployed in a permanent manner.

Tower Compound. A Tower Compound includes the base of the WCF Support Structure, any Equipment Facilities and any security fences.

Wireless Communications: Wireless Communications shall mean any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed.

Wireless Communication Antenna Array (Antenna Array). A wireless communication antenna array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy, which may include omnidirectional antenna (whip), directional antenna (panel) and parabolic antenna (dish). The Antenna Array does not include the Support Structure defined below.

Wireless Communication Facility (WCF). A WCF is any unstaffed facility for the transmission and/or reception of wireless communications services usually consisting of an Antenna Array, transmission cables, and Equipment Facility, and a Support Structure to achieve the necessary elevation.

Wireless Communication Support Structure (Support Structure). A Support Structure is a structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device (Attachment Device), which is used to attach an Attached WCF to an existing building or structure (Attachment Structure), shall be excluded from the definition of and regulations applicable to Support Structures.

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## Section 4 - Mobile Home Park Ordinance

This Section may be referred to as the “Mobile Home Park Ordinance,” and in this Section as “Ordinance.” *[added May 17, 2008]*

### 4.1 Title and Purpose

This ordinance shall be cited as the Mobile Home Park Ordinance of the Town of Edgecomb, Maine and will be referred to herein as “this Ordinance”.

The purpose of this Ordinance is to regulate development of mobile home parks to ensure the health, safety, and general welfare of the residents of the park and the Town of Edgecomb.

### 4.2 Applicability

This Ordinance applies to all development proposals for new construction of mobile home parks and to any expansion of existing mobile home parks.

An approved mobile home park plan shall be necessary under the terms of this Ordinance, before the establishment or expansion of a mobile home park, and shall consist of a site plan, including all attachments, signed by the Planning Board, and may include any conditions attached by the Planning Board.

An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state or federal requirements.

A proposed mobile home park must also submit an application for subdivision approval under the Subdivision Regulations of the Town of Edgecomb, which application review may be consolidated with review of the proposed mobile home park.

### 4.3 Mobile Home Park Review

#### 4.3.1 Application

Before the establishment or expansion of a mobile home park, an applicant shall apply for an approved mobile home park permit, which application shall include eight copies of a site plan and other plans and elevations as necessary to describe the proposed project, drawn to scale, containing the following information, where applicable:

4.3.1.1 Scale of the drawings submitted and compass rose.

4.3.1.2 Name and address of applicant.

4.3.1.3 Name and address of owner of property, if different from applicant.

4.3.1.4 Applicant's interest in the property (option, land purchase contract, lease, record ownership, etc.)

43.1.5 Boundaries of the tract of land. Planning Board may require survey by a licensed surveyor.

4.3.1.6 Location of existing and proposed mobile homes and other structures.

4.3.1.7 Location of buildings on abutting properties within 300 feet of the property line of the proposed park.

4.3.1.8 Location of existing public streets, roadways and rights-of-way.

4.3.1.9 Location of proposed access drives to the lot from public streets or roadways.

4.3.1.10 Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.

4.3.1.11 Location of existing and proposed pedestrian walkways.

4.3.1.12 Location of existing and proposed utilities and easements including sanitary sewerage, water supply, and electricity.

4.3.1.13 Location of existing natural drainageways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.

4.3.1.14 Location, intensity, type, size and direction of all outdoor lighting.

4.3.1.15 Location and use of areas proposed for outdoor recreation.

4.3.1.16 Location and type of existing and proposed fences, hedges, and trees of 6-inch diameter and over at a point 4.5 feet above ground level.

4.3.1.17 Contour lines at an interval of not more than 2 feet, referenced to U. S. Coastal and Geodetic Survey benchmarks if such exist within 1,000 feet of the property. The Planning Board may permit 5-foot contour intervals in instances where there would be little impact upon existing drainage, and no underground utility systems are to be constructed to show the effect on the land of existing and proposed grades.

4.3.1.18 Location and size of signs and all permanent outdoor fixtures.

4.3.1.19 Information about soil conditions on the site shall include evidence of soil suitability according to the State of Maine Subsurface Wastewater Disposal Rules Chapter 241, 10-144a CMR 241 7/80. The Site Plan shall show the location of soil test areas and natural wet areas. The Planning Board may require more extensive soils information if such is deemed necessary to adequately review the proposal.

#### 4.3.2 Application Procedures

4.3.2.1 Pre-application Meeting and Submission of a Sketch Plan

4.3.2.1.1 Prior to submitting an application for Mobile Home Park and Subdivision approval, the applicant or his authorized agent should appear at a regular meeting of the Planning Board to informally discuss the proposed Mobile Home Park and Subdivision.

4.3.2.1.2 The applicant shall present to the board, for informal review and comment, a sketch plan of the proposed Mobile Home Park/Subdivision. The sketch plan shall consist of a rough outline of the proposed Mobile Home Park/Subdivision, and may be a free hand, pencil sketch of the parcels, showing the proposed layout of streets, lots, and other features, which may be of assistance to the board in making its determinations.

4.3.2.1.3 No binding commitments shall be made between the applicant and the board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

#### 4.3.2.2 Inspection of the Site

In order for the Planning Board to be more fully informed about the site, the applicant shall arrange an inspection of the site with the Planning Board, or an individual(s) appointed by the Chairman to act as the Board's representative(s) for the inspection. The on-site inspection may be conducted at or shortly after the submission of the sketch plan. The pre-application phase of the application process will not be considered complete until such inspection has been made. The Planning Board may, at its own discretion, perform additional on-site inspections following submission of either a preliminary or a final Mobile Home Park/Subdivision plan.

#### 4.3.2.3 Submission of Application

4.3.2.3.1 Applications for mobile home park permits shall be submitted to the Chairman of the Planning Board, at a scheduled Planning Board meeting, who shall issue to the applicant a dated receipt. Within thirty (30) days from the date of receipt, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application. Determination by the Planning Board that the application is complete is no way commits or binds the Planning Board as to the adequacy of the application to meet the criteria of the Subdivision Law, Title 30-A, MRSA, Sections 4401-4407 or of these regulations. The Planning Board shall make a determination as to the completeness of the application. The applicant assumes all responsibility as to its completeness.

4.3.2.3.2 The application shall be accompanied by the applicable fee or fees. (See Fee Schedule) All checks shall be made payable to the Town of Edgecomb.

