



TOWN OF BRUNSWICK

**ZONING ORDINANCE REWRITE
COMMITTEE**

85 Union Street, Brunswick, ME 04011-1583

**WORK SESSION
REVISED AGENDA
TOWN HALL ROOM 206
85 UNION STREET
TUESDAY, JANUARY 26, 2016, 7:00 PM**

1. Public Comment
2. Draft 2:
 - a. Shoreland Protection Overlay and associated ordinance definitions and nonconforming subsections
 - b. Stormwater Management (previously provided material from Jared)
3. Approval of Meeting Summaries
4. Other Business
5. Upcoming Meetings Schedule

Please note that this is a Committee work session. The public is invited to attend with public comment allowed regarding discussion topics. Please call the Brunswick Department of Planning and Development (725-6660) with questions or comments. Individuals needing auxiliary aids for effective communications please call 725-6659 or TDD 725-5521.

(8) Storage Tanks

- a. All underground oil (petroleum products) storage tanks (other than propane gas or natural gas storage tanks) that are in place prior to ~~November-December~~ 2, 1998 shall be nonconforming. All ~~such~~-existing oil underground storage tanks and piping systems that are single-walled and double-walled tanks without an interstitial space monitoring system shall be precision-tested annually. Double-walled tanks and piping systems with an interstitial space monitoring system are exempt from annual precision-testing. Tanks failing to pass the precision test shall be excavated and examined for leaks. If found to be leaking, the tank and any material discharged from the tank shall be removed at the expense of the owner in accordance with the requirements of the Maine Department of Environmental Protection (MDEP). When it becomes necessary to replace an underground tank and/or its piping systems it shall be replaced with a double-walled tank and/or piping system with an interstitial space monitoring system, or better.
- b. All aboveground oil (petroleum products) storage tanks (other than propane gas or natural gas storage tanks) that are in place within the APO1 or APO2 District prior to ~~November-December~~ 2, 1998 and that are not enclosed and located within an impervious secondary containment unit shall be nonconforming. When it becomes necessary to replace these tanks, the replacement tanks shall be enclosed and located within a secondary containment unit.

Comment [AB55]: Added 12/2 for clarity

Comment [AB56]: Added 12/2 for clarity

(9) Application of Compost, Sludge Products, or Organic Fertilizer

- a. Land application materials are limited to those allowed in Section 2.3.2.E(2) (Use Standards for APO3 District).
- b. Landowners shall keep records of past land applications of compost, sludge products, or organic fertilizers.

2.3.3. Shorelands Protection Overlay (SPO) District

Comment [AB57]: All proposed revisions based on DEP SP revisions. For review at next ZORC meeting

A. Purpose

The purposes of the SPO District are to:

- (1) Further the maintenance of safe and healthful conditions;
- (2) Prevent and control water pollution;
- (3) Protect fish spawning areas, aquatic life, and bird and wildlife habitat;
- (4) Protect buildings and lands from flooding and accelerated erosion;
- (5) Protect archaeological and historic resources;
- (6) Protect commercial fishing and the maritime industries;
- (7) Protect freshwater and coastal wetlands;
- (8) Control building sites and the placement of structures and land uses;
- (9) Conserve shore cover;
- (10) Conserve visual and actual points of access to inland and coastal waters;
- (11) Conserve natural beauty and open space; and
- (12) Anticipate and respond to the impacts of development in shoreland areas.

B. Definition and Delineation of SPO District

- (1) The SPO District consists of:
- a. All land areas within a horizontal distance of 250 feet from the:
 - i. Normal high-water line of any river,
 - ii. Upland edge of a coastal wetland, including all areas affected by tidal action, and
 - iii. Upland edge of a freshwater wetland; plus
 - b. All land areas within a horizontal distance of 75 feet from the normal high-water line of a stream.
- (2) SPO District boundaries are delineated on the Brunswick Zoning Map.

C. Additional Requirements for the SPO District

The requirements in this subsection shall apply to all development within the SPO District.

(1) Setbacks of Structures from Water Bodies and Wetlands

- a. Any new principal or accessory structure, except structures requiring 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 set back a minimum horizontal distance of:
 - i. 75 feet from the normal high water line of a stream;
 - ii. 125 feet from the normal high water line of a river;
 - iii. 125 feet from the upland edge of a coastal or freshwater wetland; and
 - iv. 250 feet from the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, where such areas 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 depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W or MDEP, and as shown on the Brunswick Official Zoning Map. 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.
- b. Water body 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 an applicant for development approval 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.
- b.c. On a nonconforming lot of record on which only one (1) principal residential structure exists, and it is not possible to place an accessory structure meeting the required water body, stream or wetland setbacks, the Code Enforcement Officer may issue a permit for a single accessory structure, with no utilities provided, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, shall be located as far from the

shoreline, wetland or stream to the greatest extent practicable and shall satisfies all other applicable standards, including, but not limited to, impervious coverage and vegetation clearing limitations. In no case shall the accessory structure be located any closer to the shoreline, wetland or stream than the principal structure.

(2) Prohibited Locations of New Structures Within the SPO District

No new principal or accessory structure, except structures requiring 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. Floodplains adjacent to tidal waters, rivers, and artificially formed great ponds along rivers, as defined by the 100-year floodplain 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.
- b. Areas of two or more contiguous acres with sustained slopes of 20 percent or greater.
- c. Areas of two or more contiguous acres of wetlands that are not part of a freshwater or coastal wetland and are not surficially connected to a river, tidal waters, or stream during the period of normal high water.
- d. Land along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters that are subject to severe erosion or mass movement, such as steep coastal bluffs.

(3) Development of Properties Created before Shoreland Regulations Special Resource Protection Permit Requirements

Properties that were created prior to June 6, 1994, and lie within the minimum setback (250 feet) from moderate or high value habitat areas established in Section 2.3.3.C(1)a.iv above, and properties created prior to November 18, 2002, and lie within the minimum setback from a stream created after November 18, 2002, may be developed with 1-family dwelling through the Minor Development Review process if the Staff Review Committee makes a positive finding that the applicant has demonstrated that all of the following conditions are met:

- a. There is no location on the property, other than a location within the SPO District, where the structure can be built.
- b. The lot was established and recorded in the Cumberland County Registry of Deeds prior to June 6, 1994, or November 18, 2002, as appropriate.
- c. All proposed buildings, sewage disposal systems, and other improvements are located on natural ground slopes of less than 20 percent.
- d. All proposed buildings, sewage disposal systems, and other improvements are 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. (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.)
- e. 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 floodplain management regulations in Section-subsection 2.3.4 (Flood Protection Overlay (FPO) District).

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- f. The total ~~ground-floorfootprint~~ area, ~~including cantilevered or similar overhanging extensions, as defined,~~ of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by Variance.
- g. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body or upland edge of a coastal or freshwater wetland to the greatest ~~practical~~-extent practicable, but not less than a horizontal distance of ~~not less than a horizontal distance~~ 75 feet from a stream and not less than a horizontal distance of 125 feet from a coastal or freshwater wetland or other water body. In determining "greatest ~~practical~~-extent practicable," 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.
- g-h. A Special Resource Permit shall expire one year from the date of issuance if on-site construction has not started during that period. If construction is started within one year from the date of permit issuance, the applicant shall have one additional year from the date of issuance to complete the project. If incomplete at the end of two years, the permit shall expire.

(4) Water-Dependent Structures

New principal and accessory structures requiring direct access to the water as an operational necessity are subject to the supplementary use standards in Section 3.4.1.T (Marine Activity).

(5) Agriculture

- a. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. § 4201-4209).
- b. Storage or stockpiling of manure shall be set back a minimum horizontal distance of:
- i. 75 feet of the normal high water line of a stream;
 - ii. 125 feet from the normal high water line of a river or tidal waters; or
 - iii. 125 feet from the upland edge of a coastal or freshwater wetland.
- c. All manure storage areas shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- d. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area within the SPO District shall require a Conservation Plan to be filed with the Planning Board. Nonconformance 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.
- e. Newly established fields that require tilling of soil shall not be permitted within 75 feet, horizontal distance, of the normal high water line of any river, tidal waters, or stream, or of the upland edge of a coastal or freshwater wetland.
- f. The tilling of fields that is associated with ongoing farm activities and is not in conformance with the setback requirement in subsection e above may continue, provided that such tilling is conducted in accordance with a Conservation Plan.

- g. Newly established livestock grazing areas shall be set back as minimum horizontal distance of 75 feet from the normal high water line of a stream, river, or tidal waters, and the upland edge of a coastal or freshwater wetland. Livestock grazing that is associated with ongoing farm activities and is not in conformance with the above setback requirement may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

(6) 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.

(7) Timber Harvesting

Timber harvesting in the SPO District is subject to and in compliance with the Maine Forest Service's Statewide Standards for Timber Harvesting Activities in Shoreland Areas (04-058 C.M.R. ch. 21) and the Maine Bureau of Forestry's Forest Regeneration and Clearcutting Standards (01-669 C.M.R. ch. 20).

(8) Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

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

Comment [AB58]: In accordance with Mandatory Shoreland Zoning Act, in 2013, the Town opted to completely repeal the timber harvesting provisions from the current NRPZ standards, now enforced by the Bureau of Forestry.

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- v. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- b. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - i. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (A) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (B) Stumps from the storm-damaged trees may not be removed;
 - (C) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (D) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - ii. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

(9) Exemptions to Clearing and Vegetation Removal Requirements

- a. The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:
 - i. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
 - ii. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
 - iii. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
 - iv. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;

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- v. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
 - (A) A coastal wetland; or
 - (B) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- vi. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (A) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (B) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (C) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- vii. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

(10) Revegetation Requirements

- a. When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.
 - i. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
 - ii. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
 - iii. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

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- iv. Revegetation activities must meet the following requirements for trees and saplings:
 - (A) All trees and saplings removed must be replaced with native noninvasive species;
 - (B) Replacement vegetation must at a minimum consist of saplings;
 - (C) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (D) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (E) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (F) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- v. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - (A) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (B) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (C) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (D) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (E) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- vi. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
 - (A) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (B) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (C) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

{8}(11) Clearing or Removal of Vegetation for Activities Other than Timber Harvesting

a. Preservation of Vegetated Buffers along Water Bodies and Wetlands

- i. ~~Except to allow for development of permitted uses, a~~ **vegetated** ~~buffer of vegetation~~ shall be preserved within a strip of land extending a minimum horizontal distance of 75 feet inland from the normal high water line of a stream, river, or tidal waters, and the upland edge of a coastal or freshwater wetland.
- ii. Selective cutting of trees within the **vegetated** ~~buffer strip~~ is allowed provided that a well-distributed stand of trees and other natural vegetation is retained.
- iii. For purposes of the requirement in subsection ii above, a "well-distributed stand of trees" shall be defined as one rating a score of 24 or more in any 25-foot-by-50-foot rectangular (1250 square feet) area as determined by the following rating system.

TABLE 2.4.3-1: Rating System for Well-Distributed Stand of Trees	
Diameter of Tree at 4½ feet above Ground Level	Points
2 < 4 inches	1
4 < 8 inches	2
8 < 12 inches	4
12 inches or greater	8
Example: If a 25-foot-by-50-foot plot contains four trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is: (4x1) + (2x2) + (3x4) + (2x8) = 36 points. Thus, the plot contains a well-distributed stand of trees. Trees totaling 12 points (36-24 = 12) may be removed from the plot provided that no cleared openings are created.	

- iv. The following shall govern in applying this point system:
 - (A) The 25-foot-by-50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
 - (B) Each successive plot must be adjacent to, but not overlap, a previous plot;
 - (C) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
 - (D) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
 - (E) Where conditions permit, no more than 50 percent of the points on any 25-foot-by-50-foot rectangular plot may consist of trees greater than 12 inches in diameter.
- v. For purposes of the requirement in subsection ii above, retention of "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two (2) inches in diameter at 4½ feet above ground level for each 25-foot-by-50-foot rectangular

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areas. If five saplings do not exist, no woody stems less than ~~two-two (2)~~ inches in diameter can be removed until ~~five (5)~~ saplings have been recruited into the plot.

