

## 211 NATURAL RESOURCE PROTECTION ZONE (NRPZ)

### 211.1 DEFINITION OF ZONE

The Natural Resource Protection Zone consists of the following areas:

- A. **Shoreland Area:** ~~The land area located within two hundred and fifty (250) feet of the normal high water line of any river or saltwater body; within two hundred and fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within seventy five (75) feet of the normal high water line of a stream. (Amended 11/18/02 R)~~  
All land areas within 250 feet, horizontal distance, of the:
- normal high-water line of any river,
  - upland edge of a coastal wetland, including all areas affected by tidal action, or
  - upland edge of a freshwater wetland,
- and all land areas within 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 or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.
- B. **Special Flood Hazard Area:** Any land in the floodplain lying within the 100-year flood boundary as delineated on the Flood Insurance Rate Map of the Town as part of the National Flood Insurance Program.

### 211.2 ADDITIONAL REQUIREMENTS FOR THE SHORELAND AREA

#### 211.2.A PRINCIPAL AND ACCESSORY STRUCTURES

##### 211.2.A.1

No new principal or accessory structures, except structures which require direct access to the water as an operational necessity (including but not limited to piers, docks, retaining walls and public waterfront trails, but excluding recreational boat storage buildings) shall be located within any of the following areas:

- a. Areas within one hundred twenty-five (125) feet, horizontal distance, of the normal high water line of a river ~~or tidal area~~; or within one hundred twenty-five (125) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. (Amended 11/18/02 R)
- b. 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 as "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) ~~as of December 31, 2008 as of January 1, 1973~~ as depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W or MDEP, and as shown on the Brunswick Official Zoning Map, ~~with exception of those areas which are currently developed.~~ These areas are defined as "Resource Protection Areas" and include areas which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values (see also section 211.2.A.3). (Amended 5/17/99 E/R)
- c. Water and wetland setback measurements shall be taken from the top of a coastal bluff such as those that have 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, and as depicted on the Brunswick GIS. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, or a Maine State Geologist to make a determination.

ed. Flood plains adjacent to tidal ~~areas~~waters, rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps Flood Boundary and Floodway Maps or the flood of record.

de. Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

ef. Areas of two (2) or more contiguous acres of wetlands which are not part of a freshwater or coastal wetland and which are not surficially connected to a river, tidal ~~area~~-waters or stream during the period of normal ~~spring~~-high water. (Amended 11/18/02 R)

fg. Land 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.

#### 211.2.A.2

Proposals for new Principal and Accessory structures requiring direct access to the water as an operational necessity are subject to the provisions of section 306.7.

#### 211.2.A.3 Special Resource Protection Permit

Properties that were created prior to June 6, 1994 and that are located in a Resource Protection Area as defined under 211.2.A.1(b); and those properties created prior to November 18, 2002 that lie within the Natural Resource Protection Zone of a stream created after November 18, 2002 may be developed with single family residential structures by a Special Resource Protection Permit if the Staff Review Committee makes a positive finding that the applicant has demonstrated that all of the following conditions are met: (Amended 9/4/01 R, 11/18/02 R)

1. There is no location on the property, other than a location within the Resource Protection Area, where the structure can be built.
2. The lot was established and recorded in the Cumberland County Registry of Deeds prior to June 6, 1994 if applying for a Special Resource Protection Permit in the Resource Protection Area, or November 18, 2002 if applying for a Special Resource Protection Permit in a stream NRPZ created after November 18, 2002.
3. ~~The All~~ proposed ~~location of all~~ 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 floodplain 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 floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain 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 floodplain.
4. The total ground floor area, 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 waterbody or upland edge of a coastal or freshwater wetland to the greatest practical extent, but not less than 125 feet, horizontal distance; or not less than ~~25-75~~ feet, horizontal distance from a stream. In determining the greatest practical extent, the Staff Review Committee 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. (Amended 9/4/01 R, 11/18/02 R) (Amended 5/17/99 E/R)

## 211.2.B AGRICULTURE

### 211.2.B.1

All spreading ~~or disposal~~ of manure shall be accomplished in conformance with the ~~Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the University of Maine Soil and Water Conservation Commission in July 1972, or the latest revision thereof.~~ Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

### 211.2.B.2

Manure shall not be stored or stockpiled within one hundred twenty-five (125) feet, horizontal distance, of the normal high water line of a river, or tidal ~~area~~ waters; or within one hundred twenty-five (125) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. ~~Within five (5) years of the effective date of this ordinance~~ aAll manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. ~~Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.~~

### 211.2.B.3

Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, ~~or the spreading, disposal or storage of manure~~ within the Shoreland Area 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 considered to be a violation of this ordinance. Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District Office.

### 211.2.B.4

~~After the effective date of this ordinance, n~~Newly established fields which require tilling of soil shall not be permitted within seventy-five (75) feet, horizontal distance, of the normal high water line of any river, tidal area-waters or stream; nor of the upland edge of a coastal or freshwater wetland.

The tilling of fields associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such tilling is conducted in accordance with a Soil and Water Conservation Plan.

### 211.2.B.5

~~After the effective date of this ordinance, n~~Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of normal high water line of a river, tidal area coastal or freshwater wetland or stream; ~~nor within twenty five (25) feet, horizontal distance of the upland edge of a coastal or freshwater wetlands.~~

Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

## 211.2.C BEACH CONSTRUCTION

Before beach construction is commenced, an applicant must obtain a permit from the Department of Environmental Protection and site plan approval by the Planning Board.

## 211.2.D CLEARING OR REMOVAL OF VEGETATION FOR DEVELOPMENT ACTIVITIES OTHER THAN TIMBER HARVESTING

## 211.2.D.1

Except to allow for development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high water line of a river, tidal ~~area-waters~~ or stream; seventy-five (75) feet, horizontal distance, from the upland edge of a coastal or freshwater wetland; a buffer strip of vegetation shall be preserved as follows: (Amended 11/18/02 R)

- a. There shall be no cleared opening greater than 250 s.f. in the forest canopy (~~or other existing woody vegetation if a forested canopy is not present~~) as measured from the outer limits of the tree ~~or shrub~~ crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks ~~and/or shrub stems~~ is ~~permitted-allowed~~ provided that a cleared line of sight to the water through the buffer strip is not created.
- b. Selective cutting of trees within the buffer strip is ~~permitted-allowed~~ provided that a well distributed stand of trees and other ~~natural~~ vegetation is maintained. For the purposes of ~~this s~~Section ~~211.2.D.1~~ a "well-distributed stand of trees ~~and other vegetation~~" shall be defined as maintaining a rating score of ~~12-24~~ or more in any 25 foot by ~~25-50~~ foot ~~square-rectangle~~ (~~625-1250~~ s.f.) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet above ground level (inches)	Points
2- <4 in.	1
<del>&gt;4-12</del> <8 in.	2
<del>&gt;8</del> <12 in.	4
<u>12 in or greater</u>	<u>8</u>

Note: As an example, if a 25-foot x ~~25-50~~ foot plot contains ~~three (3)~~four (4) trees between 2 and 4 inches in diameter, ~~two trees between 4 and 8 inches in diameter~~, three trees between ~~4-8~~ and 12 inches in diameter, and ~~three-two~~ trees over 12 inches in diameter, the rating score is: (~~3x1~~4x1) + (2x2) + (~~3x2~~3x4) + (~~3x4~~2x8) = ~~21-36~~ points Thus, the 25 foot by ~~25-50~~ foot plot contains trees with ~~21-36~~ points. Trees ~~totalling~~totaling 9-12 points (~~21-36-12-24~~ = 9-12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

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

For the purposes of Section 211.2.D.1 "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~~foot rectangular areas. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a foot path or other permitted uses as described in Section 211.2.D.1 paragraph 1a-paragraphs 1(a)

and (b) above.

- d. Pruning of tree branches, on the bottom 1/3 of the tree is ~~permitted~~allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

~~The provisions contained in s~~Section 211.2.D.1 ~~shall does~~ not apply to those portions of public recreational facilities adjacent to public swimming areas. ~~C as long as~~ cleared areas, ~~however, shall beare~~ limited to the minimum area necessary.