#### 4.3.2.4 Public Hearing

4.3.2.4.1 The Planning Board shall hold a public hearing on the proposed mobile home park within 30 days of having notified the applicant in writing that a complete application has been received and shall cause notice of the date, time

and place of such hearing to be given to the applicant and published in a newspaper of general circulation in the municipality in which the mobile home park is proposed to be located at least two times; the date of the first publication shall be at least seven (7) days prior to the hearing. If a public hearing is held, at least seven days before the hearing, the applicant shall notify abutting property owners, including those located directly across a public or private road from the parcel proposed to be developed, by delivery in person or by registered or certified mail, with restricted delivery and return receipt requested. Service by registered or certified mail shall be complete when the registered or certified mail is delivered, and the return receipt signed or when acceptance is refused, provided that the applicant shall file with the Planning Board either the return receipt or, if acceptance was refused, an affidavit that upon notice of such refusal a copy of the summons and complaint was sent to the abutter by ordinary mail. If service of the notice is made personally, an affidavit of the person making service shall be filed with the Planning Board stating the time, manner and place of service. The decision to hold a public hearing is discretionary, and in making its decision, the Planning Board may consider the size and type of mobile home park, the community impact, and whether any written requests for such a hearing have been received. Public hearings shall be conducted in accordance with the procedures in Title 30-A, MRSA, Section 2691.

#### 4.3.2.5 Planning Board Decision on the Mobile Home Park Application

4.3.2.5.1 The Planning Board shall, within 30 days of a public hearing, or within 60 days of having received a complete application, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed mobile home park, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in the Subdivision Law, Title 30-A, MRSA Sections 4401-4407, and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the applicant. In issuing its decision, the Planning Board shall make a written finding of fact establishing that the proposed mobile home park does or does not meet the provisions of these regulations.

4.3.2.5.2 Upon approval of the mobile home park, a majority of the Board shall sign all four copies of the development plan. The original shall be filed by the applicant with the County Registry of Deeds. One copy shall be retained by the applicant, one copy shall be retained by the Planning Board and one copy to the Selectmen. The Planning Board shall maintain a permanent record of its action on the mobile home park.

4.3.2.6 Expiration of Approval: All approvals shall expire within one year of the date of issuance unless work thereunder is commenced within one year from the date of approval. If work is not completed in two years from the date of issue, a new application must be made.

4.3.2.7 Construction Prohibited. No utility installations, no ditching, grading or construction of roads, no grading of land or lots, and no construction of buildings or

siting of mobile homes shall be done on any part of the mobile home park until the application has been prepared, submitted, reviewed, approved and endorsed as provided for by these regulations, nor until an attested copy of the plan so approved and endorsed has been recorded by the subdivider in the Registry of Deeds. Plans for road construction, grading and ditching shall be reviewed by the Road Commissioner for recommendations before Planning Board approval.

4.3.2.8 Plan Revisions After Approval. No changes, erasures, modifications, or revisions shall be made in any mobile home park plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first re-submitted and the Planning Board approves any modifications. In the event the mobile home park plan is recorded without complying with this requirement, the plan shall be considered null and void, and the Planning Board shall institute proceedings to have the plan stricken from the records of the Selectmen and the Registry of Deeds.

4.3.2.9 Limitation on Units: After the effective date of this Ordinance, mobile homes as defined by this Ordinance and mobile homes meeting the safety standards contained Section 5.4 of this Ordinance, may be located in a mobile home park. No housing unit which fails to meet the definition of mobile homes contained in this Ordinance, or which otherwise fails to meet the safety standards of this Ordinance, shall be located in the mobile home park.

4.3.3 Appeals and Variances from the provisions or administration of the Mobile Home Park Ordinance: See Article VI.

#### 4.4 Minimum Design and Performance Standards

##### 4.4.1 Buffer Strips

4.4.1.1 A 50-foot wide buffer strip shall be provided along all property boundaries that:

4.4.1.1.1 Abut residential land which has a gross density of less than half of that proposed in the park, or

4.4.1.1.2 Abut residential land that is zoned at a density of less than half of that proposed in the park.

Further, no structures, streets or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the park.

4.4.1.2 Within 25 feet of any property line and within the buffer strip, screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least 80% of the homes from view from the adjacent property and shall be maintained through the life of the project.

##### 4.4.2 Compliance with Laws and Ordinances

Mobile Home Parks shall comply with all applicable State laws and municipal ordinances and shall meet the requirements of the Edgcomb Subdivision Law, except where provisions of these ordinances are overridden by the Mobile Home Park Ordinance.

#### 4.4.3 Conversion of Park

No lot in a mobile home park may be sold or conveyed without the prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement for a site-built, single-family dwelling.

#### 4.4.4 Fire Protection

Each lot shall be legibly marked for identification, and easily accessible to emergency vehicles (permitting fire apparatus to approach within 100 feet).

#### 4.4.5 Ground Water

##### 4.4.5.1 Application

For mobile home parks not served by a public sewer, the application shall include an assessment of the impacts of park development on ground water quality. The assessment shall be prepared by a Certified Geologist or Licensed Professional Engineer, and shall include the following;

4.4.5.1.1 A map showing the basic soil types

4.4.5.1.2 The depth to the water table at representative points throughout the mobile home park.

4.4.5.1.3 Drainage conditions throughout the mobile home park.

4.4.5.1.4 Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.

4.4.5.1.5 An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a greater distance. For mobile home parks within the watershed of a lake, projections of the development's impact on ground water phosphate concentrations shall also be provided.

4.4.5.1.6 A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 200 feet outside the mobile home park boundaries.

4.4.5.1.7 An additional hydrogeologic survey at the applicant's expense may be required by the Planning Board so that the impact on ground water by the proposed development may be reasonably assessed. This survey shall be carried

out by a hydrogeologist of the Planning Board's selection. *[amended May 17, 2008]*

#### 4.4.5.2 Standards

4.4.5.2.1 Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

4.4.5.2.2 No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards (State of Maine Rules Relating to Drinking Water, Page 7.1 Rev 11/83). No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards (State of Maine Rules Relating to Drinking Water, Page 9.1 Rev 11/83).

4.4.5.2.3 If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

4.4.5.2.4 If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

#### 4.4.5.3 Development

The subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the plan.

#### 4.4.5.4 Lighting

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to avoid adverse impact on adjacent properties.

#### 4.4.5.5 Lot Size, Width, and Density

Lots in a mobile home park shall meet the following lot size, width, and density requirements.