~~vi.~~ There shall be no cleared opening in the ~~vegetated~~ buffer's ~~strip's~~ forested canopy (as measured from the outer limits of the tree or shrub crown)—or the canopy of other existing woody vegetation if a forested canopy is not present—that is greater than 250 square feet in area—provided, however, that a ~~single~~ footpath no wider than six feet (as measured between tree trunks and/or shrub stems) is allowed ~~for the purpose of accessing the shoreline provided that~~ if a cleared line of sight to the water through the buffer strip is not created.

Comment [AB59]: For clarification.

~~vi.vii.~~ ~~Notwithstanding the requirements of this subsection 2.3.3.C(8), stairways or similar structures may be permitted with a Building Permit approved by the Code Enforcement Officer, to provide shoreline access in areas of steep slope or unstable soils, provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C); and that the applicant demonstrates that no reasonable alternative for access exists on the property.~~

~~viii.~~ To maintain a ~~vegetated~~ buffer ~~strip of vegetation~~, when the removal of storm-damaged, ~~diseased, unsafe, or~~ dead or ~~hazard~~ trees results in the creation of cleared openings, these openings shall be replanted with native tree species, ~~in accordance with subsection 2.3.3.C (10)~~ unless existing new tree growth is present.

~~vii.ix.~~ ~~In order to maintain the vegetated buffer, any clearing or removal of vegetation for allowed activities, including associated construction or related equipment operation, within or outside shoreline buffer area, shall be in compliance with subsection 2.3.3.C (8).~~

~~viii.x.~~ 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 selective cutting or a foot path as allowed in subsections ii and vi above.

~~ix.xi.~~ Pruning of tree branches on the bottom third of the tree is allowed.

~~x.xii.~~ Notwithstanding the above provisions, no more than ~~forty (40)~~ percent of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above ground level may be removed in any ten-year period.

~~xi.xiii.~~ This subsection ~~2.3.3.C(8)a.~~ does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

b. Limitation on Selective Cutting ~~Adjacent to~~ Beyond the 75 Foot Vegetated Buffer of Water Bodies and Wetlands

i. At horizontal distances greater than 75 feet from the normal high-water line of any water body or the upland edge of a wetland, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than ~~forty (40)~~ percent of the volume of trees four (4) inches or more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the ~~forty (40)~~ percent calculation. For purposes of this requirement, volume may be considered to be equivalent to basal area.

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- ii. In no event shall the aggregate area of openings cleared for any purpose (including, but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas) exceed 25 percent of the lot area within the SPO District or 10,000 square feet, whichever is greater. Previously cleared land shall be included in calculating cleared openings.

c. Clearing of Vegetation

i. Legally existing cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance. This rule applies specifically to continued maintenance, but not enlargement, of lawns, gardens, and agricultural fields and pastures in existence on November 18, 2002.

ii. Fields and other cleared openings that have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated by subsection b.i above.

iii. In the following areas, clearing of vegetation shall be limited to that which is necessary for permitted uses:

(A) Areas within a horizontal distance of 250 feet from the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, where such areas 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.

Comment [AB60]: To Verify reference.

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

Comment [AB61]: Under review by Jared.

(C) Areas of two (2) or more contiguous acres with sustained slopes of twenty (20) percent or greater.

(D) Areas of two (2) or more contiguous acres of wetlands that are not part of a freshwater or coastal wetland and are not surficially connected to a river, tidal waters, or stream during the period of normal high water.

(E) Land along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters that are subject to severe erosion or mass movement, such as steep coastal bluffs.

(F) 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.

d. Temporary Clearing of Vegetation

i. 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.

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(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 "well-distributed stand" scoring limits in subsection ~~a.ii~~ ~~above~~ ~~ii~~ above, native species will be planted to return the area to compliance with the "well distributed stand" requirement ~~as~~ 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.

~~(9)~~(12) **Erosion and Sedimentation Control**

- a. Activities requiring Development Review that involve filling, grading, excavation, or other similar activities resulting in unstabilized soil conditions shall ~~also~~ require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Review Authority for approval and shall include, where applicable, provisions for:
 - i. Mulching and revegetation of disturbed soil;
 - ii. Temporary runoff control features such as hay bales, silt fencing or diversion ditches; and
 - iii. Permanent stabilization such as retaining walls or rip rap.
- b. To create the least potential for erosion, development shall be designed to fit with the site topography and soils, ~~of the site~~. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of ~~the~~ activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- d. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked by use of riprap, sod, seed, mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - i. Where mulch is used, it shall be applied at a rate of at least one (1) bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - ii. Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover.

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- iii. Additional measures shall be taken where necessary to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- e. Natural and artificial drainage ways and drainage outlets shall be protected from erosion ~~from-caused-by~~ water ~~flowing-throughflow-them~~. Drainage ways shall be designed and constructed to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or ~~lined-with~~ rip-rap.

(10)(13) Mineral Exploration and Extraction

- a. All mineral exploration and extraction within the SPO ~~D~~district shall be subject to the following requirements in addition to the supplemental use standards applicable to mineral extraction in Section 3.4.1.U (Mineral Extraction). The Review ~~A~~authority may impose such ~~necessary~~ conditions to a Site Plan Approval ~~as-necessary~~ to minimize adverse impacts associated with mineral extraction operations on surrounding uses and resources.
- b. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods that create minimal disturbance of less than 100 square feet of ground surface. A ~~Conditional-UseSpecial~~ Permit shall be required for mineral exploration that exceeds the above limitation.
- c. 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.
- d. No new gravel pits may be developed within the SPO District 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 ~~following~~ setback standards ~~in subsection e.~~ ~~below.~~
- e. Any extraction operation, including drainage and runoff control features, shall be set back a minimum horizontal distance of:
 - i. 75 feet from the normal high water line of a stream;
 - ii. 125 feet from the normal high water line of a river or tidal waters; and
 - iii. 125 feet from the upland edge of a coastal or freshwater wetland.
- f. Gravel pits shall be screened from a stream, river, tidal waters, or wetland by vegetation.
- g. Extraction operations shall be set back a minimum horizontal distance of 75 feet from any property line without written permission of the owner of ~~such-the~~ adjacent property.
- h. Extraction operations at an extraction site shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12-month period. Within 12 months after that time, ground levels and grades shall be established in accordance with the following:
 - i. 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.
 - ii. The final graded slope shall be 2.5:1 (horizontal to vertical) or flatter.
 - iii. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with ~~native~~ vegetation ~~native-to-the-area~~. Additional top

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soil or loam shall be obtained from off-site sources, if necessary, to complete the stabilization project.

- i. The reclamation plan required by Section 3.4.1.U(5) (Reclamation Plan) shall include a detailed description of the procedures to be undertaken to fulfill the requirements of subsection h above.

~~(11)~~**(14) Structures and Other Activities Extending ~~o~~Over or ~~b~~Below a Water Body or ~~w~~Within a Wetland or Shoreline Stabilization Area**

The following requirements apply to piers, docks, wharves, bridges, and other structures ~~and uses and activities~~ extending over or below the normal high-water line of a water body, or within a wetland ~~or shoreline stabilization area~~. (Note: New permanent structures, and expansions thereof, projecting into or over water bodies require a permit from the Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., § 480-C, as amended. Permits may also be required from the U.S. Army Corps of Engineers if located in navigable waters.)

~~a. No more than one (1) pier, dock, wharf, or similar structure extending over or located below the normal high-water line of a water body, or within a wetland or shoreline stabilization area is permitted on a single lot; excepting single lots having a lot width at least twice the required lot width of the base zoning district, a second structure may be permitted and may remain as long as the lot is not further divided.~~

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

~~b-c.~~ The location shall not interfere with existing developed or natural beach areas.

~~e-d.~~ The ~~facility structure or activity~~ shall be located so as to minimize adverse effects on fisheries.

~~d-e.~~ The ~~facility structure or activity~~ 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 ~~(6)~~ feet for noncommercial uses.

~~e-f.~~ 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 ~~or shoreline stabilization area~~ unless the structure requires direct access to the water body or wetland ~~or shoreline stabilization area~~ as an operational necessity.

~~g.~~ 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 Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, ~~Title 38 M.R.S.A., § 480-C, as amended.~~

~~f.h.~~ ~~A structure constructed on a float is prohibited unless it is designed to function as a watercraft and is registered as such with the Maine Department of Inland Fisheries and Wildlife.~~

~~g-i.~~ No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of water body or within a wetland shall be converted to residential dwelling units.

~~h-j.~~ 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 ~~or shoreline~~

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stabilization area shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

k. Commercial marine activities and piers, docks, wharves, breakwaters, causeways, marinas, bridges, and other structures projecting into water bodies shall conform to the supplementary use standards in subsection 3.4.1.T (Marine Activity).

l. Vegetation may be removed in excess of the standards in subsection 2.3.3.C(8) in order to stabilize an eroding shoreline, provided that prior to such removal, the proposed activity is reviewed onsite and approved by the Code Enforcement Officer. Construction equipment shall access the shoreline by barge when feasible, as determined by the Code Enforcement Officer.

Comment [AB62]: Verify subsection number.

i. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site by land, shall be limited to no more than twelve (12) feet in width. Upon completion of the stabilization activity, the area cleared for construction equipment access shall be restored with native trees and other vegetation.

ii. Revegetation shall be completed in accordance with subsection 2.3.3.C(11).

Comment [AB63]: Verify.

m. A deck over a river may be exempt from the 125 foot shoreland setback requirement for new construction if the new construction is part of a downtown revitalization project, defined in a project plan and approved by Town Council. This may include the revitalization of structures formerly used as mills that do not currently meet the structure setback requirements, if the proposed deck complies with the following:

i. The total deck area attached to the structure does not exceed 700 square feet;

ii. The deck is cantilevered over a river segment that is located within the boundaries of the downtown revitalization project area;

iii. The deck is attached or accessory to a permitted commercial use in a structure constructed prior to 1971 and is located within the boundaries of the downtown revitalization project area;

iv. The deck construction complies with all other applicable standards, with the exception of shoreland setback requirements contained in subsection 2.3.3.(C); and

v. The deck construction complies with all other local, State and Federal laws and regulations.

{12}(15) Roads and Driveways

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

a. Unless the Review Authority determines that no reasonable alternative exists, roads and driveways shall be set back a minimum horizontal distance of:

- i. 75 feet from the normal high water line of a stream;
- ii. 125 feet from the normal high water line of a river or tidal waters; and
- iii. 125 feet from the upland edge of any coastal or freshwater wetland.

b. On determining that no reasonable alternative exists to compliance with a minimum road/driveway setback requirement in subsection a above, the Review Authority may reduce the minimum setback to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the

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- 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).
- c. On slopes of greater than 20 percent, the minimum road/driveway setbacks required in subsection a above shall be increased by ten feet for each five percent increase in slope above 20 percent.
 - d. The minimum road/driveway setbacks required in subsection a above do not apply to approaches to water crossings 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 subsection a above except for that portion of the road or driveway necessary for direct access to the structure.
 - e. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body or wetland.
 - f. New roads and driveways are prohibited in the areas described in Section 2.3.3.C(2) (Prohibited Locations of New Structures), except that the Review Authority may grant a permit to construct a road or driveway to provide access to permitted uses within ~~the~~ those areas on 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.
 - g. Road and driveway grades shall be no greater than ten percent except for segments of less than 200 feet.
 - h. Road and driveway banks shall be no steeper than a slope of 2:1 horizontal to vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 2.3.3.C(12) (Erosion and Sedimentation Control).
 - i. 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 along a stream, river, tidal waters, or wetlands.
 - i. The minimum horizontal width of an unscarified buffer strip along the normal high water line of a stream shall be 25 feet.
 - ii. The minimum width of an unscarified buffer strip along the normal high water line of a river or tidal waters, or upland edge of a coastal or freshwater wetland, shall equal 50 feet plus two times the average slope between the outflow point of the ditch or culvert and the river, tidal waters, or wetland.
 - j. Surface drainage 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.
 - k. Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:
 - i. Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Table 2.4.3-2: Spacing of Culverts, Drainage Dips, and Water Turnouts	
Grade	Spacing
0 – 2%	250 feet
3 – 5%	200 – 135 feet
6 – 10%	100 – 80 feet
11 – 15%	80 – 60 feet
16 – 20%	60 – 45 feet
21%+	40 feet

- ii. Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent or less.
- iii. On sections having slopes greater than ten percent, ditch relief culverts shall be placed at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- iv. 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.
- i. 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.