#### 211.2.D.2

~~At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, stream, or the upland edge of a wetland. In those areas not within the strip of land described in paragraph D.1. above, except to allow for the development of permitted uses,~~ there shall be ~~permitted~~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 ~~development~~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 area or ten thousand (10,000) square feet, whichever is greater, including land previously ~~developed~~cleared.

#### 211.2.D.3

~~Cleared~~Legally existing cleared openings ~~legally in existence on the effective date of this ordinance~~ may be maintained, but shall not be enlarged, except as ~~permitted~~allowed by this ~~e~~Ordinance. This rule applies specifically to continued maintenance, but not enlargement of lawns, gardens, and agricultural fields and pastures in existence at the effective date of this amendment. (11/18/02 R)

#### 211.2.D.4

Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of ~~this s~~Section 211.2.D.

#### 211.2.D.5

The clearing of vegetation shall be limited to that which is necessary for permitted uses in the following areas:

- a. 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 as "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) as depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W or MDEP, and as shown on the Brunswick Official Zoning Map by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973, as amended.
- b. Flood plains adjacent to tidal ~~areas~~waters, rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Boundary and Floodway Maps or the flood of record.
- c. Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.
- d. Areas of two (2) or more contiguous acres of wetlands which are not part of a freshwater or coastal wetland and which are not surficially connected to a river, tidal ~~area~~waters or stream during the period of normal spring-high water. (11/18/02 R)

- e. Land 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. Land along 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.

#### **211.2.D.6**

The vegetation clearing standards of this ordinance can be exceeded on a temporary basis with prior written approval of the Codes Enforcement Officer under the following conditions:

- a. The work shall be completed by a qualified professional under the supervision of a public natural resource agency or municipal department exclusively for the purpose of controlling the spread of invasive species and restoring natural areas.
- b. Woody species removed that exceed the required stand scoring limits are non-native invasive species including: Norway Maple (*Acer platanoides*), Japanese barberry (*Berberis thunbergii*), Asiatic bittersweet (*Celastrus orbiculata*), glossy buckthorn (*Frangula alnus*), Morrow’s honeysuckle (*Lonicera morrowii*), Japanese honeysuckle (*Lonicera japonica*), Tartarian honeysuckle (*Lonicera tatarica*), multiflora rose (*Rosa multiflora*), or other species identified as woody invasive plants by the Maine Natural Areas Program (MNAP).

If removal of these species exceeds the required stand scoring limits, native species will be planted to return the area to compliance with the “well distributed stand” definition as specified in 211.2.D.1.b prior to the start of the next growing season.

- c. Non-native invasive woody species under three (3) feet in height and herbaceous invasive species including Japanese knotweed (*Fallopia japonica*), purple loosestrife (*Lythrum salicaria*), and other species identified as invasive plants by the Maine Natural Areas Program (MNAP) can be removed if the area is replanted and monitored for the successful establishment of native species at an equal or greater density than the species removed.
- d. Temporary erosion control measures shall be installed prior to the start of the activity if the invasive species removal effort has the potential to result in erosion of soil into the resource.
- e. All disturbed areas shall be permanently stabilized.

(Amended 11/18/02 R)

#### **211.2.E EROSION AND SEDIMENTATION CONTROL**

##### **211.2.E.1**

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 Planning Board or Codes Officer in accordance with this ordinance 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 such as retaining walls or rip-rap.

## 211.2.E.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.

## 211.2.E.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.

## 211.2.E.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.

## 211.2.E.5

Natural and artificial drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

## 211.2.F MINERAL EXPLORATION AND EXTRACTION

All mineral exploration and extraction must conform to requirements of Section 306.6 of this ordinance. 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 special exception from the Zoning Board of Appeals 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, ~~so as~~ to restore disturbed areas and to protect the public health and safety. Mineral extraction may be permitted under the following conditions:

## 211.2.F.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 ~~paragraph 4~~Section 211.2.F.3 below.

## 211.2.F.2.

No new gravel pits may be developed within the Shoreland Area unless it can be demonstrated that no reasonable alternative exists outside the zone. When gravel pits must be located within the zone, they shall be set back as far as practicable, and, at a minimum, in conformance with the setback standards below.

No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred twenty five (125) feet, horizontal distance, of the normal high water line of a river or tidal ~~area~~waters; or one hundred twenty-five (125) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; or seventy-five (75) feet, horizontal distance, of a stream. Gravel pits shall be screened from ~~a the river resource(s)~~ by ~~existing~~ vegetation. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

~~3. Unless authorized pursuant to the Natural Resource Protection Act, Title 28, M.R.S.A. Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within seventy five (75) feet, horizontal distance, of the normal high water line of a stream. Extraction operations shall not be permitted within seventy five (75) feet of any property line, without written permission of the owner of such adjacent property.~~

211.2.F.3.

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

- a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on site. Only materials generated on-site may be buried or covered on-site.
- b. The final graded slope shall be two and one half to one ( 2 1/2:1) 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 top soil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

211.2.F.4.

The Planning Board may impose such other considerations as necessary to minimize adverse impacts associated with mineral extraction operations on surrounding uses and resources.

211.2.G

COMMERCIAL MARINE ACTIVITIES – PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND

- a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- b. The location shall not interfere with existing developed or natural beach areas.
- c. The facility shall be located so as to minimize adverse effects on fisheries.
- d. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- e. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- f. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Codes Enforcement Officer 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.
- ~~a.g.~~ No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of waterbody or within a wetland shall be converted to residential dwelling units.
- h. 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.
- i. Commercial marine activities and piers, docks, wharves, breakwaters, causeways, marinas, bridges and other structures projecting into water bodies must conform to the provisions outlined in Section 306.7.

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

located in navigable waters.

~~Piers, docks, wharves, breakwaters, causeways, marinas, bridges over 20 feet long and other structures projecting into water bodies are marine activities. In addition to federal or state permits which may be required for such structures, they must conform to the provisions outlined in Section 306.7.~~

~~No new structures built on, over or adjacent to a marine activity shall exceed a height of twenty feet (20') measured vertically from the existing grade elevation or the normal high water level over which such new structure is built. No existing structures built on, over or adjacent to a marine activity shall be converted to a residential dwelling.~~

## 211.2.H ROADS AND DRIVEWAYS

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

### 211.2.H.1

Unless no reasonable alternative exists as determined by the Planning Board, roads and driveways shall be set back at least one hundred twenty-five (125) feet, horizontal distance, from the normal high-water line of a river or tidal area waters; one hundred twenty-five (125) feet, horizontal distance, from the upland edge of any coastal or freshwater wetland; seventy-five (75) feet from the normal high water line of a stream. If no reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the protected resource(s). 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 protected resource(s).

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

~~This paragraph shall neither~~ Section 211.2.H.1 does not apply to approaches to water crossings ~~nor~~ to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 211.2.H.1 except for that portion of the road or driveway necessary for direct access to the structure.

### 211.2.H.2

New roads and driveways are prohibited in the areas described in section 211.2.A.1. except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the those areas, ~~or as approved by the Planning Board~~ upon a finding that no reasonable alternative route or location is available outside of those areas, in which case the road and/or driveway shall be set back as far as practicable from the protected resource.

### 211.2.H.3

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

### 211.2.H.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 211.2.E.

### 211.2.H.5

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

## 211.2.H.6

In order to prevent road ~~and driveway~~ surface drainage from directly entering a protected resource, roads ~~and driveways~~ shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope in horizontal width between the outflow point of the ditch or culvert and the normal high water line of a river, tidal ~~area-waters, of a~~ stream, or upland edge of a coastal or freshwater wetland. The unscarified buffer strip along a stream shall be twenty-five (25) feet in horizontal width. ~~Road-s~~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.