4.4.5.5.1 Lots served by individual subsurface sewage disposal system:

Minimum lot area: 20,000 square feet  
Minimum lot width: 100 feet

4.4.5.5.2 Lots served by a central subsurface wastewater disposal system:

Minimum lot area: 12,000 square feet

Minimum lot width: 75 feet

4.4.5.5.3 The overall density of a mobile home park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area.

4.4.5.5.4 Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line from side lot line to side lot line across the front of the mobile home perpendicular to a straight line from the right-of-way to the front of the manufactured home.

4.4.5.5.5 Lots within a shoreland zoning district shall meet the lot area, lot width, setback, and shore frontage requirements for that district.

4.4.5.5.6 The overall density of the mobile home park shall be the combined area of its mobile home lots plus:

- a. The area required for road rights-of-way;
- b. The area required for buffer strips, if any;
- c. The area within the municipality's shoreland setback.

#### 4.4.5.6 Lot Setbacks

4.4.5.6.1 The following lot setbacks shall apply to all homes and accessory buildings:

Front setback: 20 feet

Side setback: 20 feet

Rear setback: 10 feet

If these requirements conflict with the requirements of the Shoreland Zone, the stricter standards shall apply. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

4.4.5.6.2 So as to avoid monotony and sameness, the Planning Board may allow the front setback on a private road within a mobile park to be varied provided that no home may be closer than 10 feet from the right-of-way and the average distance is at least 20 feet for all units.

4.4.5.6.3 Carports of non-combustible material are not subject to side setback requirements.

4.4.5.6.4 The Planning Board may allow lot side yard setbacks to be reduced to 5 feet provided a distance of 20 feet is maintained between units for the purpose of providing more usable yard space on one side of the home.

#### 4.4.5.7 Lot Coverage

All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

#### 4.4.5.8 Ownership

Where a developer elects to create a mobile home park where all land is under one ownership, the park plan shall show lots and the developer shall demonstrate that the development standards described herein are met.

#### 4.4.5.9 Park Administration

The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to state laws.

Compliance with this ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state, and federal codes and regulations.

#### 4.4.5.10 Parking Requirements

For each mobile home lot there shall be provided and maintained at least 2 off-street parking spaces. Each parking space shall contain a minimum area of 200 square feet with minimum dimensions of 10 feet by 20 feet. This requirement may be waived if a parking lane is provided.

In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of 1 space for each 4 mobile home lots. Such parking shall be hard-surfaced.

#### 4.4.5.11 Refuse Disposal

The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

#### 4.4.5.12 Road Standards

##### 4.4.5.12.1 Road Design Standards

a. Private Roads: Privately owned roads within the mobile home park shall be designed by a Professional Engineer, licensed in the State of Maine, and shall be built according to Appendix C of the Rules of the Department of Professional and Financial Regulation Manufactured Housing Board Rules and Regulations Relating to Mobile Home Parks as amended.

b. Roads for Public Acceptance. Roads within mobile home parks which are to be offered for acceptance to the community shall meet the design standards as listed in the Subdivision Regulations.

c. Intersection with Public Roads. Mobile home park roads which intersect with public roads shall meet the following standards:

- i. Angle of intersection: The desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.
- ii. Grade: The maximum permissible grade within 75 feet of the intersection shall be 2%.
- iii. Minimum sight distance. The minimum sight distance in feet shall be 10 times the posted speed limit in m.p.h. on the existing road. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 4 feet above the pavement and the height of object 4 feet. Where necessary, the park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility. *[amended May 17, 2008]*

#### 4.4.5.12.2 Access and Circulation

- a. The layout and general development plan for major and minor access streets and driveways within the mobile home park, together with the location and dimensions of access junctions with existing public streets and rights-of-way shall be approved by the Planning Board.
- b. A traffic impact analysis shall be required if the park will generate more than 500 trips/day.
- c. For mobile home parks expected to generate 200 trips per day or more, there shall be at least two entrances from public streets or roads.
- d. On-street parking shall be prohibited unless an eight-foot parking lane is provided, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
- e. Curvilinear streets shall be utilized wherever possible. No street within the park shall be more than 200 feet without a curve or bend.
- f. No mobile home lot may have vehicular access directly onto an arterial street.

#### 4.4.5.12.3 Right-of-Way and Pavement Width

- a. Two-way park roads shall have a minimum right-of-way of 23 feet and a minimum paved surface of 20 feet. On-street parking shall be prohibited.
- b. One-way streets shall have a minimum right-of-way of 18 feet and a minimum paved surface of 14 feet. On-street parking shall be prohibited.
- c. Parking lanes shall be a minimum of 8 feet in width, if provided.

d. Cul-de-sac turnarounds shall have a minimum radius of 50 feet at the outer edge of the pavement, exclusive of any parking areas.

e. If the developer intends to dedicate park streets to the public, such streets shall meet Maine DOT standards.

#### 4.4.5.13 Safety Standards

These standards shall apply to all manufactured housing built before June 15, 1976, or not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in a mobile home park. The park owner shall have the burden of proving that these standards are met.

##### 4.4.5.13.1 Exit Facilities - Exterior Doors

a. Required egress doors shall not be located where a lockable interior door must be used in order to exit.

b. Homes shall have a minimum of two exterior doors not less than 12 feet from each other as measured in any straight line direction regardless of the length of the travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.

c. All exterior swinging doors shall provide a minimum 28 inches wide by 74 inches high clear opening. All exterior sliding glass doors shall provide a minimum 28 inches wide by 72 inches high clear opening. Locks shall not require the use of a key for operation from the inside.

##### 4.4.5.13.2 Exit Facilities - Egress Windows and Devices

Mobile homes shall have the following emergency egress facilities:

a. Every room designed expressly for sleeping purposes, unless it has an exit door, shall have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of AAMA 1704-1985.

b. The bottom of the window opening shall not be more than 36 inches above the floor.

c. Locks, latches, operating handles, tabs and any other window, screen or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of 54 inches from the finished floor.

##### 4.4.5.13.3 Interior Doors

Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

#### 4.4.5.13.4 Fire Detection Equipment

- a. At least one smoke detector (which may be a single station alarm device) shall be installed in the home in the following locations:
  - i. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area
  - ii. When located in hallways, the detector shall be between the return air intake and the living area.
  - iii. The smoke detector shall not be placed in a location which impairs its effectiveness.
  - iv. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.
  - v. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall 4 inches to 12 inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 4 inches to 12 inches below the wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the over-current protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

#### 4.4.5.13.5 Flame Spread

- a. Ceiling interior finish shall not have a flame spread rating exceeding 75.
- b. Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame spread rating not exceeding 25. Sealants and other trim material 2 inches or less in width used to finish adjacent

surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.