~~(13)~~(16) Campgrounds

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

- a. 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:
 - i. 75 feet from the normal high water line of a stream;
 - ii. 125 feet from the normal high water line of a river or tidal waters; and
 - iii. 125 feet from the upland edge of a coastal or freshwater wetland.
- b. Campgrounds shall contain a minimum of 5,000 square feet of land for each camp site. Land containing roads and driveways, lands containing supporting wetland vegetation, and land below the normal high water line of a water body shall not be included in calculating land area per camp site.
- c. All campgrounds are subject to Site Plan Approval by the Planning Board and approval by the Department of Human Services.

~~(14)~~(17) Individual Private Campsites

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- a. One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the SPO District, whichever is less, may be permitted.
- b. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back a minimum horizontal distance of:
 - i. 75 feet from the normal high water line of a stream;
 - ii. 125 feet from the normal high water line of a river or tidal waters; and

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- iii. 125 feet from the upland edge of a coastal or freshwater wetland.
- c. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation and no structure(s) except canopies shall be attached to the recreation vehicle.
- d. The clearing of vegetation for the sitting of the recreational vehicle, tent, or similar shelter shall be limited to an area of 1,000 square feet.
- e. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- f. No recreational vehicles, tent, or similar shelter shall be placed on-site for more than 120 days per year.

~~(15)~~(18) 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 SPO District shall meet the following additional standards:

- a. All parts of all types of subsurface wastewater disposal systems shall be set back a minimum horizontal distance of:
 - i. 75 feet from the normal high water line of a stream;
 - ii. 125 feet from the normal high water line of a river or tidal waters; and
 - iii. 125 feet from the upland edge of a coastal or freshwater wetland.
- b. No clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall occur within a minimum horizontal distance of:
 - i. 75 feet from the normal high water line of a stream
 - ii. 125 feet from the normal high water line of a river or tidal waters;
 - iii. 125 feet from the upland edge of a coastal or freshwater wetland.
- c. A holding tank is not allowed for a first-time residential use.
- d. The Local Plumbing Inspector may consider and grant a request to reduce this setback for 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, and the report states that:
 - i. the existing system is failing;
 - ii. no suitable location exists outside the setback; and
 - iii. the proposed location meets the required setbacks to the greatest extent practicable.
- e. Setbacks for new subsurface wastewater disposal facilities cannot be reduced by Variances.

~~(16)~~(19) 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 June 6, 1994, may continue as long as they are in compliance with all appropriate State law and do not involve expansion of the existing system.

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~~(17)~~(20) 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 or wetland.

~~(18)~~(21) Soils

- a. 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.
- b. 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 that the evaluator deems appropriate. The soils report shall include recommendations for the proposed use to counteract soil limitations where they exist.

~~(19)~~(22) Archaeological Sites

- a. 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 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 Commission shall be kept on file in the Planning and Codes Enforcement Offices.
- b. 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.

~~(20)~~(23) Parking Areas

- a. Parking areas shall meet the minimum water body and wetland setback requirements for principal and accessory structures in Section 2.3.3.C(1) (Setbacks of Structures from Water Bodies and Wetlands). On finding that no reasonable alternative to compliance with a required minimum setback exists, the Review authority may reduce the minimum setback for parking areas serving a public or private boat launching facility to no less than 50 feet from the normal high water line of a stream, river, or tidal waters, and the upland edge of a coastal or freshwater wetland.
- b. 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.
- c. Parking areas shall conform to the design standards in Section 4.7 (Parking and Loading). In addition parking spaces for vehicles with boat trailers shall be at least 40 feet in length.

(21)(24) Stormwater Runoff

- a. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features such as berms, swales, terraces, and wooded areas shall be retained to reduce runoff and encourage infiltration of stormwater.
- b. Direct discharge of stormwater into any water body shall be avoided.
- c. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

(22)(25) Minor Utilities

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

2.3.4. Flood Protection Overlay (FPO) District

A. Purpose

The purpose of the FPO District regulations is to:

- (1) Protect human life, health, and welfare;
- (2) Encourage the use of construction practices that will prevent or minimize flood damage in the future;
- (3) Reduce financial burdens on the Town and its residents by discouraging unwise design and construction in areas subject to flooding;
- (4) Minimize the need for and cost of rescue and relief efforts associated with flooding;
- (5) Minimize prolonged business interruptions;
- (6) Minimize damage to public facilities and utilities such as streets and bridges; water and sewer lines; gas lines; electric, telecommunications, and telephone lines;
- (7) Minimize flooding of water supply and sanitary sewage disposal systems and the public health risks related to interruptions of these important public services;
- (8) Minimize interference with floodwater storage and conveyance facilities;
- (9) Maintain natural drainage and minimize the impact of development on the natural and beneficial functions of floodplains; and
- (10) Meet the requirements of the National Flood Insurance Program and all related requirement of Maine law.

B. Definition and Delineation of FPO District

- (1) The FPO District consists of any land in the floodplain lying within the 100-year flood boundary (Special Flood Hazard Area) as delineated on the Flood Insurance Rate Map of the Town as part of the National Flood Insurance Program.

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Subsection 1.6.1 General

were separate lots. The only exception is that there shall be no minimum setback or frontage requirements along the zoning boundary line.

B. Lots Less than Ten Acres

When a lot less than ten acres is divided by a boundary between two base districts, the provisions of the zoning district in which the larger portion of the lot lies shall govern the use, density, lot area, and dimensional requirements for the lot.

C. Lots in Overlay Districts

When a lot is partially within an overlay district, the provisions of the overlay district shall apply only to the affected portion of the lot, regardless of the size of the lot.

1.5 Conflicts; Relationship to Other Laws

Where the provisions in one part of this Ordinance conflict with those in any other part of this Ordinance, the more restrictive provision shall apply except where expressly provided otherwise, and except that the provisions of an overlay zoning district supersede the provisions of the base zoning district regardless of whether they are stricter or more lenient. Nothing in this Ordinance shall be interpreted to supersede the provisions of ~~any other more restrictive~~ local, sState, or federal ~~ordinance, law, rule, ordinance or regulation. Where the provisions of this Ordinance conflict with any other ordinance, law, rule, or regulation, the more restrictive provision shall govern~~ unless State or federal law requires a different outcome.

Comment [AB1]: Revised 11/16.

1.6 Nonconformities

1.6.1. General

A. Nonconforming Defined

As used in this Section, the term "nonconforming" ~~as applied to a lot, use, structure, site feature, or sign~~ refers to a lot, use, structure, site feature, or sign that was lawfully established at the time of the effective date of this Ordinance or a subsequent amendment to the Ordinance, but that no longer complies with the provisions of this Ordinance ~~applicable as applied~~ to the property.

B. ~~Remedy of Unsafe Conditions~~

~~Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure, site feature, or sign, or part of a structure, site feature, or sign that is declared to be unsafe by the Town.~~

Comment [AB2]: Jared questioning necessity of this provision. Deleted entire provision 11/16.

1.6.2. Nonconforming Lots

A. Definition of a Single Nonconforming Lot

A single nonconforming lot is a nonconforming lot of record as of the effective date of this Ordinance or amendment thereto in separate ownership and not contiguous with any other lot in the same ownership.

B. Development and Use of Single Nonconforming Lots Outside of a Subdivision

(1) Undeveloped

a. Outside Shoreland Protection Overlay (SPO) District

May be used ~~for any uses~~ allowed by Chapter 3 (Property Use Standards) or ~~subSection~~ 1.6.3 (Nonconforming Uses) if either:

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Subsection 1.6.2 Nonconforming Lots

- i. The lot area is at least 3,000 square feet, and it complies with the ~~remaining Chapter 4 (Property Development Standards) standards~~; or
- ii. The lot area is smaller than 3,000 square feet, or lot width is less than 65 feet, setbacks are no less ~~that than~~ 90%, and impervious surface coverage is no more than 110% of Chapter 4 standards.

b. Inside SPO

May be built upon; without the need for a variance, provided that ~~such the~~ lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance except lot area and lot width can be met. Variances relating to setbacks or other requirements not involving lot area or lot width shall be obtained by the Zoning Board of Appeals.

(2) Developed

a. Outside SPO

A nonconforming lot containing a legally existing structure may be used as if it were a conforming lot provided that any change or expansion of the use or structure shall comply with all applicable space and bulk regulations of the district in which it is located and shall not increase any nonconformity.

b. Inside SPO

A ~~single~~ nonconforming lot containing a legally existing structure may be used as if it were a conforming lot provided that any change or expansion of the use or structure shall comply with all applicable ~~space and bulk regulations zoning district dimensional and density standards of the district in which it is located~~, as well as all applicable regulations found in Section 1.6.4 of this Ordinance, and shall not increase any nonconformity.

C. Development and Use of Single Nonconforming Lot Inside Subdivision

(1) Undeveloped

a. Outside and Inside SPO

~~A single nonconforming lot m~~May be used ~~for any uses~~ allowed by Chapter 3 or ~~Section subsection 1.6.3 (Nonconforming Uses)~~ if:

- i. Lot is in separate ownership and not contiguous with other lots in same ownership,
- ii. **AND EITHER**
 - (A) If lot area is smaller than 20,000 square feet, it complies with the remaining Chapter 4 standards, ~~OR~~
 - (B) If lot area is smaller than 20,000 square feet or lot width is less than 100 feet, setbacks are no less than 90% and impervious surface coverage is no more than 110% of Chapter 4 standards.

(2) Developed

a. Outside and Inside SPO

A nonconforming lot containing a legally existing structure or use may be used as if it were a conforming lot provided that any change or expansion of the use or structure shall comply with all dimensional standards ~~found contained~~ in Chapter 1, ~~Section~~

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~~subsection 1.6.4~~, and Chapter 4 and shall not increase any nonconformity with respect to lot area, lot width, or impervious surface ratio.

D. Development and Use of Single Developed Lot with 2 or more Principal Uses or Structures – Lot currently either conforming or nonconforming.

(1) Outside or Inside SPO

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 lot area complies with the minimum requirements of the State of Maine Subsurface Wastewater Disposal Rules (in those areas not served by public ~~water sewer~~) and the State Minimum Lot Size Law (12M.R.S.A. sections 4807-A through 4807-D). When such lots are divided, each lot thus created must be as conforming as ~~possible-practicable~~ to the dimensional requirements in ~~Section-subsection 4.1~~ (Dimensional ~~and Density~~ Standards).

E. Development and Use of Contiguous Nonconforming Lots in Common Ownership, Outside Subdivision

(1) Both Lots Undeveloped

a. Outside or Inside SPO

- i. If two or more contiguous lots are in common ownership of record at the time of adoption of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance, and if one or more of the lots ~~are-is~~ vacant or contains no principal structure, the lots shall be combined to the extent necessary to meet the applicable dimensional requirements of this Ordinance.
- ii. The provision shall not apply to two or more contiguous lots that are held in common ownership on the effective date of this Ordinance and recorded separately in the Cumberland County Registry of Deeds, and where at least one of the lots is nonconforming, if the nonconforming 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 area requirements of the base zoning district (and any overlay districts) are reconfigured or combined so that each new lot contains at least 20,000 square feet ~~in or~~ lot area.

(2) Both Lots Developed

a. Outside or Inside SPO

If two or more contiguous lots are in common 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 nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Rules (in those areas not served by public ~~watersewer~~) are complied with.

(3) One or More Lots Developed with Principal Structure or Use, and One or More Lots Undeveloped

a. Outside or Inside SPO

If two or more contiguous lots are in common ownership of record at the time of adoption of the Ordinance and if any of these lots contain no principal structure and do

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not individually meet the dimensional requirements of this Ordinance, the lots shall be combined to the extent necessary to meet the dimensional requirements. This provision shall not apply to two or more contiguous lots in common ownership on the effective date of this Ordinance and recorded separately in the Cumberland County Registry of Deeds, and where at least one of the lots is nonconforming, if the nonconforming 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 area requirements of the base zoning district and any overlay districts are reconfigured or combined so that each new lot contains at least 20,000 square feet or lot area.

Comment [AB3]: Added by Jeff in 12/2 handout.