## 211.2.H.7

Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified bufferstrips before the flow ~~in the road or ditches~~ 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~~along the road, ~~or driveway~~ at intervals no greater than indicated in the following table:

<del>Road</del> Grade (in percent)	Spacing (in feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the ~~road~~ grade is ten (10) percent or less.
- c. On ~~road~~ sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed ~~across the road~~ at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road ~~or driveway~~.
- d. Ditch relief 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.

## 211.2.H.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.

### 211.2.I TIMBER HARVESTING

Section 211.2.I in its entirety is to be repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the Bureau of Forestry will administer and enforce the statewide standards for timber harvesting in shoreland areas.

#### 211.2.I.1 Timber Harvesting shall conform with the following provisions:

- a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 ~~1/2~~<sup>1/2</sup> feet above ground level on any lot in any ten (10) year period is permitted. In addition:
- i. Within seventy-five (75) feet, horizontal distance, of the normal high-water line of a river, tidal ~~area-waters~~

or stream; or within seventy-five (75) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

- ii. In areas outside of those described in paragraph i. above, harvesting operations shall not create single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
- b. Timber harvesting operations exceeding the 40% limitation in paragraph a. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.
- c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a river, tidal ~~area~~ waters or stream. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground. Any debris that falls below the normal high- water line of a water body shall be removed.
- d. Timber harvesting equipment shall not use stream channels as travel routes.
- e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soils and the normal high water line of a river, tidal ~~area~~ waters, or stream; or upland edge of a coastal or freshwater wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the river, tidal ~~area~~ waters, stream, coastal wetland or freshwater wetland, provided however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the protected resource.

In addition, an unscarified strip of vegetation of at least seventy-five (75) feet in width shall be retained between the exposed mineral soils and the normal high-water line of a stream.

#### **211.2.J CAMPGROUNDS**

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

##### **211.2.J.1.**

The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings, shall be set back a minimum horizontal distance of one hundred twenty-five (125) feet, horizontal distance, from the normal high-water mark line of a river or tidal ~~area~~ waters, or the upland edge of a coastal or freshwater wetland; seventy-five (75) feet, horizontal distance from the normal high water line of a stream .

##### 211.2.J.2.

Campgrounds shall contain a minimum of 5000 sq feet of land, no 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.

211.2.J.32.

All campgrounds are subject to approval of the Planning Board through site plan review and the Department of Human Services.

**211.2.K SANITARY STANDARDS**

As well as meeting all requirements of the State of Maine Subsurface Wastewater Disposal Rules, all on-site septic systems located within the Shoreland Area shall meet the following additional standards:

211.2.K.1

All parts of all types of subsurface wastewater disposal systems shall be setback a minimum horizontal distance of one hundred twenty-five (125) feet from the normal high water line of a river or tidal ~~area~~waters; one hundred twenty-five feet from the upland edge of a coastal or freshwater wetland; seventy-five (75) feet from the normal high water line of a stream (Amended 5/21/01).

The clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than one hundred twenty-five (125) feet, horizontal distance from the normal high water line of a river, tidal ~~area~~waters, or coastal or freshwater wetland; or within seventy-five (75) feet, horizontal distance, from the normal high water line of a stream. A holding tank is not allowed for a first-time residential use in the shoreland zone.

211.2.K.2

The Local Plumbing Inspector may approve a request concerning the setback of a replacement subsurface wastewater disposal system, if a report, prepared by a soils scientist or site evaluator registered in the State of Maine, is submitted and accepted stating that

- a. the existing system is failing
- b. no suitable location exists outside the setbacks and
- c. the proposed location meets the required setbacks to the great extent.

(Amended 5/21/01)

211.2.K.3

Setbacks for new subsurface wastewater disposal facilities in the Shoreland Zone cannot be reduced by variances.

**211.2.L OVERBOARD DISCHARGE SYSTEMS**

Overboard discharge from a sewage disposal system, in which sewage, chlorinated or otherwise, flows into a protected resource is prohibited. Systems licensed prior to the passage of this amendment may continue as long as they are in compliance with all appropriate state law and do not involve expansion of the existing system.

**211.2.M 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 .stream or wetland.

**211.2. N SIGNS**

~~Identification signs cannot be more than 10 square feet and rental signs can not be more than 3 square feet. All other signs shall not exceed 6 square feet in size. The use of signs in the NRPZ must adhere to Sections 601~~

through 604.

#### **211.2.O INDIVIDUAL PRIVATE CAMPSITES**

Individual, private campsites not associated with campgrounds are ~~permitted~~-allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this ordinance, or thirty thousand (30,000) s.f. of -lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be setback one hundred twenty five (125) feet, horizontal distance, from the normal high water line of a river or tidal ~~area~~waters, or from the upland edge of a coastal or freshwater wetland; seventy-five (75) feet, horizontal distance from the normal high water line of a stream.
3. ~~Only one recreational vehicle shall be allowed on a campsite. The r~~ecreational vehicles shall not be located on any type of permanent foundation and no structure(s) except canopies shall be attached to the recreation vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter shall be limited to one thousand (1,000) s.f.
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.
6. No recreational vehicles, tent or similar shelter shall be placed on-site for more than one hundred and twenty (120) days per year.

#### **211.2.P 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 prepared by a state certified professional. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevations, 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.

#### **211.2.Q ARCHAEOLOGICAL SITES**

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 Maine Historic Preservation Commission, shall be submitted to that 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. A list of Historic Places, compiled by the Maine Historic Preservation Commission, will be kept on file in the ~~planning~~ Planning and Codes Enforcement Offices.

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

## **211.2.R PARKING AREAS**

### 211.2.R.1

Parking areas shall meet the shoreline setback requirements for structures. If the Planning Board finds that no reasonable alternative exists, the setback requirement for parking areas serving public or private boat launching facility may be reduced to no less than fifty (50) feet from the normal high water line of a river, tidal ~~area~~waters, stream; or no less than fifty (50) feet from the upland edge of a coastal or freshwater wetland.

### 211.2.R.2

Parking areas shall be designed to prevent stormwater runoff from flowing directly into a protected resource, and where feasible, to retain all runoff on site.

### 211.2.R.3

Parking areas shall conform with the design and performance standards of Section 512. In addition parking spaces for vehicles with boat trailers shall be 40' in length.

## **211.2.S STORM WATER RUNOFF**

### 211.2.S.1

All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development 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.

### 211.2.S.2

Direct discharge of stormwater into any water body shall be avoided.

### 211.2.S.3

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

## **211.2.T ESSENTIAL SERVICES**

### 211.2.T.1

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

### 211.2.T.2

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

### 211.2.T.3

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

**CHAPTER THREE: SPECIFIC DIMENSIONAL AND USE PROVISIONS**

The purpose of this Chapter is to set forth more specific requirements than those found in Chapter 2. These requirements pertain to circumstances found throughout the Town in all zones. The standards set forth in this Chapter shall prevail over the requirements of any other chapter, with the exception that any conflicting standards found in an Overlay Zone shall prevail.

[Sections omitted for ease of editing and review]

**304 NON-CONFORMITY**

**304.1 CONTINUANCE**

The non-conforming use of land, building or structure existing on the effective date of this Ordinance may be continued, even though such use does not conform to this Ordinance. (Amended 1/19/99 R)

**304.2 DISCONTINUANCE**

If the nonconforming use of land, building or structure is discontinued for thirty-six (36) consecutive months, as determined by the Codes Enforcement Officer, it may thereafter be developed only as a permitted use or Special Permit in accordance with Section 701 except as modified in section 304.2.A. (Amended 1/19/99 R)

**304.2.A Discontinuance in the APZ ~~and NRPZ~~**

If the nonconforming use of land, building or structure in the APZ ~~or NRPZ~~ is discontinued for twelve (12) consecutive months, as determined by the Codes Enforcement Officer, it may thereafter be developed only as a permitted use, or Special Permit in accordance with Section 701. (Amended 1/19/99 R)

**304.3 CHANGE OF USE**

A non-conforming use may be changed to a permitted use in the zoning district in which it is located; for Non-Classified or Omitted Uses, a Special Permit must be obtained from the Planning Board pursuant to Section 701.