- c. Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50.
- d. Kitchen cabinet doors, countertops, backsplashes, exposed bottoms, and end panels shall have a flame spread rating not to exceed 200.
- e. Finish surfaces of plastic bathtubs, shower units, and tub or shower doors shall not exceed a flame spread of 200.
- f. No burner of a surface cooking unit shall be closer than 12 horizontal inches to a window or an exterior door.

#### 4.4.5.13.6 Kitchen Cabinet Protectors

- a. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of 6 inches from the outside edge of the cooking range shall be protected with at least 5/16-inch thick gypsum board or equivalent limited combustible material. One-inch normal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood with not less than a 3-inch eyebrow projecting horizontally from the front cabinet face. 5/16-inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8-inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.
- b. The metal hood will not be required if there is an oven installed between the cabinet and the range.
- c. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

#### 4.4.5.13.7 Carpeting

Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located under the furnace or water heater.

#### 4.4.5.13.8 Roof Loads

All homes with roofs added after construction will require a professional engineer to inspect the roof to determine that the roof and home can withstand the rigors of a State of Maine winter or wind uplifts that may occur.

#### 4.4.5.13.9 Heating and Fuel Burning System

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify that the heating and fuel system meets the requirement of NFPA-31 - Installation of Oil Burning Equipment as adopted by that Board.

#### 4.4.5.13.10 Electrical System

A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify that the electrical system is safe and meets the National Electrical code in effect at the time the home was constructed.

#### 4.4.5.14 Sanitary Standards - Sewage Disposal

4.4.5.14.1 All water-carried sewage shall be disposed of by means of one of the following:

- a. A centralized private sewer system approved by the Department of Human Services, serving each mobile home lot in the mobile home park.
- b. Individual subsurface sewage systems meeting the requirements of the State Plumbing Code.

#### 4.4.5.15 Signs

Signs and advertising devices shall be prohibited in a mobile home park except:

- 4.4.5.15.1 One (1) identifying sign at each entrance of the mobile home park no larger than 24 square feet that may be indirectly lit, but not flashing.
- 4.4.5.15.2 Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.
- 4.4.5.15.3 Mobile home "for sale" signs, provided that such signs that face a public road shall be no more than 10 square feet and shall be limited to two signs per mobile home park.
- 4.4.5.15.4 Mobile homes address signs. The styles and location of the identifying sign shall not interfere with vehicle sight distance and shall be constructed in accordance with the local sign regulations.
- 4.4.5.15.5 All signs must conform to the sign ordinance of the Town of Edgecomb.

#### 4.4.5.16 Storm Drainage

A storm drainage plan, prepared by a professional engineer, showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm shall be incorporated in the Mobile Home Park plan.

#### 4.4.5.17 Storage

At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided near each mobile home lot for the storage of materials and equipment.

#### 4.4.5.18 Utility Requirements

All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations.

### 4.5 Enforcement

#### 4.5.1 Violations and Enforcement

The Selectmen, upon a finding that any provision of this Ordinance or the conditions of any approval(s) is being violated, are authorized to institute legal proceedings to enjoin violations of this Ordinance.

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## **Article VII – Enforcement**

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

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

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations, the imposition of fines, and entering into consent agreements that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

The penalties for violation of this Ordinance shall be as prescribed in 30-A MRSA Section 4452.

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## **Article VIII - Appeals and Variances**

### **Section 1 - Appeals from decisions of the Planning Board**

An appeal may be taken within thirty (30) days from the Planning Board's final decision by any party to Superior Court in accordance with State law on:

- a) an application for a building permit within Shoreland
- b) an application for an approved mobile home park
- c) a final Subdivision plan
- d) an application for Site Plan Review.

### **Section 2 - Administrative Appeals from decisions of the Code Enforcement Officer**

2.1 An administrative appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer except for enforcement related matters. Such an appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise except that the Board, upon applicant showing good cause, may extend the thirty (30) day requirement for a reasonable length of time.

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

### **Section 3 - Variances**

Except as provided in subsections a, b and c, the Board of Appeals may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in the subsection means:

- a. That the land in question cannot yield a reasonable return unless a variance is granted;
- b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

3.1. Disability variance; vehicle storage. A disability variance may be granted pursuant to this subsection.

3.1.1 The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this paragraph, the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

3.1.2 The Board of Appeals may grant a variance to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than 2 times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this paragraph to the board.

The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.

For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as defined in MRSA, Title 29-A, section 101, subsection 42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to Title 29-A, section 521 and owned by the person with the permanent disability

The board may impose conditions on the variance granted pursuant to this subsection.

For purposes of this subsection, "disability" has the same meaning as a physical or mental disability under MRSA Title 5, section 4553-A

3.2 Set-back variance for single-family dwellings. The Board of Appeals may permit a variance from a set-back requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- 3.2.1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- 3.2.2. The granting of a variance will not alter the essential character of the locality;
- 3.2.3. The hardship is not the result of action taken by the applicant or a prior owner;
- 3.2.4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- 3.2.5 That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

This section is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling. A variance under this subsection may not exceed 20% of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. The Board of Appeals may allow for a variance under this subsection to exceed 20% of a setback requirement, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B, if the petitioner has obtained the written consent of an affected abutting landowner.

3.3 Variance from dimensional standards. The Board of Appeals may grant a variance from the dimensional standards of this zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- 3.3.1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- 3.3.2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- 3.3.3. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- 3.3.4. No other feasible alternative to a variance is available to the petitioner;
- 3.3.5 The granting of a variance will not unreasonably adversely affect the natural environment; and
- 3.3.6 The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

3.4 The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

3.5 If the site is within the Shoreland District, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days before action by the Board of Appeals. Any comments received from the Commissioner before the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3.6 Variances from the requirements of Article VI, Section 2- Flood Plain Ordinance shall only be granted pursuant to Section 9 therein

3.7 Variances to the provisions of the Sign Ordinance shall only be granted pursuant to Sections 3 and 4 therein.

## **Section 4 - Procedure before the Appeal Board**

### **4.1 Making an Application for an Appeal or Variance**

Applications for appeals or variances shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

- (a) A concise written statement indicating the relief requested and why the appeal or variance should be granted.
- (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (c) The fee as set forth in Article IX.