F. Development and Use of Contiguous Lots in Common Ownership, only One Lot Nonconforming, Outside Subdivision

(1) Conforming Lot Developed, Nonconforming Lot Undeveloped

a. Outside and Inside of SPO

A single, undeveloped, nonconforming lot which does not individually meet the dimensional requirements of this Ordinance and is contiguous with a developed conforming lot held in common ownership at the time of adoption of this Ordinance shall be combined with the developed lot. This provision shall not apply if the contiguous lots are held in common ownership on the effective date of this Ordinance and are recorded separately in the Cumberland County Registry of Deeds, and where the single, unimproved, nonconforming 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 contains at least 20,000 square feet of lot area.

(2) Nonconforming Lot Developed, Conforming Lot Undeveloped

a. Outside and Inside SPO

A single, developed, nonconforming lot which does not individually meet the dimensional requirements of this Ordinance on which a principal use or structure exists and is contiguous with an undeveloped conforming lot held in common ownership at the time of adoption of the Ordinance and is recorded separately in the Cumberland County Registry of Deeds, may continue to be used as if it were a conforming lot provided that any change or expansion of the existing use or structure shall comply with all applicable space and bulkdimensional and density regulations of the base or overlay district, except lot width or sizearea.

1.6.3. Nonconforming Uses

The following standards apply both inside and outside the SPO District.

A. Continuance

A nonconforming use may be continued even though it does not conform to the use standards for the base zoning district (and any overlay district) in which it is located. A nonconforming use that is discontinued (a) for 36 months or more outside the APO, SPO, FPO, and WPO Districts, or (b) for 12 months or more within the APO, SPO, FPO, or WPO Districts, may not be re-established except in compliance with the current requirements of this Ordinance.

B. Change in Use

A nonconforming use may be replaced by another use not allowed in the base zoning district (or any overlay district) if the Director determines that the new use will have no greater adverse impact on the water body, wetland, aquifer, or on adjacent properties and resources, than the existing use. To show that no greater adverse impact will occur, the development application shall include written documentation assessing the probable effects on public health and safety, ~~traffic~~, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, ~~natural beauty~~ scenic features, as delineated in the 2002 Brunswick Parks, Recreation and Open Space Plan, as amended, flood plain management, archaeological and historic resources, commercial fishing and maritime activities, and other functionally water-dependent uses.

Comment [AB4]: Scenic features as mapped in the Brunswick Parks, Recreation and Open Space Plan (2002) Added 1/8/16

C. Expansion of Use

A nonconforming use may be ~~extended~~ expanded throughout the existing structure housing the use. ~~Outside the APO, SPO, FPO, and WPO Districts, a~~ nonconforming use may also be ~~extended expanded throughout to~~ any expansion of the existing structure allowed by this Ordinance. Any additional expansion of area occupied by the use, whether from expansion of the structure or extension of the use to additional land area, shall be limited to 1,000 square feet over a five-year period—provided that further expansion of a significant nonconforming use may be allowed through approval of a Special Permit in accordance with ~~sub~~Section 5.2.3.C (~~Review of Expansions of Legally Nonconforming Unclassified or Omitted Uses~~ ~~Review of Expansions of Legally Nonconforming Unclassified or Omitted Uses~~ ~~Review of Expansions of Legally Nonconforming Unclassified or Omitted Uses~~).

Comment [AB5]: From Jeff 12/2 handout

Comment [AB6]: From Jeff 12/2 handout

D. Reconstruction of Structure with a Nonconforming Use

If a structure housing a nonconforming use is destroyed or damaged by any cause, the nonconforming use may be re-established in the structure if it is restored or reconstructed provided that a Building Permit for the restoration or reconstruction is obtained (a) within five years after the date of destruction or damage, if the property is located outside the APO, SPO, FPO, and WPO Districts, or (b) within one year of the date of destruction, if the property is located within the APO, SPO, FPO, and ~~WPO~~ districts.

Comment [AB7]: Added 12/2.

1.6.4. Nonconforming Structures

A. Continuance

Both in and outside the SPO District, a nonconforming structure may be continued, and may continue to be used for any use allowed by Chapter 3 or by any overlay district in which the property is located, or by ~~subsection 1.6.3 the~~ (Nonconforming Uses) ~~portion of this table~~, even though the structure or its use does not conform to the requirements of this Ordinance. The ~~property~~ structures, collectively known as Fort Andross or Cabot Mill, located North of Highway 1, West of Maine Street, and South of the Androscoggin River that exceed the ~~maximum~~ height of ~~lot coverage~~ of the GM6 zoning district shall be deemed to be conforming structures.

Comment [AB8]: 12/2 discussion topic: expansion of nonconforming structures outside of SPO

Comment [AB9]: Revised 12/2

B. Expansion

(1) Outside SPO District

A nonconforming structure may be expanded if the expansion area complies with the requirements of this Ordinance and the expansion does not increase the structure's nonconformity or create a new nonconformity. Where the structure is nonconforming because it extends into a minimum required ~~yard~~ setback, it may be expanded further within the minimum required ~~yard~~ setback as long as it does not extend beyond the setback established by the existing nonconforming structure. ~~Where a structure, located within a~~

Comment [AB10]: By Special Permit language

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Growth Area Zoning District, is nonconforming because it exceeds the allowable maximum building footprint, the structure may be expanded by Special Permit (Subsection _____), such that the expansion does not create any new nonconformity.

(2) In SPO District

- a. All new principal and accessory structures, excluding functionally water-dependent uses, must comply with the water body, stream or wetland setback requirements set forth in Section 2.3.3.C (1) a. A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the structure's nonconformity and is in accordance with subsections 1.6.4.B (2) b and c below.:
- b. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, stream, or upland edge of a wetland is prohibited, even if the expansion does not increase nonconformity with the water body, stream or wetland setback requirement. Expansion of an accessory structure located closer to the normal high-water line of the water body, stream or upland edge of a wetland than the principal structure is prohibited, even if the expansion does not increase nonconformity with the water body, stream or wetland setback requirements. (a) the expansion area complies with the requirements of this Ordinance; (b) the expansion does not increase the structure's nonconformity or create a new nonconformity; (c) any portion of the structure existing on January 1, 1989 that fails to comply with the required minimum setback from a water body or wetland in Section 2.3.3.C(1) (Setbacks of Structures from Water Bodies and Wetlands) is expanded by less than 30%, as measured in floor area or volume (this includes any permitted expansion resulting from a repair, restoration, or reconstruction); and (d) any new, enlarged, or replacement foundation constructed under the structure is placed so that the structure and foundation comply with the minimum setback from a water body or wetland required by Section 2.3.3.C(1) to the greatest extent practicable, as determined by the Codes Enforcement Officer in accordance with Section Error! Reference source not found.
- c. Notwithstanding subsection 1.6.4.B.(2)a, above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, stream, or upland edge of a wetland, that structure may be expanded as follows, as long as the expansion complies with all other requirements of this Ordinance and the expansion is not prohibited by subsection 1.6.4.B.(2)a.
 - i. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- d. All other legally existing nonconforming principal and accessory structures that do not meet the water body, stream, or wetland setback requirements may be expanded or altered as follows, as long as the expansion complies with all other requirements of this Ordinance and the expansion is not prohibited by subsection 1.6.4.B.(2)a. or b. above.

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- i. For structures located less 75 feet from a stream, and 125 feet from a water body or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not exceed 20 feet, or the height of the existing structure, whichever is greater.
- ii. In addition to the limitations as set forth in subsection 1.6.4.B.(2)d.i. for structures that are legally nonconforming due to their location within the Resource Protection Area when located less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures shall not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection Area was established on the lot, whichever is greater. The maximum height of any structure shall not exceed 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, stream, or upland edge of a wetland must meet the footprint and height limits in subsections 1.6.4.B (2)c.i. and 1.6.4.B.(2)d.i.
- e. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the Cumberland County Registry of Deeds, within 90 days of approval. The recorded plan shall show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the Shorelands Protection Overlay area and evidence of the approval of the review authority. A copy of the recorded plan shall be provided to the Town of Brunswick Department of Planning and Development by the applicant.
- f. A foundation shall not be considered an expansion of the structure if the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in accordance with (subsection 1.6.4.B(2)d) above, and does not cause the structure to be elevated by more than three feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill).

C. Restoration, Reconstruction or Replacement

(1) Outside SPO District

Any nonconforming structure that is destroyed or damaged by any cause may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a structure comparable to the destroyed or damaged structure, provided that a Building Permit for the restoration, reconstruction, or replacement is obtained within two years after the date of destruction or damage; and no existing nonconformity is increased and no new nonconformity is created. Any restoration, reconstruction, or replacement of a nonconforming structure authorized by a Building Permit obtained after two years shall comply with the current requirements of this Ordinance.

(2) In SPO District

a. Less than 50 Percent Damage

Any nonconforming structure, located within the required setback of a water body, stream or wetland, that is removed, destroyed or damaged by any cause, excluding normal maintenance and repair, such that the removal, destruction or damage is 50% or less of the structure's pre-destruction or pre-damage market value may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a structure comparable to the destroyed or damaged structure, provided that the

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structure is restored, reconstructed, or replaced in the same location and a Building Permit is obtained from the Code Enforcement Officer within one year of such removal, destruction or damage.

b. More than 50% Damage

- i. Any nonconforming structure that is located within the required setback from a water body, stream, or wetland, that is removed, damaged or destroyed by any cause, excluding normal maintenance or repair, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a Building Permit is obtained within eighteen (18) months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water body, stream or wetland setback requirement to the greatest extent practicable as determined by the Code Enforcement Officer. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.
- ii. If the reconstructed or replacement structure is located within the required setback of a water body, stream or wetland, it shall not be any larger than the original structure, except as allowed pursuant to subsection 1.6.4.E(2) as determined by the nonconforming footprint of the reconstructed or replacement structure in its new location. If the total footprint 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 the new structure.
- iii. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with subsection 1.6.4.E(2).
- iv. In determining whether the building reconstruction or replacement meets the setback to the greatest extent practicable, the Code Enforcement Officer shall consider, in addition to the criteria in subsection 1.6.4.E(2), the physical condition and type of foundation present, if any.
- v. ~~destroyed or damaged by any cause such that the destruction or damage exceeds 50% of the structure's pre-destruction or pre-damage market value may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a structure comparable to the destroyed or damaged structure, provided that a Building Permit for the restoration, reconstruction, or replacement is obtained within one year after the date of destruction or damage; and no existing nonconformity is increased and no new nonconformity is created; and the restored, reconstructed, or replacement structure complies with the minimum setback from a water body or wetland required by Section 2.3.3.C(1) (Setbacks of Structures from Water Bodies and Wetlands) to the greatest extent practicable. Any restoration, reconstruction, or replacement of the structure authorized by a Building Permit obtained after one year shall comply with all requirements of this Ordinance.~~
- vi. If the structure can be restored, reconstructed, or replaced so that the total amount of floor area and volume of the original structure is located outside the minimum setback from a water body or wetland required by subSection 2.3.3.C(1), no portion of the restored, reconstructed, or replacement structure shall be located at less than the minimum setback from a water body or wetland required by subSection 2.3.3.C(1) for a new structure. If the structure cannot be repaired, restored, reconstructed, or replaced so that the total amount of floor area and volume of the original structure is located outside the minimum setback from a water body or wetland required by subSection 2.3.3.C(1)2.3.3.C(1), the total

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amount of floor area and volume of the restored, reconstructed, or replacement structure located within the minimum setback area shall be no greater than for the original structure, except as allowed in accordance with subsection 1.6.4.B(2) the (Nonconforming Structures/Expansion) portion of this table. If the restoration, reconstruction, or replacement of a nonconforming structure requires removal of vegetation within the required minimum setback area from a water body or wetland, such vegetation shall be replaced within the setback area in accordance with subSection 1.6.7.