**304.4 STRUCTURES DAMAGED OR DESTROYED BY FIRE OR OTHER DISASTER**

304.4.A Where a structure which houses a non-conforming use, or a structure which does not comply with current zoning provisions is destroyed by fire or other disaster, the owner of the structure has two years during which to obtain a building permit to restore it to its original condition or lose any vested rights. (Amended 1/20/04 R)

~~304.4.B Reconstruction and Replacement in NRPZ~~

~~Reconstruction or replacement of non-conforming structures that have been damaged or destroyed by more than 50% of their market value is allowed under the following conditions:~~

- ~~1. A building permit is obtained for reconstruction or replacement within one year and; (Amended 1/20/04 R)~~
- ~~2. to the greatest extent practical, the structure meets setback requirements.~~
- ~~3. In no case shall a structure be reconstructed or replaced in a manner that increases its non-conformity.~~

~~The Staff Review Committee shall review all reconstruction or replacement of structures damaged by over 50% using the standards listed in this section and section 211.3.E. For structures with 50% or less damage, the Codes Enforcement Officer may issue a building permit provided the structure is reconstructed in place and meets the standards listed in this section. (Amended 1/19/99 R, 10/15/01 R)~~

**304.5 EXPANSION OF A NON-CONFORMING USE**

**304.5.A As Of Right**

Any non-conforming use may be expanded by not more than 1,000 square feet over a 5-year period as a matter of right, provided that no new non-conformity is created.

**304.5.B By Special Exception**

A non-conforming use may be expanded by Special Exception by the Zoning Board of Appeals, in accordance with Section 703.3 of this Ordinance, provided that no new non-conformity is created.

**304.6 EXPANSION OF NON-CONFORMING BUILDING OR STRUCTURE WITHOUT VARIANCE**

A building or structure that is non-conforming with regard to dimensional requirements may be expanded, altered and/or replaced subject to the following. (Amended 6/19/00 R)

304.6.A The expansion alteration and/or replacement shall not cause a new non-conformity. (Amended 6/19/00 R)

304.6.B The construction of an additional story or upper floor space over an existing first floor space, where the first floor is located within a required setback is allowed and is not considered to increase the non-conformity or create a new non-conformity.

304.6.C The expansion may occur within a required setback if an existing non-conforming setback exists, and the expansion does not extend beyond the non-conforming setback line established by the building or structure which is being expanded.

~~304.6.D **Expansions in NRPZ.** A non-conforming structure may be added to or expanded after obtaining a permit from the Codes Enforcement Officer if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (1) and (2) below. (Amended 10/15/01 R)~~

~~304.6.D.1 If any portion of a structure is less than the required setback from the normal high water line of a water body or upland edge of a wetland, that portion of the structure existing as of January 1, 1989 shall not be expanded, as measured in floor area or volume, by 30% or more during the lifetime of the structure. (Amended 10/15/01 R)~~

~~304.6.D.2 Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:~~

~~a. The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Codes Enforcement Officer, basing its decision on the criteria specified in Section 304.7, below:~~

~~b. The completed foundation does not extend beyond the exterior dimensions of the structure; and~~

~~c. The foundation does not cause the structure to be elevated by more than three (3) feet.~~

(Amended 10/15/01 R)

### ~~304.7~~ ~~RELOCATION~~

~~A non-conforming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by Staff Review Committee 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 Rules. In no case shall a structure be relocated so that it is more non-conforming. (Amended 1/19/99 R, Amended 10/15/01 R)~~

~~In determining whether the building relocation meets the setback to the greatest practical extent, the Staff Review Committee 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. It is the responsibility of the applicant to provide this information to the Board. (Amended 1/19/99 R)~~

### **304.87 NON-CONFORMING LOTS**

304.87-A Where a non-conforming lot of record was part of a subdivision approved in conformance with Town and State subdivision regulations and statutes, said lot may be constructed upon in accordance with the zoning requirements in effect at the time the lot was lawfully established, provided the proposed use is a permitted one. However, such zoning requirements shall apply only to new construction upon a vacant lot. (Amended 1/19/99 R) [This provision does not apply to such lots located within the NRPZ zoned as Resource Protection Areas.](#)

304.87-B For any non-conforming lot of record lawfully established prior to the existence of subdivision review or where a subdivision review was not required in accordance with appropriate laws, and where the lot area or frontage, or both, is less than the minimum standard of this ordinance, said lot may be used as permitted in the zoning district in which it is located, provided the minimum yard setback requirements are complied with. (Amended 1/19/99 R)

304.87.C Where a non-conforming lot cannot meet the yard setback requirements of this ordinance, the Zoning Board of Appeals may grant a variance in accordance with Section 703.2. No variance shall be granted if the lot is in common ownership with an adjacent lot, and the combined lot satisfies ordinance requirements. (Amended 1/19/99 R)

### **304.8 NON-CONFORMITY IN THE NATURAL RESOURCE PROTECTION ZONE (NRPZ)**

~~Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more con-forming.~~

#### **304.8.A Discontinuance in the NRPZ**

If the nonconforming use of land, building or structure in the NRPZ is discontinued for twelve (12) consecutive months, as determined by the Codes Enforcement Officer, it may thereafter be developed only as a permitted use, or Special Permit in accordance with Section 701.

**304.8.A.1 Change of Use in the NRPZ**

The use of a non-conforming structure may be changed to another use in accordance with Section 702. A written application must be submitted to the Planning and Development Department demonstrating that the new use will have no greater adverse impact on the water body, stream, or wetland, or on the adjacent properties and resources than the existing use.

To determine that no greater adverse impact will occur, the written documentation from the applicant must assess 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, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

**304.8.B Reconstruction and Replacement in NRPZ**

Reconstruction or replacement of non-conforming structures that have been damaged or destroyed, regardless of the cause, by more than 50% of their market value is allowed under the following conditions:

1. A building permit is obtained for reconstruction or replacement within one year and; (Amended 1/20/04 R)
  - a. To the greatest extent practical, the structure meets water body, stream or wetland setback requirements.
  - b. In no case shall a structure be reconstructed or replaced in a manner that increases its non-conformity.

2. 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 304.9.C below, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 304.9.D below.

The Staff Review Committee shall review all reconstruction or replacement of structures damaged by over 50% using the standards listed in this section and section 211.3.E.

For non-conforming structures with 50% or less damage, the Codes Enforcement Officer may issue a building permit provided the structure is reconstructed in place and meets the standards listed in this section. (Amended 1/19/99 R, 10/15/01 R)

**304.8.C Expansions in NRPZ.**

A non-conforming structure may be added to or expanded after obtaining a permit from the Codes Enforcement Officer if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (1) and (2) below. (Amended 10/15/01 R)

- 304.8.C.1 If any portion of a structure is less than the required setback from the normal high-water line of a water body, stream or upland edge of a wetland, that portion of the structure existing as of January 1, 1989 shall not be expanded, as measured in floor area or volume, by 30% or more during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 304.9.B, and is less than the required setback from a water body, stream or wetland, the

replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date. (Amended 10/15/01 R)

304.8.C.2

~~Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided: Whenever a new, enlarged, or replacement foundation is constructed under a non-confirming structure, the~~

~~a. The structure and new foundation are must be~~ placed such that the setback requirement is met to the greatest practical extent as determined by the Codes Enforcement Officer, basing its decision on the criteria specified in Section ~~304.7, below~~ 304.9.D; below. If:

~~b. The completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 304.9.C.1 above;~~ and

~~e. The foundation does not cause the structure to be elevated by more than three (3) feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.~~

(Amended 10/15/01 R)

304.8.D

#### **RELOCATION IN THE NRPZ**

A non-confirming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by Staff Review Committee 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 Rules. In no case shall a structure be relocated so that it is more non-confirming. (Amended 1/19/99 R, Amended 10/15/01 R)

In determining whether the building relocation meets the setback to the greatest practical extent, the Staff Review Committee 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. It is the responsibility of the applicant to provide this information to the Board. (Amended 1/19/99 R)

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Staff Review Committee shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

thereof.