### **4.2 Decision by Board of Appeals**

(a) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains, is recused, or otherwise disqualified, shall not be counted in determining whether a quorum exists.

(b) The person filing the appeal shall have the burden of proof.

(c) The Board shall decide all administrative appeals and variance appeals within forty-five (45) days after the close of the hearing, and shall issue a written decision on all appeals and variances.

(d) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers. A copy of any decision on an appeal or variance concerning land within the Shoreland District shall be sent to the Department of Environmental Protection within even (7) days of the Board's decision.

4.3 Appeal to Superior Court. Except as provided by 30-A MRSA, Section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

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

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

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## Article IX – Fees

Any permit obtained after the fact, providing that all provisions of the applicable ordinance have been met, is subject to doubling of the actual permit fee and any other penalties or fees that apply.

In addition to the fees listed below, a fee may be charged if the Code Enforcement Officer, Planning Board and/or Board of Appeals need the assistance of a professional engineer, attorney, or other expert. If the Municipality wishes to retain an expert at the expense of the applicant, it shall so advise the applicant in writing and give the applicant an opportunity to be heard on the subject. Once the Code Enforcement Officer, Planning Board, or Board of Appeals has decided to hire an expert, the applicant shall make a deposit to the town sufficient to cover the expert's estimated costs. Failure to make the required deposit to cover the costs of the expert shall be grounds for denial of the application and/or the issuance of a stop work order

Each application for a permit shall be accompanied by the fee specified.

### Building Permit

New, relocated or altered commercial structure:	\$.20 per sq. ft.
Minimum	\$100
New, relocated, or altered house, cottage or mobile home	
1 to 2,500 sq. ft.	\$.10 per sq. ft.
2,501 or more sq. ft.	\$.15 per sq. ft.
Minimum	\$50.00
Swimming pool including paved/deck area	\$.10 per sq. ft.
New or relocated pier, ramp, float, wharf, garage, barn, workshop, addition, or any other structure	\$.10 per sq. ft.
Minimum	\$50.00

### Planning Fees

Site Plan Review Application fee:	\$20 per 1000 square feet, or fraction thereof, of occupied ground (including buildings, paving, graded area, and landscaping), with a minimum fee of \$200
Subdivisions: up to five lots or dwelling units	\$1,000 plus
For each lot or dwelling unit (whichever is greater)	
more than five	\$400.00

Floodplain Application Fee:	\$100
Mobile Home Park Application fee for each lot or unit	\$100
Shoreland Zoning Application Fee	\$100
Sign application - One-time fee per new business	\$35
After the fact additional fee	\$100

Appeal Fee

Appeal application fee - all ordinances	\$100
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## Article X - Definitions

### Section 1 – Construction of Language

Terms not defined have the customary dictionary meaning.

In the interpretation and enforcement of the ordinances of the Town of Edgecomb, Maine, all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the ordinance of their customary dictionary meaning. In the case of any difference of meaning or implication between the text of the ordinance and any map, illustration, or table, the text shall control. The definitions set forth herein shall apply to and be used in interpreting all of the ordinances adopted by the Town of Edgecomb, except where they may be modified specifically in the individual ordinances.

The word “board” shall mean the Planning Board of the Town of Edgecomb.

The words “governing authority” mean the legislative body of the municipality, which is the voters of the town at a town meeting.

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense; the singular member includes the plural, and the plural includes the singular; the word “shall” is mandatory, and the word “may” is permissive; the words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied”; the word “building” includes the word “residence”; the word “lot” includes the words “plot” or “parcel”. In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

### Section 2 – Definitions

The following terms shall have the following meanings:

Abutter: An individual whose property shares one or more property lines with or is across a street, road or right-of-way from the property defined in the application.

Accessory Apartment: A residential unit created in an existing one-family dwelling without changing the footprint of the building.

Accessory Use or Structure: A use or structure that is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term “incidental” in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use of that use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Adjacent Grade: The natural elevation of the existing grade ground surface before construction next to the proposed walls of a structure.

Aggregate or in aggregate or aggregate of structures: Any combination of structures on the same or abutting lots owned, leased, or used by or for a single entity or affiliated retail businesses for the same or a similar use.

Aggrieved Party: An owner of land whose land is directly or indirectly affected by the grant or denial of a permit or variance under an ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or groups of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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

Alteration: Any change or modification of the structure.

Animal Boarding: See Kennel.

Aquaculture: The propagation and husbandry of aquatic animals or plants by private industry for commercial purpose or by public agencies for augmenting natural stocks.

Arcade: A series of outdoor spaces located under a roof or overhang and supported by columns or arches.

Areas of Special Flood Hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year as specifically identified in the Flood Insurance Rate Map or "Flood Hazard Boundary Map - Town of Edgecomb, Maine, Lincoln County" dated July 16, 2015.

Assisted Living Facility: A combination of housing and personalized supportive services offered in a residential home-like setting and designed to respond to the individual needs of those who require help with activities of daily living. Assisted Living Facilities include nursing homes, long-term care facilities, special care facilities, and hospice/respice care facilities.

Authorized Agent: Anyone having written authorization, signed by the property owner, to act in behalf of the property owner.

Automobile Graveyard: A yard, field or other area used as a place of storage of three or more unregistered and unserviceable, discarded, worn-out or junked motor vehicles or parts thereof other than temporary storage by an establishment or place of business which is engaged primarily in doing auto repair work for the purpose of making repairs to render a motor vehicle serviceable.

Back Lot: A lot for single-family residential use that:

1. does not have frontage on a public or private road,
2. is provided direct access to a public or private road by a back lot driveway, and
3. complies with all space and volume regulations in the applicable district.

**Back Lot Driveway:** A driveway that provides access to a back lot and that:

1. originates at a public or private road,
2. is developed within a 50-foot right-of-way,
3. serves no more than two back lots, and
4. conforms to requirements of the Building Code.

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

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement:** The enclosed area underneath a structure, typically having a masonry floor and walls that comprise the structure's foundation. The clear height up to the joists supporting the floor directly above is three (3) feet or greater. Within the Shoreland Overlay District, any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Bay:** As applied to large-scale development, a spatial division element in a building defined by beams or ribs and their supports.

**Bed and Breakfast:** A private home occupied by the owner or tenant as a principal residence which offers overnight accommodations not to exceed five bedrooms.