D. Relocation to a Different Parcel

(1) Outside or Inside SPO District

A nonconforming structure may be relocated to a different parcel provided it complies ~~to the greatest extent practicable~~ with the dimensional requirements of the base zoning district (and any applicable overlay district) in which it is relocated. ~~In determining whether the relocated structure complies with dimensional requirements to greatest extent practicable, the Review Authority shall consider the area of the parcel, the parcel's slope and potential for soil erosion, the location of other structures on the parcel and on adjoining properties, and the location of any septic systems on the parcel. If the relocation of a nonconforming structure requires removal of vegetation within the required SPO minimum structure setback area from a water body or wetland, such vegetation shall be replaced within the setback area in accordance with subsection 1.6.7. Where feasible, when a nonconforming structure in the setback area is relocated, the original location of the structure shall be replanted with vegetation consisting of grasses, shrubs, trees, or a combination thereof.~~

In SPO District

~~A nonconforming structure may be relocated to a different parcel provided it complies with the minimum setback from a water body or wetland required by Section 2.3.3.C(1) (Setbacks of Structures from Water Bodies and Wetlands) to the greatest extent practicable. If the relocation of a nonconforming structure requires removal of vegetation within the required minimum setback area from a water body or wetland, such vegetation shall be replaced within the setback area in accordance with Section 1.6.7. Where feasible, when a nonconforming structure in the setback area is relocated, the original location of the structure shall be replanted with vegetation consisting of grasses, shrubs, trees, or a combination thereof.~~

E. Relocation on Same Parcel

(1) Outside SPO District

~~A nonconforming structure may be relocated within the same parcel provided it complies, to the greatest extent practicable, with the dimensional requirements of the base zoning district (and any applicable overlay district) in which it is relocated. In determining whether the relocated structure complies, to the greatest extent practicable, with dimensional requirements, the Code Enforcement Officer shall consider the size of the parcel, the slope of the land and potential for soil erosion, the location of other structures on the parcel and on adjoining properties, and the location of any septic systems on the parcel.~~

(2) Inside SPO District

- ~~a. A nonconforming 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 extent practicable, as determined by the Code Enforcement Officer and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of~~

Comment [AB11]: All revisions from Jeff's 12/2 handout.

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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 nonconforming.

- b. In determining whether the building relocation meets the setback to the greatest extent practicable, the Code Enforcement Officer 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 Code Enforcement Officer.
- c. When it is necessary to remove vegetation within the water body or wetland required setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with subsection 2.3.3.C(11). Replanting shall be required as follows:
 - i. Trees removed in order to relocate a structure shall 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 body or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, removed or destroyed in order to relocate a structure, shall be re-established. An area at least the same size as that disturbed, damaged, or removed shall be reestablished within the setback area. The vegetation and/or ground cover shall consist of species similar to the native vegetation and/or ground cover that was disturbed, destroyed or removed.
- d. Where feasible, when a structure is relocated, its original location shall be replanted with native vegetation consisting of grasses, shrubs, trees, or a combination thereof.

F. Foundations

(1) Inside SPO District

Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation shall be placed such that the required setback is met to the greatest extent practicable as determined by the Code Enforcement Officer, based on criteria specified in subsection 1.6.4.E.(2) (Relocation on Same Parcel).

1.6.5. Nonconforming Site Features

The following standards apply both inside and outside the SPO District.

A. Continuance

A nonconforming site feature may be continued even though it does not conform to the requirements of this Ordinance.

B. Expansion or Modification

A nonconforming site feature may be expanded or modified if the expansion area or modification complies with the requirements of this Ordinance; and ~~if~~ the expansion or modification does not extend the site feature's nonconformity or create a new nonconformity. In the APO, SPO, FPO, and WPO Districts, the expansion or modification ~~The expansion of modification~~ must also comply with the minimum setback from a water body or wetland required by **Section 2.3.3.C(1)** (Setbacks of Structures from Water Bodies and Wetlands) to the greatest extent practicable.

C. Restoration, Reconstruction, or Replacement

Any benign nonconforming site feature that is destroyed or damaged by any cause may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a site feature comparable to the destroyed or damaged site feature, provided that no existing nonconformity is increased and no new nonconformity is created, and provided that a permit for the restoration, reconstruction, or replacement site feature is obtained (a) within two years after the date of destruction or damage, if the property is located outside the APO, SPO, FPO, and WPO Districts, and (b) within one year after the date of destruction or damage, if the property is located within the APO, SPO, FPO, and WPO Districts. Any restoration, reconstruction, or replacement of the site feature approved after two years ~~outside the APO, SPO, FPO and WPO Districts, or after one year within the APO, SPO, FPO and WPO Districts,~~ shall comply with all requirements of this Ordinance. Within the APO, SPO, FPO, and WPO Districts, ~~if~~ the restoration, reconstruction, or replacement ~~shall~~ ~~comply~~ ~~ies~~ with the minimum setback from a water body or wetland required by **Section 2.3.3.C(1)** (Setbacks of Structures from Water Bodies and Wetlands) to the greatest extent practicable.

Comment [AB12]: MAW revision 12/11.

1.6.6. Determination of Compliance to the Greatest Extent Practicable

In determining whether an expanded, restored, reconstructed, replacement, or relocated nonconforming structure or site feature complies with setback requirements to ~~the~~ greatest extent practicable, the Review Authority shall consider the area of the parcel, the parcel's ~~topography, slope~~ and potential for soil erosion, the location of other structures on the parcel and on adjoining properties, the location of any septic systems and soils suitable for septic systems on the parcel, and the type and amount of vegetation to be removed to accomplish the expansion.

1.6.7. Standards for Replacement of Removed Vegetation

Where replacement of removed vegetation is required by a provision in this ~~sub~~Section ~~1.6.71.6.7,~~ the vegetation shall be replaced within the setback area in accordance with the following standards:

- A. Removed trees shall be replaced with at least one native tree, at least three feet in height, for every tree removed.
 - (1) If more than five trees are planted, no one species of tree shall make up more than 50 percent of the number of trees planted.
 - (2) Replaced trees must be planted no further from the water body or wetland than the trees that were removed.
- B. Other woody and herbaceous vegetation and ground cover that are removed or destroyed shall be re-established in an area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed. The replacement vegetation and/or ground cover shall consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

1.7 Definitions and Rules of Construction

1.7.1. Rules of Ordinance Structure

A. Similar Terms

Terms which are similar that follow the spirit and intent of this Ordinance shall be so interpreted. For instance, the regulations pertaining to motels apply also to hotels. ~~Should an Ordinance-referenced Federal, State or Local Agency or Department name be changed, or another agency or department takes over its function after Ordinance adoption, the new agency or department name shall be so interpreted.~~

Comment [AB13]: Added per ZORC discussion 12/10/15

B. Separability

The invalidity of any provision of this Ordinance does not invalidate any other provision.

C. Abbreviations

The following abbreviations are used in this Ordinance:

Abbreviation	Meaning
ft.	foot or feet
in	inch or inches
sf	square foot or square feet
du	dwelling unit or dwelling units

1.7.2. Definitions

Accessory Apartment: A subordinate dwelling unit added to, created within, or detached from a 1- or 2-family dwelling or a commercial structure, but located on the same lot or parcel as a primary residential structure, that provides basic facilities for living, sleeping, cooking, and sanitation.

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 percent of the floor area of all structures on a lot.~~

Comment [AB14]: With this definition, we are still limiting accessory apartments to lots/parcels for primarily residential uses? Recommend striking out, "as a primary residential structure."

Adult Entertainment Establishment: Those businesses in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind that appeal to prurient interest and that depict or describe specified sexual activities or specified anatomical areas. "Specified sexual activities" include: 1) the exposure of human genitals in a state of sexual stimulation or arousal; 2) acts of human masturbation, sexual intercourse or sodomy; 3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts; 4) live nude exhibition. "Specified anatomical areas" include 1) less than completely and opaquely covered (a) human genitals or pubic region, and (b) buttock, and (c) female breast below a point immediately above the top of the areola, and 2) human male genitals in a discernably turgid state, even if completely and opaquely covered.

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.

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

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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.

Agricultural Structure: Any primary or accessory structure designed for or used for conducting agriculture, including but not limited to barns, sheds, silos, animal shelters, storage enclosures, pens, water or irrigation tanks or related structures, or bunkhouses, but not including a 1- or 2-family dwelling, a multifamily dwelling, and not including portable equipment.

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

~~**Aquaculture:** The commercial raising of marine animals and plants in an aquatic environment, including the processing of marine animals and plants and their byproducts.~~

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

~~**Aquaculture:** The commercial raising of marine animals and plants in an aquatic environment, including the processing of marine animals and plants and their byproducts.~~

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 2.3.4.8(2).

Assisted/Congregate Living Facility: A long-term residence for people with disabilities that prevent them from living on their own, or for people without disabilities. The residence provides private rooms or apartments with common areas for dining, socializing and programs along with daily meals, personal services, and may also offer limited nursing and 24 hour care. Housekeeping services are provided, but residents are relatively self-sufficient. It also includes a "community living arrangement" as defined in Title 30-A M.R.S.A. § 4357-A for 8 or fewer persons with disabilities. For purposes of this use, the term "disabilities" shall have the same meaning assigned by federal law and regulations pursuant to the Fair Housing Act Amendments of 1988.

Aviation Operations: Runways, taxiways, navigational devices, communication facilities, control towers, and similar facilities directly related to the operation and maintenance of an airfield including administrative offices and facilities for fueling aircraft.

Aviation Related Businesses: Facilities and businesses that rely on or directly benefit from proximity to airport facilities including, but not limited to, general and corporate aviation facilities, charter air service, aircraft maintenance/repair/overhaul, aviation related manufacturing, sales, service, or education, government and aerospace research and development, and similar aviation-related activities including ancillary facilities that service aviation uses.

~~**Bank:** An establishment that provides retail banking, lending, and financial services to individuals and businesses. Accessory uses may include automatic teller machines and drive through facilities.~~

Comment [AB15]: Recommend replacing "bank" with "financial institution" throughout ordinance. Revised 11/16.

Banner: A sign displayed on flexible lightweight material, enclosed or not enclosed in a rigid frame, extending from one side of the street to the other.

Basal Area: The area of cross-section of a tree stem, including bark, at 4½ feet above ground level.

Base Flood: A flood having a one percent chance of being equaled or exceeded in any given year commonly called the 100-year flood.

Basement: Any area of building having its floor subgrade (below ground level) on all sides. For purpose of the shoreland zoning regulations of the SPO District, basement means any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50 percent of its volume below the existing ground level.

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Bed and Breakfast: A dwelling occupied by the owner as a principal place of residence with not more than ten rooms that 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) that are offered for rent, with or without meals.

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.

Building Height: Generally the vertical distance measured from the average ground elevation of the finished grade at the base of a structure up to the highest point of the structure. For buildings with a gabled roof, however, building height is measured up to the midpoint between the eave and peak of the roof. For purposes of the shoreland zoning regulations for the SPO District, height of a structure is measured as the vertical distance from the mean original (prior to construction) grade at the downhill side of the structure up to the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Bureau of Forestry: A bureau contained within the State of Maine Department of Agriculture, Conservation and Forestry.

Comment [AB16]: From DEP Shoreland Zoning definitions.

Bus or Rail Station: An area or structure where public passengers board or alight from busses or trains or transfer between busses and trains, including accessory facilities such as passenger shelters and benches, but not including any facilities located in the public rights-of way.

Campground: Any area or tract of land to accommodate two or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy, Forest or Tree: The more or less continuous cover formed by tree crowns in a wooded area.

Car Wash: A structure and related land area containing facilities for the commercial washing of motor vehicles by hand or by using production-line, automated or semi-automated equipment, including facilities where washing is performed by the motor vehicle owner, where washing is mechanized, and where washing is performed by employees.

Character-Defining Feature: For the purposes of the Village Review Overlay District, the form, material, and detail of an architectural feature important in defining a building's historic character and whose retention will preserve that character. Such features include, but are not limited to, facades, roofs, porches, windows, doors, trim, massing, scale, and orientation of structures, and landscape features such as fences, walls, posts, and walkways.

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

College: Any building that is used for offering courses, lectures, training seminars or other similar use of post-secondary education, or that is used in support of the educational, cultural and recreation mission of the institution, including accessory structures and uses necessary to support those activities, but not including facilities such as kindergarten, elementary, middle or secondary school.

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.

Common Development Plan: A proposed development approved in accordance with Section 5.2.7.H. 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 redeveloped building on an individual lot or multiple lots.

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

Community Water and Sewer Facility: A water and sewer facility that is operated and maintained solely by a homeowners' association or other non-municipal entity and that does not connect to any municipal system.

Compatibility: For purposes of the Village Review Overlay District (VRO), possessing characteristics that are predominant in nature to character-defining features of structures within a neighborhood, as described in the VRO Design Guidelines. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of alterations or development proposals in maintaining the character of the existing neighborhood.