304.8.E NON-CONFORMING LOTS IN THE NRPZ

304.8.E.1. Non-conforming Lots in the NRPZ: 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 and lot width can be met. Variances relating to setback or other requirements not involving lot area or lot width shall be obtained by action of the Zoning Board of Appeals.

304.8.E.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 minimum lot size of the underlying zoning district and the State of Maine Subsurface Wastewater Disposal Rules (in those areas not served by public water) are complied with.

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

304.8.E.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 2 or more contiguous lots, at least one of which is nonconforming, 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 20,000 square feet of lot area; or

(b) Any lots that do not meet the lot width and lot size requirements of the underlying zoning district are reconfigured or combined so that each new lot contains at least 20,000 square feet of lot area.

## CHAPTER SEVEN: ADMINISTRATION AND ENFORCEMENT

### 701 Special Permits for Unclassified and Omitted Uses

Unclassified and Omitted Uses (See Chapter Two, Part One, Section 2) may be allowed upon the issuance of a Special Permit by the Planning Board and upon ratification by the Town Council as described in Section 701.1.

[Sections omitted for editing and review ease]

### 703.4 Appeals to the Zoning Board of Appeals

#### A. Making An Appeal.

1. Administrative review appeals from decisions of the Codes Enforcement Officer, Planning Board or Village Review Board shall be taken no later than 30 days after the decision is rendered. Variance appeals and special exception appeals do not require a prior decision of the Codes Enforcement Officer or a board and are not subject to this time limit.
2. Such appeal shall be made by filing in the Office of the Codes Enforcement Officer a written notice of appeal specifying the grounds for such appeal. For an appeal seeking a variance or special exception, the applicant shall submit:
  - a. A sketch drawn to scale or photograph showing lot lines, location of existing buildings and other physical features pertinent to the variance request.
  - b. A concise written statement stating what variance or special exceptions is requested.
3. Upon being notified of an appeal, the Codes Enforcement Officer, the Planning Board or Village Review Board, as the case may be, shall transmit to the Zoning Board all of the papers specifying the record of the decision appealed from. Each appeal shall be accompanied with the fee designated by the Town Council. The Zoning Board of Appeals shall hold a public hearing on the appeal within forty-five (45) days after the filing of the appeal.
4. A copy of each variance request located in the NRPZ, including the application and all supporting information supplied by the applicant, shall be forwarded by the Codes Enforcement Officer to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Zoning Board of Appeals. Any comments received from the Commissioner prior to the action by the Zoning Board of Appeals shall be made part of the record and shall be taken into consideration by the Zoning Board of Appeals.

#### B. Procedure on Appeal

1. At least seven (7) days prior to the date of the hearing on such appeal, the Zoning Board shall cause to be published in one issue in a newspaper of general circulation in Brunswick a notice which includes:
  - a. The name of the person appealing.
  - b. A brief description of the property involved, including the street address.
  - c. A brief description of the decision appealed from, or the nature of a variance or special exception.
  - d. The time and place of the Zoning Board's hearing.

2. At least ten (10) days prior to the date set for hearing, the Board shall give similar written notice to:
  - a. All property owners of record whose properties lie within 200 feet (200') of the perimeter of the affected property,
  - b. The person making the appeal, and
  - c. The Codes Enforcement Officer, Planning Board or Village Review Board, as the case may be, and any other person requesting notice.
3. The notice will be sent via U.S. Mail, postage prepaid to those persons as listed on the town's tax records.

**C. Hearings**

1. In hearing an administrative review appeal from a decision of the Codes Enforcement Officer, Planning Board or Village Review Board, the Zoning Board of Appeals shall
  - a. Examine all application documents, Ordinance requirements and Finding of Fact and Conclusions prepared by the Codes Enforcement Officer or Board whose decision is being appealed.
  - b. Determine on the basis of the entire record presented to the Codes Enforcement Officer or the Board whose decision is appealed from whether the Codes Enforcement Officer or such Board could reasonably have found the facts and reached the conclusions upon which the decision under appeal was based.
  - c. Determine whether the prior Board's decision was based on substantial evidence.
  - d. Not substitute the judgement of the Zoning Board of Appeals for the judgement of the Codes Enforcement Officer or the Board whose decision is under appeal.
  - e. If the Zoning Board finds that the Codes Enforcement Officer or the Board was not erroneous in its review of the application, the original determination shall be upheld.
2. The Zoning Board may find that all or portions of the decision were faulty, in which case the Board may remand that portion of the application to the Codes Enforcement Officer, Planning Board or Village Review Board for reconsideration, with recommendations that the prior Board make additional findings of fact and conclusions to enable the Zoning Board of Appeals to complete its evaluation of the appeal. In the case of such a remand, the appeal before the Board of Appeals shall remain pending until the Codes Enforcement Officer or Board whose decision is on appeal acts on the remand and reports its action to the Board of Appeals, which shall then make a final decision on the appeal. The decision of the Board of Appeals to remand is not final action by the Board of Appeals and is not appealable to Superior Court.
3. At a hearing on any appeal, the appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the chair.
4. At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause.
5. If a party does not attend a hearing and is not otherwise represented, its case will be deemed to have been withdrawn without prejudice to refile the appeal. The filing fee will not be refunded to any applicant

whose appeal is withdrawn in this manner.

6. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.

### **703.5 Decisions of the Zoning Board of Appeals**

- A. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to:
1. reverse any order, requirement, decision or determination of the Codes Enforcement Officer, Planning Board or Village Review Board;
  2. to grant a variance;
  3. to grant a special exception; or
  4. to decide in favor of the applicant on any matter which the Board is required to decide under this Ordinance.
- B. The Zoning Board shall decide all appeals within at least thirty (30) days after hearing, unless the Board and the applicant agree to a longer time, and shall issue a written decision on all Appeals.
- C. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion is presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Codes Enforcement Officer, Planning Board or Village Review Board, as the case may be, and the Municipal Officers within seven (7) days of the decision date.
- D. A special exception or variance granted under the provisions of this Ordinance by the Zoning Board of Appeals shall expire if the work or change involved is not completed within two (2) years of the date on which the special exception or variance is granted.
- E. All variances granted by the Zoning Board of Appeals shall be recorded in the Cumberland County Registry of Deeds in accordance with 30-A M.R.S.A. Section 4353(5).
- F. Once an appeal has been denied, a second appeal of a similar nature with regard to the same building or property may not be brought to the Board within six months. (Amended 6/19/00 R)
- G. Appeals may be taken as permitted by law from any decision of the Zoning Board of Appeals to Superior Court.
- H. For appeal decision located in the NRPZ, the Zoning Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Zoning Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

## CHAPTER ONE: GENERAL PROVISIONS

[Sections omitted for ease of editing and review]

### 111 Definitions

**Accessory Structure.** A structure subordinate to a principal building on the same lot and used for purposes customarily incidental to those of the principal building or use.

**Accessory Use.** A use customarily incidental and subordinate to the principal use or building, and that occupies no more than 40% of the floor area of all structures on a lot.

**ADJACENT GRADE:** The natural elevation of the ground surface prior to construction next to the proposed walls of a structure. (Amended 1/19/99 R)

**AGRICULTURAL CLEARING:** A clearing created to support the production of traditional agricultural crops including grazing areas for livestock, fields used for the production of hay, straw, and other fruit, grain, and vegetable crops, Christmas tree farms, and orchards, etc. This definition does not include mineral extraction. (Amended 3/6/06 R)

**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; fruit and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities. (Amended 1/19/99 R)

**Alteration.** The addition, demolition or construction of any building on a pre-existing site, including the removal or addition of facade materials, the addition of floor area to a site, the erection of fences or the addition of signage, and the creation of new impervious surfaces.

**Architectural or Archaeological Significance.** A site, structure, object or artifact that is listed, or is eligible to be listed on the National or Maine Register of Historic Places, or that contributes archaeologically, culturally or architecturally to the history of the Town of Brunswick.