**Berm:** An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise or provide a buffer from adjoining uses.

**Body of Water:** See Water Body

**Buffer:** An area provided to reduce the conflict between two different land uses. Buffers are intended to mitigate undesirable views, noise and glare, effectively providing greater privacy to neighboring land uses. Typical buffers include, but are not limited to, plant materials, walls, fences and/or significant land area to separate the uses.

**Buffer Area:** An area intended to separate and partially obstruct the view of land uses.

**Building:** See Structure

**Business:** Any full-time or part-time enterprise or commercial operation, operated for profit, including commercial agriculture.

**Campground:** Any premises established for camping for which a fee is charged. Within the Shoreland Overlay District, any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy:** A projection over a niche or doorway, often decorative or decorated; a roof over an accessory structure including but not limited to gasoline pumps and an ATM. In reference to wooded areas the more or less continuous cover formed by tree crowns in a wooded area.

Cemetery: Property used for the interring of the dead.

Certificate of Compliance: A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this ordinance.

Change of Use: Any altered use of a structure or parcel for which it has not been used within the previous twelve (12) months.

Cluster Housing or Development: A subdivision technique in which detached dwelling units are grouped relatively close together, leaving open spaces as common areas, and allowing a developer the advantage of municipality infrastructure.

Code Enforcement Officer: A person appointed by the Municipal Officers responsible for performing the inspection, licensing and enforcement duties required by a particular statute or ordinance.

Column: A vertical support, usually cylindrical, consisting of a base, shaft and capital, either monolithic or built up of drums the full diameter of the shaft.

Commercial Recreation: Any commercial enterprise that receives a fee in return for the provision of some recreational activity.

Commercial Residential: Any building which is commercial on the first floor and residential on upper floor(s).

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

Condominium: An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive service program serves occupants.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like shall be considered a part of construction.

Day Care Facility: Homes and centers licensed as such by the Maine Department of Health and Human Services for children or adults.

de Novo: A "de novo hearing" is a hearing at which the Board of Appeals may receive and consider new oral and written evidence and testimony and at which the Board of Appeals shall

hear and decide the matter afresh, undertaking its own independent analysis of the Ordinance and the law and reaching its own decision

Density: The number of dwelling units per area of land.

Developable land: The total area of land that is suitable as a location for structures, not necessarily the total area of the property itself, and can be developed free of hazards to, and without disruption of, or significant impact on natural resource areas.

Development: Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, disposition, or extraction of materials; public or private sewage disposal systems or water supply facilities.

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

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

Driveway: A private vehicular access-way serving two lots or fewer. Within the Shoreland Overlay District, a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Dwelling: Any building or structure or portion thereof containing dwelling units.

1. Single-family dwelling - Any structure containing only one (1) dwelling unit.
2. Duplex Dwelling - A structure containing only two (2) dwelling units.
3. Multi-family Dwelling - A structure containing three (3) or more dwelling units.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which provides independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing and mobile homes, but not recreational vehicles or motel units.

Eave: The overhang at the lower edge of the roof, which usually projects out over the exterior walls of the structure.

Elevated Building: A non-basement building built, in the case of a building in Zones A1-30, AE, A, AO, or AH, to have the top of the elevated floor, elevated above ground level by means of pilings, columns, post, piers, or "stilts," and adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones A1-30, AE, A, AO or AH Elevated Building also includes a

building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate: An official form (FEMA Form 81-31, 05/93, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and is required for purchasing flood insurance.

Emergency Operations: Operations conducted for the public health, safety or general welfare.

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

Façade: The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

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

Floating Structures: A residential or commercial structure on or in the waters of the Town of Edgecomb, floating or non-floating, which includes, but is not limited to a structure designed or fitted out as a place of habitation or commercial activity and is not principally used for transportation regardless of the capability of the structure to propel itself across the water. A floating structure is not a vessel as defined by the United States Coast Guard or watercraft as defined by the Inland Fisheries and Wildlife.

Flood or Flooding:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland or tidal waters,
  - b. the unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsidence of land along the shore or a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition.

Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM): An official map of a community on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Plain: That area designated and approved by the Department of Housing and Urban Development, Federal Insurance Administration, as being the 100-year Flood Plain, on its most current maps.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodproofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway: see Regulatory Floodway.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed structure such as porches and decks.

Foot-candle: A unit for measuring illumination which equals the amount of direct light thrown by one international candle on a surface one foot away.

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

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

Forestry: The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

Formula restaurant: An eating place that is one of a chain or group of three (3) or more establishments and which satisfies at least two of the following three descriptions:

- a. It has the same or similar name, trade name, or trademark as others in the chain or group;
- b. it offers either of the following characteristics in a style which is distinctive to and standardized among the chain or group:
  1. exterior design or architecture;
  2. uniforms, except that a personal identification or simple logo will not render the clothing a uniform;
- c. it is a fast food restaurant.

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

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

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Frontage: The linear distance, measured along the front lot line, which separates the lot from a public or private road, but not including a private driveway providing access to more than one lot.

Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high-water elevation.

Functionally Dependent Use: See Functionally Water-dependent Uses

Functionally Water-dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage; finfish and shellfish processing; fish storage and retail and wholesale fish marketing facilities; waterfront dock and port facilities; shipyards and boat building facilities; marinas, navigation aids, basins and channels; industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site; and uses which primarily provide general public access to marine or tidal waters.

Garage: An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

Garage Sale: See Yard Sale.

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

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

Group Home: A boarding care facility for more than eight individuals wherein children or adults not legally related to the operator are provided personal care, supervision and social or rehabilitative services. Uses within the meaning of this definition must be licensed by the State of Maine and may include, but are not limited to, residential treatment homes, but do not include foster family homes. Similar uses with eight or fewer individuals shall be subject to 30-A MSA §4357-A: Community living arrangements

Guest House: See Inn.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

Height of a structure: The vertical distance between the mean original (prior to construction) grade or new finished grade, whichever is lower, at the downhill side of the structure to the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Historic Structure: Any structure that is listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district; individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

Home Occupation: An occupation or profession which is carried out in a dwelling unit, or other structure accessory to a dwelling unit by resident family members and no more than two other employees and is clearly incidental and secondary to the use of the dwelling unit for residential purposes. A retail sales outlet does not qualify as a home occupation unless the item sold is a product of the owner's labor, e.g. manufactured, produced, created, grown, caught.