Complete: In the context of a Development Review application, complete means:

- (1) All submission requirements established by this Ordinance have either been complied with or a waiver has been requested.
- (2) Any additional information requested by the Review Authority at any prior meeting has been provided; and
- (3) All conditions of any relevant prior approval for the property have been fulfilled unless the application describes the manner in which unfulfilled conditions will be addressed.

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 Title 33 M.R.S.A. Subchapter 8-A, § 476-479(B), for the purposes of conserving open space, agricultural land, or natural, cultural, historic and scenic resources.

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

Contributing Resource: For purposes of the Village Review Overlay District, a building, site, structure, or object that adds to the historic association, historic architectural quality, or archeological values for which a property is significant because it was present during the period of significance, relates to the documented significance of the property and possesses historic integrity, or is capable of yielding important information about the period; or it independently meets the National Register criteria.

Contributing Resource of Local or Regional Significance: For purposes of the Village Review Overlay District, a building, site, structure, or object over 50 years of age identified as having local or regional significance, based on Town- established criteria as follows:

- (1) Its value as a significant example of the cultural, historic, architectural, archeological, or related aspect of local or regional heritage;
- (2) Its location as a site of significant historic or prehistoric event or activity that may have taken place within or which involved the use of any existing structure on the property.
- (3) Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological, or related aspect to local or regional heritage.
- (4) Its exemplification of a significant architectural type, style, or design distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, and artisanship.
- (5) Its identification as the work of an architect, designer, engineer, or builder whose individual work is significant in local or regional history or development.

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- (6) Its representation of a significant cultural, historic, architectural, archeological, or theme expressed through distinctive areas, sites, structures, objects, or artifacts that may or may not be contiguous.

Cook's Corner Master Plan: A plan, titled "The Cook's Corner Master Plan" dated June 1998, for the development of the Cook's Corner area, as approved and amended by the Town Council.

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

Day Care Facility: A Day Care Facility for Children, as defined in Title 22 M.R.S.A. Chapter 1673, Section 8301; and Adult Day Care Programs, as defined in Title 22 M.R.S.A. Chapter 1679, Section 8601. A Small Day Care Facility is one that provides services for no more than six children or adults. A Large Day Care Facility is one that provides services for more than six children or adults.

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

Department: The Department of Planning and Development of the Town of Brunswick, unless the context clearly indicates that another Department is referenced.

Development: Any change caused by individuals or entities to improved or unimproved real estate—including, but not limited to: the construction of, or additions or substantial improvements to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials; the storage, deposition, or extraction of materials; and public or private sewage disposal systems or water supply facilities.

Dimensional Requirement: Any requirement of this Ordinance regulating spatial aspects of land, structures, and uses—including, not limited to, lot area, lot width, setbacks, building height, impervious surface coverage, and building footprint, but excluding density.

Director: The Director of Planning and Development of the Town of Brunswick, unless the context clearly indicates that another official is referenced.

Disturbance: For the purposes of WPO District regulations, the grading and/or permanent clearing of naturally occurring stands dominated by woody vegetation for other activities included in Section 2.3.5.C(1)a, or the area of such disturbance.

Drive-Through Service: Any structure through which a product or service is provided directly to a customer seated in a motor vehicle including, but not limited to, take-out windows, banking terminals, automatic teller machines 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 a motor vehicle that remains in a parking space.

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 other uses to which the lot is devoted.

Dwelling, 1- or 2-family: A structure designed for occupancy by one or two households on a single lot.

Dwelling, Multifamily. A structure designed for occupancy by three or more households or living units, but not including an Assisted/Congregate Living Facility, Boarding House, Hotel, ~~or~~ Residence Hall, or Accessory Apartment.

Dwelling Unit: A group of rooms that provide living quarters with independent cooking, sleeping, and bathroom facilities for one household. The term shall apply to mobile homes, and to rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented. Recreational vehicles are not dwelling units.

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~~Eligible Facilities Request: For purposes of telecommunications facility regulations, the collocation, removal, replacement, and modification of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station, under the Middle Class Tax Relief and Job Creation Act (2012) (as amended and interpreted by the federal courts). This includes structural enhancements involving the hardening of equipment when necessary for a covered collocation, replacement, or removal of transmission equipment, but does not include the replacement of the underlying structure.~~

Elevated Building: For the floodplain management purposes of the FPO District, an elevated building is a non-basement building that is:

- (1) Built to have the top of the elevated floor (in the case of buildings in Zones A1-30 or A) or the bottom of the lowest horizontal structural member of the elevated floor (in the case of buildings in Zones V1-30) elevated above the ground level by means of pilings, columns, post piers, or "stilts;" and
- (2) 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.

~~Eligible Facilities Request: For purposes of telecommunications facility regulations, the collocation, removal, replacement, and modification of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station, under the Middle Class Tax Relief and Job Creation Act (2012) (as amended and interpreted by the federal courts). This includes structural enhancements involving the hardening of equipment when necessary for a covered collocation, replacement, or removal of transmission equipment, but does not include the replacement of the underlying structure.~~

Equestrian Facility: A facility designed and intended for the display of equestrian skills and the hosting of events including, but not limited, to show jumping, dressage, and similar events of other equestrian disciplines, and including stables and other accessory uses and structures supporting those activities.

Expansion of a Structure:

- (1) 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.
- (2) For SPO District purposes, an expansion of a structure shall be the increase in the footprint (only) of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses.

Expansion of Use: The addition of weeks or months to a use's operating season, additional hours of operation, or an increase in floor area or ground (footprint for SPO District purposes) area devoted to a particular use.

Fall Zone: The area within which a telecommunications tower may be expected to fall in the event of a structural failure, as determined by engineering standards.

Farm: A location for 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 greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Farmer's Market: The seasonal selling of fresh agricultural products occurring in a pre-designated outdoor area or indoor facility by local vendors that have raised and/or prepared the products for retail sale.

Comment [AB17]: Revised per DEP SP zoning amendments.

Comment [AB18]: Same comment as above.

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Financial Institution: An establishment that provides retail banking, lending, and financial services to individuals and businesses. Accessory uses may include automatic teller machines and drive through facilities.

Comment [AB19]: Refilled from "bank"
11/16

Flood Insurance Rate Map (FIRM): An official map of a community, issued by the Federal Emergency Management Administration (FEMA), on which the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Floodplain: Any land area susceptible to being inundated by flood waters from any source during a Base Flood.

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

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. 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.

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, floor area shall be measured from the interior of the walls which defines the space.

Footprint:

- (1) The area of ground covered by a structure, including the foundation and all areas enclosed by exterior walls and footings.
- (2) For SPO District purposes, footprint is the entire area of ground covered by the structure(s) on a lot, including, but not limited to, cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Comment [AB20]: Per DEP SP revisions.

Foundation: For purposes of the shoreland area regulations for the SPO District, 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.

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

Functionally Water Dependent Use:

- (1) For purposes of the floodplain management regulations for the FPO District, a use that 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 shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (2) For SPO District purposes, those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities.

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waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be functionally water-dependent use.

Comment [AB21]: DEP SP revision.

Garage and Yard Sales. A temporary activity for the sale of used household goods on a property containing a residential primary use.

Golf Course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways and hazards, excluding miniature golf, golf driving ranges and Frisbee golf. A golf course may include a clubhouse and shelters as accessory uses.

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.

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

Comment [AB22]: DEP SP revision.

Hazardous Matter: any material identified as being hazardous by either the Maine Department of Environmental Protection (MEDEP) or the U.S. Environmental Protection Agency (USEPA).

Historic District: A geographic area federally designated as an historic district and listed on the National Register of Historic Places.

Historic Integrity: The authenticity of a property's historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship, and association) that existed during the property's prehistoric or historic period.

Historic Structure: For floodplain management purposes, a historic structure is any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements of individual listing on the National Register;
- (2) Certified or preliminarily 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;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior, or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

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Home Occupation: A lawful business, profession, occupation or trade, conducted within a dwelling unit or accessory structure by a resident of the dwelling unit, where the business, profession, occupation, or trade is incidental and subordinate to use of the dwelling for residential purposes. Telecommuting, as defined, is not considered a home occupation and is not regulated by this ordinance.

Comment [AB23]: See new definition.

Hotel: A facility that provides sleeping accommodations for transient guests, with or without a dining room or restaurant, including a motel, but excluding Bed and Breakfast, Boarding House, and Residence Hall facilities.

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.

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

In-Kind Replacement: Replacement of a feature with new materials that identically matches the original with respect to design, size, configuration, texture and other visual qualities.

Individual Private Campsite: An area of land that is not associated with a campground, but is developed for repeated camping by only one group of not more than ten individuals, and involves site improvements that may include, but not be limited to, a gravel pad, parking area, fire place, or tent platform.

Industry, Artisan. This use includes small scale manufacturing of arts, crafts, gifts, clothing, foods, beverages, and other materials in facilities that also sell goods produced to the public from the same location, in a space not to exceed 10,000 square feet and where no more than 10 employees typically occupy the space at any given time.

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. Includes small engine repair.

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.

Infill Development: The development of vacant or partially developed parcels which are surrounded by or in close proximity to areas that are substantially or fully developed.

Junkyard or Automobile Graveyard: A land 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, scrap iron, steel, copper, brass, and other scrap ferrous or nonferrous material or three or more unserviceable, discarded, worn-out, or junked motor vehicles. This use includes garbage dumps, waste dumps, and sanitary landfills.

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

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 waterborne contaminants into the ground.

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Level of Service: A technical measure that assesses the traffic impact associated with new or expanded uses, calculated in accordance with the provisions of the Highway Capacity Manual, most recent edition, published by the National Academy of Sciences, Transportation Research Board.

Lot of Record: A parcel of land described in a recorded deed or shown on an approved and recorded subdivision plan and meeting zoning standards at the time it was created.

Lot or Parcel: An area of land with ascertainable boundaries, all parts of which are owned by the same person(s) or entities.

Lot Width: ~~The horizontal distance between side lines measured along a line that is parallel to the front lot line.~~

Lot, Rear: A lot located to the rear of another lot that lacks the minimum road frontage required in the zoning district and is accessed by either by a strip of land that is part of the parcel or a deeded right-of-way or easement over one or more lot(s).

Lot Width: ~~The horizontal distance between side lines measured along a line that is parallel to the front lot line.~~

Lowest Floor: For purposes of the floodplain management regulations for the FPO District, the lowest floor of the lowest enclosed area (including basement) of a building. 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 of this Ordinance.

Manufactured Housing: Shall have that meaning defined in Title 30-A, M.R.S.A. §4358.1.A , as amended.

Marina: A business establishment having frontage on navigable water that, as its principal use, provides for hire moorings, slips, and/or docking facilities for boats, and that may also provide accessory services such as boat and related sales, boat repair and construction, 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, boat launching ramps, yacht clubs, boatyards, boat storage, facilities associated with commercial fishing, bridges over 20 feet in length, and accessory uses associated with any of these activities. Excluded are non-commercial structures which are accessory to a single or two-family dwelling.

Market Value: ~~For SPO District purposes, the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.~~

Comment [AB24]: DEP SP revision.

Mineral Extraction: Any operation that 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.

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

Mobile Home: Shall have that meaning defined in Title 30-A, M.R.S.A. §4358.1.A (1), as amended.

Mobile Home Park: Shall have that meaning defined in Title 30-A, M.R.S.A. §4358.1.B, as amended.

Mobile Home Park Site: The area of land within a mobile home park designed and used for placement of an individual mobile home and reserved for use by the occupants of that home.

Modular Home: Shall have that meaning defined in Title 30-A, M.R.S.A. §4358.1.A (2), as amended.

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Motor Vehicle: A self-powered wheeled vehicle, designed to run primarily on improved roads, which transports passengers or cargo, such as but not limited to, cars, trucks, motorcycles, recreational vehicles, and buses, but not including trains and emergency vehicles.

Motor Vehicle Fueling Station: An establishment providing sales of fuel for motor vehicles, including but not limited to gasoline, diesel fuel, compressed natural gas, or electricity, that may also provide minor repair services such as lubrication, oil and tire changes, but not including vehicle bodywork or painting, or major repair of engines or drivetrains. Does not include Vehicle Service or Repair or Marina

Motor Vehicle Service or Repair: An establishment where motor vehicles and equipment, are repaired or serviced, but not including boat or small engine service or repair.