**AREA 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 Study cited in section 211.3 of this ordinance. (Amended 1/19/99 R)

**Assisted Living:** A residence for people with disabilities that prevent them from living on their own. The residence provides private rooms or apartments with common areas for dining, socializing and programs along with daily meals, personal services, limited nursing and 24 hour care. (Amended 9/4/01)

**Auto Graveyard.** A yard, field, or other area used to store three or more unserviceable, discarded, worn-out, or junked motor vehicles.

**BASAL AREA:** The area of cross-section of a tree stem, including bark, at 4 1/2 feet above ground level.

**BASAL AREA, RESIDUAL:** The sum of the basal area of trees remaining on a harvested site.

**BASE FLOOD:** A flood having a one percent chance of being equaled or exceeded in any given year commonly called the 100-year flood. (Amended 1/19/99 R)

**BASEMENT:** Any area of building having its floor sub grade (below ground level) on all sides. For shoreland zoning purposes, basement means 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.(Amended 1/19/99 R)

**Bed and Breakfast.** A dwelling occupied by the owner as a principal place of residence with not more than 10 rooms which are rented on a per diem basis, where meals may be provided to those who rent rooms.

**Boarding House.** A building other than a hotel containing a shared kitchen and/or dining room, with sleeping rooms accommodating no more than two persons per room (excepting minor children) which are offered for rent, with or without meals. Includes a college fraternity or sorority.

**BREAKAWAY WALL:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. (Amended 1/19/99 R)

**Business Office.** A space used to conduct the administrative affairs of an organization, including the offices for academic or administrative staff of a post secondary school.

**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. (Amended 1/19/99 R)

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

**Club/Lodge.** An association of persons for social or recreational purposes which may include the promotion of some common objective.

**College Office.** A space used to conduct the administrative affairs of a post secondary institution, including offices for academic and administrative staff.

**Color Rendering Index (CRI).** A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100. (Amended 5/20/02 R)

**Common Development Plan .** A proposed development approved by the Planning Board in accordance with Section 413. A common development plan may involve multiple new buildings or structures on a single lot, multiple new buildings or structures on multiple lots, or a single new building or a redevelopment building on an individual lot or multiple lots. (Amended 5/20/02 R)

**Communication Tower.** A structure used for transmitting or receiving radio, microwave, or similar electromagnetic signals, not including antennae and satellite dishes designed for ordinary home or farm use.

**Community Center.** A building which provides a meeting place for a local, non-profit community organization on a regular basis.

**Congregate Living.** A residence that provides private rooms or apartments with common areas for dining, socializing and programs. Housekeeping services are provided, but residents are relatively self-sufficient. (Amended 9/4/01 R)

**Contractor's Space.** A facility that contractors utilize for the storage, inventory and prefabrication of materials associated with construction.

**Contributing Structure.** A structure which contributes to the historic or traditional architectural character of the Village Review Zone.

**Conformity/Conforming.** Complying with use, density, dimension, and other standards of this ordinance.

**Conservation Easement.** A perpetual restriction on the use of land, created in accordance with the provisions of 33 M.R.S.A. Section 476 through 479(B), for the purposes of conserving open space, agricultural land, or natural, cultural, historic and scenic resources.

**Convenience Store.** A store of not more than 2,000 square feet that primarily sells grocery items, that may sell take out food items, and that incorporates, or is accessory to, a gasoline service station. (Amended 7/5/05 R)

**Cook's Corner Master Plan.** The Cook's Corner Master Plan dated June 1998 for the development of the Cook's Corner area prepared by the Cook's Corner Master Plan Committee as approved and amended by the Town Council. (Amended 5/20/02 R)

**Curb Cut.** An entry into a road or right-of-way for vehicular traffic.

**Day Care Center.** A Day Care Facility for Children, as defined in Title 22 M.R.S.A. Chapter 1673, Section 8301; Home Babysitting Services, as defined in Title 22 M.R.S.A. Chapter 1673, Section 8305; and Adult Day Care Programs, as defined in Title 22 M.R.S.A. Chapter 1679, Section 8601.

**Demolition.** The removal of part or the whole of a structure.

**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 or 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, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities. (Amended 1/19/99 R, 6/19/00 R)

**Dimensional Requirement.** Any requirement of this ordinance which regulates spatial aspects of land, structures and uses, including, not limited to, lot width, lot area, setbacks, height, impervious surface coverage and maximum building footprint and excluding density.

**DISTURBANCE:** For the purposes of the Rural Brunswick Smart Growth Overlay Districts, "disturbance" shall be defined as the area to be graded and/or permanently cleared of naturally occurring stands dominated by woody vegetation for activities included in 217.3.A. (Amended 3/6/06 R)

**Drive-Through.** Any structure through which a product or service is provided directly to a customer seated in an automobile including, but not limited to, take-out windows, banking terminals, automatic teller machines, pay telephones and other facilities commonly referred to as drive-up, drive-through or take-out. This definition excludes gasoline service stations, car washes, drive-in theatres and drive-in restaurants where orders are taken and food delivered to an automobile that remains in a parking space. (Amended 5/20/02 R)

**Driveway.** That portion of a lot set aside for vehicular access between the public or private road and the portions of the lot used for buildings, structures, parking or the other uses to which the lot is devoted.

**Dwelling Unit.** A group of rooms providing living quarters containing independent cooking, sleeping, and bathroom facilities for one household. 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 dwelling units.

**Educational Facility.** Any building consisting primarily of classroom space which is used for offering courses, lectures, training seminars or other similar use, including, but not limited to, private nursery, kindergarten, elementary, middle, secondary and post-secondary schools.

**ELEVATED BUILDING:** For floodplain management purposes, an elevated building is a non-basement building

- a. built, in the case of a building in Zones A1-30 or A to have the top of the elevated floor, or in the case of a building Zones V1-30, to have the bottom of the lowest horizontal structural member 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.  
(Amended 1/19/99 R)

**Essential Services.** Utilities such as natural gas, electricity, telecommunications, water and sewer services, including the lines, poles and pipes necessary to deliver the service but excluding communication towers and business and management offices of utilities.

**EXPANSION OF A STRUCTURE:** An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

**FIRST FLUSH:** First flush is the volume generated by the first 1.25 inches of stormwater runoff. The first inch of runoff carries the majority of accumulated pollutants from impervious surfaces. (Amended 5/21/01)

**EXPANSION OF USE:** The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

**FLOOD INSURANCE RATE MAP (FIRM):** 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. (Amended 1/19/99 R)

**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. (Amended 1/19/99 R)

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the surface elevation by more than one foot in height. When not designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway 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. (Amended 1/19/99 R)

**Floor Area.** The total area, in square feet, of all floors of a building measured within the exterior walls, excluding unfinished attics and unfinished cellars. In the case of a use which occupies a portion of a building, the floor area shall be measured from the interior of the walls which defines the space.

**Footprint.** Area of the ground covered by a structure, including the foundation and all areas enclosed by exterior walls and footings.

**Foundation, for Shoreland Area zoning purposes: 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.**

**FREEBOARD:** 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. (Amended 1/19/99 R)

**Front Lot Line.** That line which separates the lot from a public or private right-of-way. On corner lots, the front lot line shall be the line opposite the front of the principal building.

**FUNCTIONALLY DEPENDENT USE:** For floodplain management purposes, a functionally dependent use is 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. (AMENDED 1/19/99 R)

**Golf Course.** An outdoor area laid out for the purpose of playing the game of golf, excluding miniature golf and golf driving ranges.

**Grading.** Excavation, alteration of land contours, grubbing, filling or stockpiling of earth materials.

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

**Height of Structure.** The vertical distance measured from the average ground elevation to the highest point on such structure. On a gabled roof height is measured from the midpoint between the eave and peak of the roof. Within the Shoreland Area, Height of Structure shall be 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.