Hospice: See Assisted Living Facilities

Hotel/Motel: A commercial building or group of buildings with sleeping rooms built to accommodate for a fee travelers and other transient guests who are staying for a limited duration. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Hydric Soils: Poorly drained or very poorly drained soils as listed in Hydric Soils of the State of Maine, 1985, USDA Soil Conservation Service, and by Hydric Soils of Southern Maine, USDA, Soil Conservation Service, 1986.

Impervious Surface: Any surface which does not absorb rain and includes all buildings, roads, sidewalks, parking areas, and any area paved with bricks, concrete, asphalt or gravel.

Increase in nonconformity of a structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback

requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**Industrial:** Connected with the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

**Inn:** A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house, but not bed and breakfast, hotel or motel.

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

**Junkyard:** A yard, field or other area used as a place of storage for:

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture.
2. Discarded, scrap and junked lumber.
3. Old or scrap copper, brass, rope, rags, batteries, motor vehicle parts, paper, trash, rubber, or plastic debris, waste and all scrap iron, steel, and other ferrous non-ferrous material.
4. Garbage dumps, waste dumps, and private sanitary landfills.
5. Automobile graveyards.

**Kenel:** An establishment in which more than four dogs or four cats are sold, housed, bred, boarded or trained for a fee.

**Landscaping:** The combination of natural elements such as trees, shrubs, groundcovers, vines, or other organic and inorganic materials, which are installed for purposes of creating an attractive and pleasing environment, screening unsightly views, reducing environmental impacts, and filtering matter from air.

**Large-scale development:** Unless otherwise described, a retail sales establishment that exceeds 10,000 sf of gross floor area or a nonresidential development that exceeds 25,000 sf of gross floor area; largescale development does not include agricultural buildings or commercial greenhouses and nurseries accessory to a retail or wholesale sales establishment and does not include municipal structures.

**Light Industrial:** Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished products from previously prepared material, including, by way of example only, the following: bakeries, bottling, printing and publishing, etc.

**Locally Established Datum:** For purposes of the Flood Plain Ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Logo:** A single or multicolored symbol or design used by a business as a means of identifying its products or services.

**Lot:** A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by ordinances, and having frontage upon a public street, right-of-way or private way.

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

**Lot Coverage:** The percentage of the gross lot area which is covered by buildings, driveways, parking lots, paved areas, and all other impervious surfaces.

**Lot Lines:** The lines bounding a lot as defined below:

1. **Front Lot Line:** Interior lots: The line separating the lot from a street right-of-way. Corner lot or through lot: The line separating the lot from either street right-of-way. Where a right-of-way does not exist or cannot be determined the front lot line shall be the edge of the paved or graveled area of the road.
2. **Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.
4. **Minimum Lot Width:** The distance between the side lot lines of a lot.

**Lot of Record:** A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Registry of Deeds.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section 2.6.12 of the Flood Plain Ordinance.

**Major Remodeling:** Any remodeling that substantially changes the use of the building or its exterior appearance. Any revision to or addition of paved areas, parking lots or drives or waste water disposal systems.

**Manufacturing:** The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

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

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

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

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

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

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

Mobile Home: A structure, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of two (2) or more mobile homes.

Mobile Home Park Lot: The area of land on which an individual mobile home is situated within a mobile home park and which is reserved for use by the occupants of that mobile home. All mobile home park lots must be designated on a mobile home park plan.

Mobile Home Subdivision or Development: A parcel of land approved by the municipal reviewing authority under Title 30-A M.R.S.A., Section 4401-4407 (State Subdivisions).

Multi-family or multi-unit residential: A residential structure containing three (3) or more residential dwelling units.

Municipal Structure: A structure owned and used for a public purpose by the Town of Edgecomb and/or a quasi-municipal entity serving the public of the Town of Edgecomb.

Native: Indigenous to the local forests.

New Construction: Structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

Nadir: The angle pointing directly downward (0°) from the lighting fixture. 75° nadir, for example, is the angle pointing 75° above nadir.

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

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

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

Non-conforming Use: Use of land or structures that is not otherwise permitted, but which is allowed to remain solely because it was in lawful existence at the time the Ordinance or subsequent amendments took effect.

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

Nursing Home: Any facility which provides meals, lodging, and nursing care for compensation.

Official Business Directional Sign: A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 M.R.S.A s1901, et seq. which points the way to public accommodations and facilities or other commercial facilities.

100-year flood: see Base Flood

On-premise Sign: A sign which is erected and maintained upon the same real property that the business facility or point of interest is located.

Owner: Any person, firm, corporation or other legal entity which controls a parcel of land by a fee or less than fee title, or is party to a valid contract or option to purchase said title.

Parapet: The portion of a wall that extends above the roofline.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to, playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds or commercial recreation and amusement centers.

Parking Space: An area abutting a street or drive measuring at least nine (9) feet in width by eighteen (18) feet in length, exclusive of space required for access and maneuvering, and intended or used for parking vehicles.

Pedestrian walkway: A surfaced walkway, separate from the traveled portion of a public or private right-of-way, parking lot or driving aisle.

Pending Application: Any complete application which has been filed in compliance with all the requirements of this Ordinance, and which was on file at the date of adoption of this Ordinance.

Perimeter: The length of a line running along the outer boundary of a parcel of land or a structure.

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

Personal Services: A business that provides services but not goods.

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

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

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

Pitch: The slope of a roof commonly expressed in terms of inches of vertical rise per foot (12 inches) of horizontal run.

Place of Business: Any location where retail and/or wholesale goods and products are sold, made, manufactured and distributed; any location where services are rendered to the general public and business invitees; any location where professional care and/or advice are held out for hire to the general public and business invitees.

Portico: A porch or walkway with a roof supported by columns, often leading to the entrance to a building.

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

Principal use: A use other than one which is wholly incidental or accessory to another use on the same premises.

Professional Offices: The place of business for the practice of professionals such as doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors.

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

Public Utility: Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Reconstruction: The removal of a part or all of a structure and its partial or complete replacement.

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

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

Recycling: Separating, collecting and/or reprocessing of manufactured materials or residues for reuse either in the same form or as part of a different product.

Redemption Center: A location where bottles and cans may be redeemed for cash.

Regulatory Floodway:

1. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
2. In riverine areas it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Replacement System: A system intended to replace:

1. An existing system which is either malfunctioning or being upgraded with no significant change or design flow or use of the structure, or
2. Any existing overboard wastewater discharge.

Residence: Synonymous with dwelling.

Residential: Providing dwelling units.