Municipal Facility: Any Town owned or leased facility that is provided to meet a municipal need, including, but not limited to recreational facilities, municipal offices, and utilities provided by Brunswick and Topsham Water District and Brunswick Sewer District necessary to provide utility services to residents of the Town, but not including schools. Facilities of the ~~Brunswick-Topsham~~ Brunswick and Topsham Water District, the Brunswick Sewer District, and any facility that was formerly Town owned but has since been purchased, transferred, or leased from the Town in order to continue to provide services to meet a municipal need, are considered to be municipal facilities.

National Geodetic Vertical Datum (NGVD): For floodplain management purposes, the NGVD is the national vertical datum, whose standards were 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)".

Native Tree: For SPO District purposes, a native tree is indigenous to the local forests.

Comment [AB25]: DEP SP revision.

Naturally Occurring Stand 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.

Neighborhood Store: A retail store of not more than 2,000 square feet, located on a collector street, offering primarily grocery items and that may also offer takeout food items. A Neighborhood Store does not incorporate and is not accessory to a vehicle fueling station.

Net Site Area: The portion of a parcel subject to Development Review and used in the determination of allowable density. See Section 4.1.4.A, Calculation of Net Site Area.

New Floodplain Construction: Structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by the Town of Brunswick and includes any subsequent improvements to such structures.

Nonconforming Lot: A lot that does not meet one or more of the requirements of this Ordinance, but was lawfully created before the adoption of the Ordinance provisions that cause it to be noncomplying.

Nonconforming Sign: A sign that does not meet one or more of the requirements of this Ordinance, but was lawfully constructed or erected before the adoption of the Ordinance provisions that cause it to be noncomplying.

Nonconforming Site Feature: A site feature that does not meet one or more of the requirements of this Ordinance, but was lawfully constructed or erected before the adoption of the Ordinance provisions that cause it to be noncomplying.

Nonconforming Structure: A structure other than a sign that does not meet one or more of the requirements of this Ordinance, but was lawfully constructed or erected before the adoption of the Ordinance provisions that cause it to be noncomplying.

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Nonconforming Use: A use of land, building or structure that does not meet one or more of the requirements of this Ordinance, but was lawfully established before the adoption of the Ordinance provisions that cause it to be noncomplying.

Noncontributing Resource: For purposes of the Village Review Overlay District, a building, structure, or object that does not add to the historic sense of time and place or historic development; or one where the location, design, setting, materials, workmanship, or association have been so altered or have so deteriorated that the overall integrity has been irretrievably lost.

Non-native Invasive Species of Vegetation: For SPO District purposes, that species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Comment [AB26]: DEP SP revision,

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, ~~—~~ that distinguishes predominantly aquatic land from predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and 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.

Nursing Home: A facility for individuals needing 24-hour skilled nursing care who can no longer live independently.

Office: A space used to conduct the administrative affairs of an organization, including but not limited to spaces for academic or administrative staff of a postsecondary school, or for a member of a recognized medical or non-medical profession, or for commercial vocational education that is not college, or a facility for purposes of preparing or presenting or broadcasting materials on radio, television, or cable television or similar communications media or the recording or production of films or video material. Includes uses formerly known as Business Office, College Office, Professional Office, and Media Studio.

Outdoor Sales, Temporary: A temporary outdoor ~~vendor activity located on private property and which may be~~ operating from a portable facility ~~located on a given site~~, involved with the ~~dispensing of information or selling of~~ products, ~~including, but not limited to, prepared or unprepared food but not including flea markets, garage and yard sales, farmers' markets, sales of food from food trucks, church events or other similar activities.~~

Parking Facility (as a principal use): A parking lot or garage that 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: ~~Walking, hiking, biking, and other similar activities. Passive recreation specifically excludes the use of motorized vehicles and equipment.~~

Permanent Clearing: For the purposes of wildlife habitat protection regulations for the WPO District, the removal of 40 percent 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.

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.

Plan, Final: The final drawings on which the applicant's subdivision or site plan is presented to the Review Authority for approval and which, if approved, may be recorded at the Cumberland County Registry of Deeds.

Plan, Sketch: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review by the Review Authority.

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Plant Nursery: Any land or structure used primarily to raise trees, shrubs, flowers, and other plants for sale or for transplanting, including greenhouses, and including accessory sales of those plants to the public.

Primary Road: 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 Façade: The architectural front of a building, often distinguished from the other faces by the use of better materials and greater elaboration of architectural or ornamental details; usually faces a street, but occasionally faces a court or parking area.

Principal Structure: A structure that houses the principal use of the lot.

Principal Use: The primary purpose for which land or structures are used.

Private Road: A street privately owned and maintained that is used as the principal means of access to two or more abutting lots.

Recreation, Active: Leisure activities, usually performed with others, often requiring equipment and taking place at prescribed places, sites, or fields. The term "active recreation" includes but is not limited to swimming, tennis, and other court games, baseball and other field sports, golf and playground activities.

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.

Recreation, Passive: Recreational activities that generally do not require a developed site. This generally includes such non-motorized activities as interpretive programming, hiking, biking, cross-country skiing, picnicking and associated parking.

Recreational Vehicle: A vehicle designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use, and that is built on a single chassis, covers 400 square feet or less in area when measured at the largest horizontal projection, and is designed to be self-propelled or permanently towable by a motor vehicle.

Recycling Collection Facility: A lot or parcel of land, with or without buildings, upon which used and recoverable materials such as newspapers, glassware, plastics, and metal cans are separated and temporarily stored before they are sent to a processing facility, but where no processing of those items occurs.

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

Renewable Energy Generating Facility: A facility for generating electrical energy from wind, solar, or geothermal means, or through the burning of biomass or other renewable resources.

Residence Hall: A facility owned by a school or other institution to house its students.

Restaurant or Dining Facility: An establishment or facility having as its predominant use the on-premises consumption of food and beverages, including an institutional or college dining facility.

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: A strip of specifically-described land encompassing an existing or future public or private path, street or road.

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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.

Salt Marsh: An area of coastal wetlands that supports salt-tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters.

Salt Meadow: An area of a coastal wetland that supports 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.

Sapling: For SPO District purposes, a tree species that is less than two (2) inches in diameter at four and one-half (4.5) feet above ground level.

Comment [AB27]: DEP SP revision.

Scale: Factors that 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.

Scarify: The disturbance of the forest floor in a controlled way, such as the removing or rearranging of the existing leaf layer or by mixing the existing leaf layer in with and exposing the mineral soil below.

School: Any building consisting primarily of classroom space that is used for offering courses, lectures, training seminars or other similar use, including, but not limited to, private nursery, kindergarten, elementary, middle, secondary education, including accessory structures and uses necessary to support those activities, but not including facilities for post-secondary education.

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.

Seasonal Storage: For the purpose of outdoor storage of watercraft, shall mean the storage of watercraft for a time period not to exceed nine consecutive months.

Secondary Road: Any road not listed in the definition of “primary road.”

Secretary of the Interior’s Standards: The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (U.S. National Park Service, 1995), as amended. These are national standards to guide work undertaken on historic properties, and are intended to assist in the long-term preservation of historic structures and features.

Seedling: For SPO District purposes, a young tree species that is less than four and one-half (4.5) feet in height above ground level.

Comment [AB28]: DEP SP revision.

Service Business, Class 1: A business under 2,000 square feet in gross 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, mail services, and laundries.

Service Business, Class 2: A business 2,000 square feet in gross 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 shops, tailors, mail services, and laundries.

Setback -- In Non-Shoreland Area: The minimum horizontal distance between the front, side or rear lot line and the nearest point of the building, including decks or any covered projections thereof, on the lot.

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

Shoreland Area: The Shoreland Protection Overlay (SPO) District.

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Shoreline: The normal high-water line of, 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, freestanding or attached to a structure or registered motor vehicle, that is used to advertise, identify, display, or 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.~~

Sign, Animation: The usage of multiple frames running at a fast enough speed that the human eye perceives the content to be in continuous movement.

Sign, Awning: A covering that is (or appears to be) made of cloth or canvas and is either permanently attached to a building or can be raised or retracted or fixed to a position against the building when not in use.

Sign, Building Directory: A wall mounted sign that identifies the occupants of a building.

Sign, Business: A temporary freestanding sign used for the advertisement of specific products, daily specials, or services.

Comment [AB29]: Delete?

Sign, Canopy: A sign that is part of, or attached to a structural protective cover over a drive thru or outdoor service area (not including an awning sign).

Sign, Changeable-DisplayMessage: A sign that utilizes computer generated ~~messages-displays~~ or some other electronic means of changing copy. These signs include displays using LEDs, LCDs, or incandescent lamps.

Sign, Contractor: A temporary sign erected during the construction phase of a project only.

Sign, Development: A sign used to identify the name of a development.

Comment [AB30]: Delete?

Sign, Directly Illuminated: A sign illuminated by a light source that is outside of the sign.

Sign, Directory Pole: A pole sign that advertises more than one use or establishment on single parcels developed with multiple uses; or multiple uses located on four or fewer adjacent properties ~~and with~~ shared access.

Sign, Dissolve/Fade: A mode of message transition on an electronic sign accomplished by varying the light intensity or pattern, where the first ~~message-display~~ gradually reduces intensity or appears to dissipate to the point of not being legible and the subsequent ~~message-display~~ gradually appears or increases intensity to the point of legibility.

Sign, Easel: A free-standing, moveable sign, usually shaped like a painter's easel stand, used ~~to onsite advertise specific products, daily specials or special events.~~

Sign, Farm Stand: A sign used to advertise a farm stand selling fruits, vegetables, or other agricultural crops and products.

Comment [AB31]: Delete? Temporary sign?

Sign, Flashing Illuminated: A sign in which the light source, in whole or in part, physically changes in light intensity or gives the appearance of such change at less than a 5 second time interval. Time and temperature signs emanating white light are excluded from this definition.

Sign, Freestanding: A pole sign or monument sign.

Sign, Household: A sign that display street numbers, last names, or personal names given to residential structures.

Comment [AB32]: Delete?

Sign, Internally Illuminated: A sign illuminated by a light source that is within the sign.

Sign, Monument: A sign mounted directly on the ground.

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Sign, Motor Vehicle: Any sign displayed on a registered motor vehicle where the primary purpose is to advertise a product, service business, or other business related activity.

Sign, Official Business Directional: An off-premise sign erected and maintained by the Maine Department of Transportation in accordance with the Maine Traveler Informational Services Act, 23 M.R.S.A. § 1901-1925, and this Ordinance, that identifies and points the way to public accommodations and facilities, commercial services for the traveling public, and points of scenic, historical, cultural, recreational, educational, and religious interest.

Sign, Off-Premise Advertising: A sign that advertises a business or the business's products, services, or activities not sold, distributed, or carried out on the premises.

Sign, On-Premise Directional: A sign used to provide direction to entrances and exits from parking or pedestrian areas.

Sign, Pole: A sign attached to a pole or poles erected directly into the ground.

Sign, Political Campaign: A temporary sign bearing messages relating to an election, primary, or referendum.

Sign, Portable: A sign designed for and intended to be moved from place to place and not be permanently affixed to land, buildings, or other structures.

Sign, Projecting: A sign attached to a wall at a right angle.

Sign, Real Estate: A temporary sign advertising the lease or sale of land, space, or structure.

Sign, Roll: A mode of message transition on a Changeable Message Sign wherever the message appears to move horizontally across the display surface.

Sign, Roof: A sign mounted to the roof of a building or wall mounted signs projecting above the roof line. Signs mounted on the face of a mansard roof are not considered roof signs, but as wall signs.

Sign, Sandwich: A free-standing, moveable sign, usually shaped like an "A", used to advertise specific products, daily specials, or special events.

Sign, Scroll: A mode of ~~message-display~~ transition on a Changeable ~~Display Message~~-Sign where the ~~message-display~~ appears to move vertically across the display surface.

Sign, Special Events or Notice: A temporary sign—such as a banner, pennant, or poster,—that is mounted onto a building structure to announce special events or notices and; are limited to the property of which the special event is located.

Sign, Temporary Business: A temporary sign such as a sandwich sign, easel sign, and other similar signs intended to advertise specific products, daily specials, or services.

Sign, Transition: A visual effect used on a Changeable ~~Display Message~~-Sign to change from one message to another.

Sign, Video: A Changeable ~~Message-Display~~ Sign that displays motion or pictorial imagery, including a display from a "live" source.