**HISTORIC STRUCTURE:** For floodplain management purposes, a historic structure is any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements of individual listing on the National Register;
  - b. Certified or preliminary determined by the Secretary of 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.
- (AMENDED 1/19/99 R)

**Hotel or Motel.** Establishment excluding "bed and breakfast" which provides sleeping accommodations for transient guests, with or without a dining room or restaurant.

**Hazardous Matter.** Substances identified by the Board of Environmental Protection under 38 M.R.S.A. Section 1319, as amended.

**Household.** One person, or a group of two or more persons living together in the same dwelling unit as a single housekeeping entity.

**Impervious Surface.** Any material covering the ground through which water does not readily penetrate, including but not limited to roofed structures, decks, concrete, stone, tar, asphalt, pavement, gravel, crushed stone and shale. (Amended 12/4/06 R)

**Impervious Surface Coverage.** The ratio between impervious surface and total land area of a lot expressed as a percentage.

**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 pads, parking areas, fire places, or tent platforms.

**Industry, Class I.** Production, manufacturing, assembly, fabrication, processing, treatment, compounding, preparation, cleaning, servicing, testing or repair of materials, goods or products in a space not to exceed 20,000

square feet and where no more than 25 employees typically occupy the space at any given time.

**Industry, Class II.** Production, manufacturing, assembly, fabrication, processing, treatment, compounding, preparation, cleaning, servicing, testing or repair of materials, goods or products in a space exceeding 20,000 square feet or where more than 25 employees typically occupy the space at any given time.

**Junkyard/Dumps.** A yard, field, or other area used to store or dispose of old, discarded, worn-out, scrapped, or junked materials such as, but not limited to, plumbing, heating supplies, household appliances, furniture, lumber, rope, rags, batteries, paper trash, rubber debris, waste, and all scrap iron, steel, copper, brass, and other scrap ferrous or nonferrous material; includes garbage dumps, waste dumps, and sanitary landfills.

**Kennel.** Any establishment including cages, dog runs, and/or structures where more than three dogs more than six months old are kept for sale, boarding, or breeding.

**Landmark Registry.** A listing of historic sites, buildings and districts in the Town of Brunswick nominated by the Village Review Board and approved by ordinance of the Town Council.

**Lane.** A secondary access road located behind a house within a subdivision.

**Leachable Materials.** Liquid or solid materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants into the ground.

**Level of Service.** A technical measure which assesses the traffic impact associated with new or expanded uses, as defined by the American Institute of Traffic Engineers.

**Lot/Parcel.** An area of land with ascertainable boundaries, all parts of which are owned by the same person(s) or entities. A lot/parcel shall include both sides of a public or private way if under the same ownership.

**Lot of Record.** A parcel of land described in a recorded deed or shown on an approved and recorded Subdivision Plan and meeting zoning requirements at the time it was created.

**Lot, Rear.** A lot which is located to the rear of another lot which lacks the minimum road frontage required in the land use district, and access to which is either by a strip of land which is part of that lot or a deeded right of way over one or more of the front lots.

**Lot Width.** The width of a lot measured along the front line between the points of intersection of the side lot lines with the front lot line on a public or private right-of-way.

**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 211.3.E of this ordinance. (Amended 1/19/99 R)

**MANUFACTURED OR MOBILE HOME PARK OR SUBDIVISION:** For floodplain management purposes, a manufactured or mobile home park or subdivision is a parcel (or contiguous parcels) of land divided into two or more manufactured or mobile home lots for rent or sale. (Amended 1/19/99 R)

**Marina.** A business establishment having frontage on navigable water which, as its principal use, provides for hire moorings, slips, and/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, setting of moorings, boat and tackle shops, and marine fuel service facilities.

**Marine Activity.** Construction including but not limited to piers, docks, wharves, breakwaters, causeways, marinas

and bridges over 20 feet in length. Excluded are non-commercial structures which are: 1) accessory to a single or two-family dwelling and, 2) of a scale, design, location and function deemed not to warrant Special Exceptionor Development Review in the judgement of the Director of Planning and Development.(Amended 12/1/97 R, 6/19/00 R)

**Media Studio.** A studio used for the purpose of radio, television or cable broadcasting, or the recording of sound or production of films or video material.

**Medical Office.** A type of "Professional Office" being the office of a member of a recognized medical profession maintained for the conduct of that profession. (Amended 6/19/00 R)

**Mineral Extraction.** Any operation which removes within any 12 month period more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat or similar mineral from its natural location for sale or use off-site.

**MINOR DEVELOPMENT:** See Section 402 For floodplain management purposes, a minor development is 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 211.3.E.5, 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. (Amended 1/19/99R)

**Mixed Use.** Any combination of residential and non-residential uses on the same lot or in the same building or building complex.

**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 or electrical systems contained therein. For floodplain management purposes, the term mobile home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (Amended 1/19/99 R)

**Modular Housing.** A structure which is a type of manufactured housing, transportable in one or more sections, which is not constructed on a permanent chassis and is designed to be used as a dwelling on a foundation when connected to required utilities and includes the plumbing, heating, air-conditioning or electrical systems contained therein.

**Motor Vehicle Service/Repair.** An establishment where automobiles or other motorized vehicles and equipment are repaired or serviced. Includes small engine repair.

**Municipal Facility.** Any Town owned or leased facility which is provided to meet a municipal need, including, but not limited to, public elementary, middle and secondary schools. Facilities of the Brunswick-Topsham Water District and the Brunswick Sewer District are considered to be municipal facilities.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD) -** For floodplain management purposes, the NGVD is the national vertical datum, whose standards was established in 1929, which is used by the National Flood Insurance Program (NFIP). The NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)". (Amended 1/19/99 R)

**NATURALLY OCCURRING STANDS DOMINATED BY WOODY VEGETATION:** an area of forest, shrub land, heath barren, or regenerating timber harvest. This definition does not include artificially planted Christmas tree farms or pine plantations. (Amended 3/6/06 R)

**NEIGHBORHOOD STORE.** A store of not more than 2,000 square feet, located on a collector street, that primarily

sells grocery items, that may sell take out food items and that does not incorporate, and is not accessory to, a gasoline service station. (Amended 7/5/05 R)

**NEW FLOODPLAIN 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. (Amended 1/19/99 R)

**Nonconforming Structure.** A structure which does not meet one or more of the dimensional requirements of this ordinance but which was lawfully constructed before the adoption of the ordinance provisions which cause it to be non-complying.

**Nonconforming Use.** A lawful use of land, building or structure existing on the effective date of this ordinance which does not conform to the requirements of this ordinance.

**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. ~~In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland, and not the edge of the open water.~~ Areas contiguous with rivers 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 stream during the period of normal high-water are considered part of the river or stream. (Amended 1/19/99 R)

**Nursing Home:** A residence for people who need 24-hour skilled nursing care and can no longer live independently. (Amended 9/4/01 R)

**Outdoor Sales.** An outdoor vendor operating from a portable facility located on a given site, involved with the dispensing of information or selling products including, but not limited to, prepared or unprepared food but not including flea markets, yard sales, garage sales, church events or other similar activities.

**Outdoor Storage.** The regular or extended storage of materials not inside a fully enclosed building. Recreational vehicles, boats and trucks shall be considered outdoor storage if placed within a required front, side or rear setback for a period longer than 60 days.

**Parking Facility.** A parking lot or garage which is used for the parking of vehicles of occupants, customers, patrons, employees or visitors of a building, structure or use located on a different parcel.

**Passive Recreation.** Includes walking, hiking and biking, and other similar activities. Passive Recreation specifically excludes motorized vehicles and equipment.

**PERMANENT CLEARING:** For the purposes of the Rural Brunswick Smart Growth Overlay Districts, "permanent clearing" shall be defined as the removal of 40% or more of the volume of trees, or the creation of a cleared opening in the forest canopy that is greater than 250 square feet as measured from the outer limits of the tree crown, neither of which is allowed to naturally regenerate. (Amended 3/6/06 R)

**PESTICIDE:** Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. (Amended 1/20/04 R)

**Primary Road.** Within the Town of Brunswick, Bath Road, Bunganuc Road from Casco Road to Freeport Line, Church Road, Durham Road, Maine Street, Mill Street, Old Bath Road, Pleasant Hill Road, Pleasant Street, River Road, Route 1, Route 24, and Route 123.