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

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

Resource Protection: Tracts of land which by virtue of their geology, geography, historical importance, animal or marine habitation and/or are judged for other reasons to be designed as resource protection areas.

Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.

Retail Business: A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption.

Right-of-way: All public or private roads and streets, state and federal highways, private ways, and public land reservations for the purpose of public access, including utility rights-of-way.

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

River: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. NOTE: The portion of the river that is subject to tidal action is a coastal wetland.

Riverine: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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

Salt Marsh: Areas along coastal waters (most often coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass and Sage pondwood.

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

Scale: The size or proportion of a building element or space relative to the structural or functional dimension of the human body.

Schools:

1. Public and Private - including Parochial School: An institution for education or instruction where any branch or branches of knowledge is imparted and which satisfies either of the following requirements:
  - a. the school is not operated for a profit or gainful business; or
  - b. the school teaches courses of study which are sufficient to qualify attendance thereby in compliance with State compulsory education requirements.
2. Commercial School - an institution that is commercial or profit-oriented. Examples thereof are dancing, music, riding, correspondence, aquatic schools, driving or business.

Screen: See also “buffer”. The sole purpose of a screen is to block views. A screen should be constructed of opaque materials and whose height will be effective in obstructing unwanted views.

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

1. In the case of electric service
  - (a) The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way, and
  - (b) The total length of the extension is less than one thousand (1000) feet;
2. In the case of telephone service,
  - (a) The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - (b) The extension requiring the installation of new utility poles or placement underground is less than one thousand (1000) feet in length.

Service Establishment: Establishment offering services to the public such as dry cleaning, barbershop, hair salon, etc.

Setback: The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps, and railings. Within the Shoreland Overlay District, the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Sewage Disposal System: A collection of treatment tank(s) disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. Section 414, any surface wastewater disposal system licensed under 38 M.R.S.A. Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, subchapter 1.

Shopping Center: Any concentration of two or more retail stores or service establishments containing 15,000 square feet or more of gross floor space.

Shore Frontage: The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

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

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

Sight Distance: The direct line of sight from a point four feet above the centerline of a road or highway to a point four feet above the center of the place at which vehicles enter and leave the highway.

Sign: Any structure, display, logo, device or representation that is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state, or town, or products for sale. Whenever dimensions of a sign are specified they shall include frames.

Single-family Dwelling: A building designed or intended to be used exclusively for residential occupancy by one family only and containing only one residential dwelling unit.

Skid trail: A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

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

Special Flood Hazard Area: see Area of Special Flood Hazard.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Storefront: The traditional "Main Street" façade bound by a structural pier on either side, the sidewalk on the bottom and the lower edge of the upper façade at the top.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map to the point where the body of water becomes a river or flows to another water body or wetland within the shoreline area.

Street: See Road.

Street Classification:

**Arterial**: A major continuous route serving substantial statewide and interstate travel, linking cities, larger towns, and other major traffic generators, as classified by the Maine Department of Transportation under the provisions of 23 M.R.S.A. Section 53 as amended. In Edgecomb, this includes US Route 1.

**Major Collector**: A road linking towns not on the arterial routes to those routes serving traffic generators of intra-county importance, and serving as important intertown travel corridors, as classified by Maine Department of Transportation, as cited above.

**Industrial or Commercial Street**: A street servicing industrial or commercial uses.

**Minor Street**: A street providing access to adjacent land and primarily servicing local traffic.

**Private Right-of-way**: A vehicular accessway serving more than two (2) dwelling units which is not proposed to be dedicated to the town.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. A gas or liquid storage tank that is principally above ground is also a structure.

Subdivision: The division of a tract or parcel of land into three or more lots within any five-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, building or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three or more dwelling units within a five-year period.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless:

1. both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least five years immediately preceding the second division; or

2. the division of the tract or parcel is otherwise exempt under Title 30-A MRSA subchapter 4401.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Start: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated cost.

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

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded through the measured area.

Texture: The visual and tactile quality of a surface apart from its color and form. A building texture refers to the variations in the exterior façade and may be described in terms of roughness of the surface material, the patterns inherent in the material or the patterns in which the material is placed.

Tidal waters: All waters affected by tidal action during the maximum spring tide.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article III Section 1.10.16, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Traffic Control Sign or Device: An official route marker, warning sign, sign directing traffic to or from a community, bridge, ferry or airport, or sign regulating traffic, which has been erected by officers having jurisdiction over the public way. These signs shall be exempt from the requirements of the Edgcomb Sign Ordinance.

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

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

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

Use: The manner in which land or a structure is arranged, designed or intended, or is occupied.

Variance: A relaxation of the terms of an ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the action of the applicants, a literal enforcement of this Ordinance would result in undue hardship.

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

Vehicle Sales: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar

Vernal Pool: Temporary pools of water that provide habitat for distinctive plants and animals.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals that may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

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

Warehousing: The storage, deposit or stocking of merchandise or commodities in a structure or room.

Water Body: Shall include the following:

1. Pond or Lake - any inland impoundment, natural or manmade, which collects and stores surface water
2. Stream or River
3. Tidal - any area upon which tidal action occurs.

Water Course: Shall include the following:

1. Stream or River: A free-flowing drainage outlet, with a defined channel, and containing flowing water for more than three months of the year.
2. Intermittent Stream: A free-flowing drainage outlet, with a defined channel, and containing flowing water for less than three months of the year.
3. Inland and Coastal Wetlands: All areas transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water. For purposes of this classification, wetlands must have both the following two attributes:
  - a. at least periodically, the land supports predominantly wetland vegetation;
  - b. the substrate soil is predominantly undrained hydric soil. Coastal wetlands further include all tidal and subtidal lands, including all areas below an identifiable debris line left by tidal action, and all areas that contain vegetation tolerant of salt water and which occur primarily in a salt water habitat and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action or normal tidal storm flowage at any time except during periods of maximum storm activity.

Water Crossing: Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

Wetland: See Coastal or Freshwater Wetlands

Wetland Vegetation: Those species termed "hydrophytic" in the 1986 Wetland Plant List, Northeast Region, of the National Wetlands Inventory or the U.S. Fish and Wildlife Service.

Wholesale: Selling for resale rather than to consumers.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Yard: The area between a structure and the property boundary.

Yard Sale: All general sales, open to the public, conducted from or on a residential premise for the purpose of disposing of personal property. Yard sale includes garage sales, porch sales, tag sales, and the like unless they occur on more than five (5) calendar days or for more than three (3) weekends a year.