Sign, Wall: A sign applied, painted, or affixed flush to the exterior of a structure.

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

Site Feature: An element of site design other than the characteristics of the lot itself, the uses on the lot, the structures on the lot, or signs on the lot, such as landscaping, or lighting fixtures.

Small Wind Energy System (SWES): A wind-driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for public resale.

Comment [AB33]: Rework as off-premise without differentiation?

Comment [AB34]: Delete?

Comment [AB35]: Delete?

Comment [AB36]: Changeable Message Sign definition may be adequate. Do we reference Roll Signs?

Comment [AB37]: Rename as temporary?

Comment [AB38]: Include in Temporary?

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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 and aquaculture waste.

Start of Construction:

- (1) For purposes of the floodplain management regulations for the FPO District, the date the flood hazard development 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 of construction 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 mobile 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.
- (2) 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 5.2.7.F(2)b are exempt from this definition.

Storm-Damaged Tree: For SPO District purposes, a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Comment [AB39]: DEP SP revision.

Stream: For purposes of the Shoreland Protection Overlay (SPO) District, a channel between defined banks created by the action of surface water and has two or more of the following characteristics.

- (1) It contains or is known to contain flowing water continuously for a period of at least six months of the year under normal seasonal rainfall conditions.
- (2) 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.
- (3) 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.
- (4) The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

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 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 drainageway constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

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Streetscape: The visual elements of a street—including the road, adjoining buildings, street furniture, trees, fences, and open spaces, etc.—that combine to form the street's character.

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. 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. 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.

Studio. A workshop of an artist, writer, photographer, dancer, musician, yoga practitioner, or similar craftsperson or performer, including spaces where members of the public can come to receive instruction on a more than incidental basis or to sit for portraits.

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

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: For purposes of the floodplain management regulations for the FPO District, 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 that have incurred substantial damage, regardless of the actual repair work performed.

Subsurface Wastewater Disposal System: Any system designed to dispose of waste or wastewater on or beneath the surface of the earth—including, but is not limited to, septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filters, piping, or any other fixture, mechanism, or apparatus used for those purposes. It does not include any discharge system licensed under Title 38 M.R.S.A. § 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

Telecommunications Tower: Any tower taller than 120 feet that transmits and/or receives signals by electromagnetic or optical means using antennas, microwave dishes, horns, or similar types of equipment.

Telecommunication Tower, Small-scale: A free-standing structure with a maximum height of 120 feet that is designed, constructed, or used primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and similar structures.

Telecommuting: An arrangement in which a resident works from home rather than the primary place of employment, communicates with the workplace and conducts work by electronic means.

Comment [AB40]: New definition.

Temporary Use: A use of land or building occurring occasionally and for a limited period of time, and that may occur repeatedly during a calendar year, but that does not occur regularly on a weekly, monthly, or quarterly schedule.

Theater: A facility for the viewing of movies or live presentations of musicians or other performing artists, but not including any Adult Entertainment Establishment.

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 the construction or creation of roads or the clearing of land approved for construction. Timber harvesting does NOT include the cutting or removal of vegetation within the SPO District when associated with any other land use activity.

Comment [AB41]: DEP SP revision.

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

Comment [AB42]: DEP SP revision.

Ultra-light Air Park: An ultra-light air park is a tract of land or water that is maintained for the landing and take-off of ultra-light aircraft as defined by the Federal Aviation Regulation (FAR) Part 103. An ultra-light airpark shall not be used for commercial purposes, shall not provide storage for more than five gallons of ultra-light fuel, and shall not be used for flight operations unless daylight and visual frame of reference (VFR) conditions (1,000-foot ceiling and three-mile visibility) are present.

Upland Edge of a Wetland: The boundary between a wetland and upland. For coastal wetlands, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the ~~maximum-spring-highest annual~~ tide level, including all areas affected by tidal action. For freshwater wetlands, ~~this boundary~~ **the upland edge** is the line 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.

Comment [AB43]: DEP SP revision.

~~**Urban Agriculture:** The raising, keeping or production of fruit, vegetable, flower, and other crops, or farm animals, poultry and bees as a primary (not accessory) use of land within the Town-designated growth area, in accordance with Chapter 4 (Animals) of the Brunswick Code of Ordinances, as amended, on sites of two and one-half (2.5) acres or less. This uses includes the ordinary accessory uses and structures for preparing, treating, and storing agricultural products, equipment and machinery, but does not include raising, storing, or processing of any animals other than bees.~~

Comment [AB44]: Revised 11/16

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

Comment [AB45]: Moved 11/16.

Use, Accessory: A use that:

- (1) is customarily or reasonably associated with the principal use;
- (2) has hours of operation the same as or less than the principal use;
- (3) is incidental and subordinate to the principal use; and
- (4) is located on the same lot or parcel as the principal use.

Comment [AB46]: Optional definition based on additional staff research (12/10)

Use, Conditional: A use of land or structures that is listed in Table 3.2 or 3.3 as a Conditional Use, that must comply with any Supplemental Use Standards applicable to that use, and that is available only after obtaining a Conditional Use Permit pursuant to Section 5.2.2.

Use, Permitted: A use of land or structures that is listed in Table 3.2 or 3.3 as a Permitted Use, that must comply with any Supplemental Use Standards applicable to that use, and that may be approved by the Community Development Department if no additional approvals are required by this Ordinance.

Use, Special: A use that is not listed in Table 3.2 as a Permitted, Conditional, or Prohibited Use, but that may be considered for approval pursuant to the Special Use Permit procedure in Section 5.2.3.

Utility Facility, Major: Facilities necessary to the supply of the electric, natural gas, water, cable television, telephone, telecommunications, or sewer services, or similar services, of a scale and character commonly found only in one or a few specialized locations in the Town, including but not limited to water treatment plants, sewer treatment plants, and electric power generating facilities and substations, but excluding Telecommunication Towers, Small-scale Telecommunications Towers, Renewable Energy Generating Facilities, offices for the conduct of utility business and operations, and Minor Utility Facilities.

Utility Facility, Minor: An installation used by a public utility to supply and distribute electric, natural gas, water, cable television, telephone, telecommunications, sewer, stormwater management, or

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similar services that need to be near the property to which the service is provided, including the poles, pipes, wires, transmitters, culverts, and service boxes necessary to provide those or similar services, of a scale and character commonly found in developed portions of the Town, but excluding Telecommunications Towers, Small-scale Telecommunications Towers, Renewable Energy Generating Facilities, offices for the conduct of utility business and operations, and Major Utility Facilities.

Vegetation: All live trees, shrubs, ground cover, and other plants.

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.

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.

Watercraft: Any type of vessel, boat, canoe, kayak or craft capable of being used as a means of transportation on water, other than a seaplane, including motors, electric and mechanical equipment and other machinery, whether permanently or temporarily attached, that are customarily used in the operations of the watercraft.

Wetland: An area, of any size, that is 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 are 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, as amended.

Wetland, Coastal: ~~Any All~~ tidal and subtidal lands; ~~anyall~~ land with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or other contiguous low-land that is subject to tidal action during the highest ~~annual~~ 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.~~

Wetland, Forested: A freshwater wetland dominated by woody vegetation that is six meters tall (approximated 20 feet) or taller.

Wetland, Freshwater: A freshwater swamp, marsh, bog, or similar area other than a forested wetland which is:

- (1) Of ten or more contiguous acres; or of less than ten 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 ten acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and that under normal circumstances does 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.

BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION

NOVEMBER 10, 2015

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Charlie Frizzle, Chair; Vice Chair Margaret Wilson, Vice Chair; Richard Visser; Anna Breinich, Director of Planning and Development; Jared Woolston, Town Planner; and Jeff Hutchinson, Code Enforcement Officer

MEMBERS ABSENT ZONING ORDINANCE REWRITE COMMITTEE:

CONSULTANT PRESENT:

Mr. Frizzle opened the meeting.

1. Public Comment

Charlie Wiercinski asked if the Committee would be discussing his comment from the September 23rd meeting regarding his suggested change to the St. Johns Parish Church Zoning District. Anna Breinich replied that they will not be discussing this today.

Carol Liscovitz, Bowdoin College neighborhood resident, asked if the Committee would be discussing neighborhood protection standards. Anna Breinich replied that they will not be discussing this today.

2. Draft 2:

a. Review of reworked Draft #2 Sections to Date (see packet)

Section 1.5: Decision to rework the last sentence in the paragraph and eliminate duplication.

Section 1.6: Decision to remove 1.6.1.B, Remedy of Unsafe Conditions.

Section 1.6.3.B: Decision to reword *natural beauty*.

Section 1.6.3.C: Jeff Hutchinson to review and discuss at a future meeting.

Section 2.1.1.B: Anna Breinich to look into GR8 District location - College Park neighborhoods.

b. Discussion Topics/Updates

i. Added Definitions: Anna Breinich reviewed added / changes definitions.

ii. Natural Resource Districts Descriptions/Uses (subsections 2.1.3 and 2.2.1): Anna Breinich explained that they took the use standards out of the description section and moved them into the use table. These are mainly passive recreation and activities that are not identified as uses anywhere else in Brunswick.

iii. Aquifer Protection Overlay (under review by BTWD): Anna Breinich reviewed her concerns and said that she has sent the draft Stormwater Management Section to Al Fraasier at the Brunswick Topsham Water District for review / input. To be discussed at the next work session.

iv. Wildlife Protection Overlay (disturbance criteria): Anna Breinich reviewed the changes and clarification edits. With regards to 30 years under Roman numeral vii under 2.3.5.C.1.b., Anna said that she has tried to research where this number was derived from, but has been unsuccessful. Margaret Wilson said that she understands the concept, but that she too does not know how it will be enforceable. Charlie Frizzle replied that it will only be enforceable by complaint. Charlie suggested leaving the language as currently drafted and review at another point in time for simplification, enforceability and clarification.

v. Airport Approach Overlay Uses: Anna Breinich suggested removing multi-family dwelling and mobile home from the acceptable uses in the Airport Approach Zone; decision to remove all housing from this zone. Anna reviewed other suggested changes. Jeff Hutchinson questioned why anything should be developable in the APZ and Margaret Wilson questioned why there are two zones for this area. Staff to review further and possibly eliminate all uses in the APZ area and combine RPZ and APZ into one.

vi. Telecommunications Overlay Annual Inspections: Anna Breinich reviewed changes / edits. Staff to clarify the wording regarding Applications for collocation, 60 / 90 day requirements.

vii. Use Table: Anna Breinich reviewed the changes in the in the Permitted Use Table. Committee suggested other changes; these changes were incorporated.

viii. Urban Agriculture: The committee discussed the domesticated farm animal ordinance. Discussion on adding supplementary standards for agriculture uses.

ix. Retail Classes I and II and Pedestrian/Bicycle Access: Anna Breinich discussed the addition of Retail Class I and Retail Class II. Decision to continue to look into Retail Class I and Retail Class II and how they apply to the Cook's Corner Design Standards.

Anna reviewed the proposed changes to Pedestrian / Bicycle amenities; decision for staff to tighten up the wording. Decision to remove Retail Class I and Retail Class II designation as this standard can apply to other uses. Staff to research

further materials and ADA requirements for distinguishing walkways in parking areas.

x. Stormwater Management: In reference to Stormwater management, Jared Woolsten is currently reviewing this and this will be discussed at the next work session.

xi. Complete Streets Update: Anna Breinich said that the Bicycle and Pedestrian Committee is going in the direction of using the Complete Street Policy. Anna pointed out that if approved by the Town Council, this will be policy and not ordinance change.

xii. Signs (Reed v. Gilbert U.S. Supreme Court ramifications update): Jared Woolsten provided a brief overview of the Reed v. Gilbert U.S. Supreme Court case and the use of an unconstitutional sign ordinance. Discussion among Committee that they cannot control what the content of the sign is, but they can regulate the size.

3. Public Information Updates

a. Use Comparison Table

3. Approval of Meeting Summaries: June 10, 2015; September 23, 2015

September meeting minutes postponed.

June minutes were approved at the September 23, 2015 meeting.

4. Other Business: 11/20 ZORC informational training.

5. Next meeting: December 2nd at 1:00P.M.

Adjourn

This meeting was adjourned at 4:35 P.M.

Respectfully Submitted,

Tonya Jenusaitis

Recording Secretary