**Principal Structure.** A structure which houses the principal use of the lot.

**Principal Use.** The primary purpose for which land is used.

**Private Road.** An easement containing a road or driveway that serves as the principal access for more than one property.

**Professional Office.** The office of a member of a recognized profession maintained for the conduct of that profession.

**Recreation Facility.** A place designed and equipped for the conduct of sports and/or leisure time activities excluding campgrounds, regulation size miniature golf courses, water slides, outdoor amusement centers, spectator sports facilities, race tracks or other similar facilities.

**RECREATIONAL VEHICLE** - For floodplain management purposes, a recreational vehicle is a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(Amended 1/19/99 R)

**Religious Institution.** A building or site used for religious worship, religious retreat, or religious education.

**Residence Hall.** A facility owned by a post-secondary school to house its students.

**Retail, Class I.** A business whose principal use is the retail sale of consumer goods, having less than 5,000 square feet of gross floor area.

**Retail, Class II.** A business whose principal use is the retail sale of consumer goods, having 5,000 square feet or more of gross floor area.

**Right of Way.** The easement encompassing an existing or future public or private road.

**RIVER:** A free-flowing body of water including its associated flood plain and wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth. (Amended 1/19/99 R)

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

**Scale.** Factors which determine the intensity of a use, including but not limited to the size of buildings, the number of employees, residents, or customers, and the size and number of vehicles servicing the use.

**Screening.** The use of landscaping, fencing or site design techniques to minimize the view of a structure or use from a public road, public place or adjacent property.

**Secondary Road.** Any road not listed as a primary road in the definition of this Ordinance.

**Service Business, Class 1.** A business under 2,000 square feet in floor area where the principal use is the

providing of personal services, including but not limited to: barber shops, beauty salons, shoe repair shops, tailors, laundries.

**Service Business, Class 2.** A business 2,000 square feet in floor area or greater where the principal use is the provision of personal services, including but not limited to: barber shops, beauty salons, shoe repair shots, tailors, laundries.

**Service Drop.** Any utility line extension which does not cross or run beneath any portion of a water body.

**Setback.** The horizontal distance from a property line to a structure on a lot.

**Shoreland Area:** the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any 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.

**Sign.** An object, device or structure, or part thereof, situated outdoors or displayed in a window, free-standing or attached, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, by means of words, letters, figures, design, symbol, advertising flags, fixtures, colors, illuminations or projected images.

**Sign Face.** The portion of a sign that includes words, letters, figures, designs and background.

**Solid Waste.** Unwanted or discarded material with insufficient liquid content to be free-flowing including, but not limited to, rubbish, garbage, scrap, junk, refuse, inert fill, and landscape refuse, excluding septic tank sludge and agricultural waste.

**START OF CONSTRUCTION:** a) For floodplain management purposes only, the date the flood hazard 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 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, footing, 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. (Amended 1/19/99 R)

b) For purposes other than floodplain management, start of construction shall include demolition, excavation, filling, grading, clearing of vegetation and construction of buildings or structures. Activities noted in section 404.3 are exempt from this definition. (Amended 6/19/00 R)

**STREAM:** A channel between defined banks created by the action of surface water and has two (2) or more of the following characteristics.

- A. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year under normal seasonal rainfall conditions.
- B. The channel bed is primarily composed of mineral material such as sand, scoured silt, gravel, clay, or other parent material that has been deposited or scoured by water.
- C. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water

is present, within the stream bed.

D. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

This definition is based on physical characteristics that in case of development need to be field verified. The Town has attempted to map streams throughout the community to serve as an initial guide for land owners and developers.

This information is available in the Town Planning and Codes Enforcement Offices, but should not be considered a substitute for field verification.

Bordering freshwater wetlands that are not separated from the stream channel by a distinct change in elevation (such as hillside groundwater seeps) or barrier, and wetlands that are subject to periodic flooding or soil saturation as a result of high stream flows are considered part of the stream. Where these wetlands are present, the normal high water line of the stream is measured from the upland / wetland transition of bordering wetlands subject to periodic stream water flooding or saturation, or where changes in wetland vegetation, soil characteristics, or topography clearly demonstrate wetland hydrology not associated with associated with periodic flood flows.

Natural and artificial impoundments at the source and along the course of the stream are considered to be part of the stream.

Stream does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale. (Amended 11/18/02 R)

**STRUCTURE.** An object built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with any other object constructed or erected with a fixed location on or in the ground. For floodplain management purposes, a structure also means a walled and roofed building or a gas or liquid storage tank that is principally above ground. This definition does not apply to customary lawn accessories such as fences, mailboxes, benches, and other such items as determined by the Codes Enforcement Officer. (Amended 1/19/99 R, 6/19/00 R)

**Subdivision.** The division of a tract or parcel of land as defined in Title 30-A M.R.S.A. Section 4401(4), as amended.

**Standard Lot of Record.** A standard lot of record is a lot of record that was lawfully established prior to the effective date of this ordinance (or any preceding ordinance) which does not conform to one or more of the minimum lot size or dimensional requirements.

**Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged 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. (Amended 1/19/99 R)

**Subsurface Wastewater Disposal System, For shoreland Area zoning purposes: 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. It 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.**

**TIDAL AREA: An area subject to tidal action. Tidal Waters: all waters affected by tidal action during the maximum spring tide.**

**Timber Harvesting:** The cutting and removal of wood products from their growing site and the attendant

operation of cutting and skidding machinery, but not for the construction or creation of roads or the clearing of land approved for construction.(Amended 1/19/99 R)

**Transportation Facility.** A structure or land used primarily as an arrival or departure point or as a storage or repair facility for busses, airplanes, limousines, taxis, trucks, and other modes of passenger or freight transportation other than private automobiles.

**Units.** The number of dwelling units, non-residential floor area converted to dwelling units or combination thereof.

**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) feet) tall or taller.

**Utility Facility.** An installation used by a public utility to supply electric, gas, water, cable television, telephone, or other utility service. Included are such facilities as electric unit substations, power and communication transmission lines, pump stations, water towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not utility facilities. Excluded are communication towers.

**VEGETATION:** All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level. (Amended 1/19/99 R)

**Veterinary Office.** A professional office for the practice of veterinary medicine and at which related services such as pet boarding and grooming may be offered.

**Volume of a Structure.** The cubic foot 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 and Storage.** A use in which materials, goods, or equipment are stored for compensation or in connection with a business operation.

Water body – any great pond, river or stream

~~WATERCOURSE: Any stream, pond, lake, drainage channel other area of land that normally or seasonally channels the flow of water.~~

Water crossing – any project extending from one bank to the opposite bank of a river, 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 on these crossings.

**Wetlands.** Those areas of any size that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetland boundaries shall be delineated using the methods described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, an inter-agency cooperative publication of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and the U.S.D.A. Soil Conservation Service, January, 1989.

**WETLANDS, COASTAL:** All tidal and subtidal lands; ~~all lands below any identifiable debris line left by tidal action;~~ 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 ~~which that~~ is subject to tidal action during the ~~maximum spring~~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.

**WETLANDS, FLOODPLAIN** The lands adjacent to a river, stream or brook which are inundated with flood water during a 100-year flood event and which under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

**WETLANDS, FORESTED:** A freshwater wetlands dominated by woody vegetation that is 6 meters tall (approximated twenty (20) feet) or taller.

**WETLANDS, FRESHWATER:** Fresh water 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 or stream, 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.

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

**Yard.** The area between a lot line and the principal structure.

**Yard, Front.** A yard extending the width of a lot from sideline to sideline, between the front lot line and the nearest part of the principal structure on the lot.

**Yard, Rear.** The portion of a yard that is located behind the principal structure. A corner lot has no rear yard.

**Yard, Side.** A yard extending along a sideline of a lot from the front yard to the rear yard between the sideline and the nearest part of a principal structure on the lot.