



Town of Brunswick, Maine

ZONING ORDINANCE REWRITE COMMITTEE

85 Union Street, Brunswick, ME 04011-1583

WORK SESSION AGENDA TOWN HALL ROOM 206 85 UNION STREET MONDAY, September 19, 2016; 1:00 PM

1. Public Comment
2. Planning Board Draft:
 - a. Planning Board review-based items for discussion
 - i. Use of Pesticides in APO
 - ii. Home Occupations
 - iii. Height Limitation Restrictions and Front Yard Setbacks Relative to Roof-top Solar Panels
 - iv. Section 4.3.3 Protection of Natural Vegetation Relative to Scenic Areas/Maintaining Existing Vegetation Along Roads in Rural Area
 - v. Fire Protection/Water Supply
 - vi. Outdoor Lighting Standards for Public Streets/Rights-of-Way
 - vii. Architectural Compatibility (Sec. 4.11.2) – Materials, Textures and Colors
 - b. Shoreland Zoning Revisions
 - c. Stormwater Management Revisions
 - d. Revised Solar Energy Collection Facilities
 - e. Recreation Requirements and Methodology
 - f. Signs
 - g. Rural Mixed Use Impervious Coverage – Request to Increase
3. Mapping Requests
4. Approval of Meeting Summaries
5. Next Meeting – Topics
6. Other Business

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.

Anna Breinich

From: Alan Frasier <ajfrasier@btwater.org>
Sent: Thursday, August 25, 2016 4:31 PM
To: Anna Breinich
Subject: Re: Use of herbicides within the APZ

Hi Anna,

Thanks for checking in with us. Water quality regulations establish Maximum Contaminant Levels for various classes of pesticides, typically at very low levels. Use of pesticides where they could gain entrance to the groundwater is a significant risk and should be strictly prohibited. The usage instructions and qualifications of the applicator have little, if anything, to do with the risks posed by the product. If the Planning Board decides to give serious consideration to amending the ordinance, we want to be involved in the discussion.

Thanks again, and I'd be happy to answer any questions.

Alan

Alan J. Frasier, PE

General Manager

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On Thu, Aug 25, 2016 at 12:21 PM, Anna Breinich <abreinich@brunswickme.org> wrote:

Hi Alan,

During the Planning Board review of the draft Zoning Ordinance, a question was raised by a member regarding the prohibition of pesticides/herbicides within the APZ, as to whether pesticides/herbicides could be used for controlling invasives and by someone licensed to do so.

C. Home Occupations

All home occupations shall comply with the standards below. Home occupations that cannot comply with these standards shall be considered non-residential activities subject to all applicable requirements of this Ordinance.

- (1) ~~Only one~~No more than two (2) persons other than family members residing on the premises may be employed on site at any one time.
- ~~(2) Only one home occupation shall be permitted per dwelling unit in a single or two-family dwelling unit.~~
- ~~(2) One~~ (1) or more home occupations may not exceed the lesser of 35 percent of the total gross floor area of the dwelling unit and finished portions of accessory structures associated with that dwelling unit or 750 square feet, whichever is less.
- (3) Automobile and truck traffic generated shall not be greater than 16 trips per day. No deliveries by trucks of the size typically larger than single unit trucks shall be permitted.
- ~~(4) In Growth Residential districts;~~
 - a. there shall be no exterior storage of materials, equipment, commercial vehicles with a Gross Vehicle Weight (GVR) rating in excess of 10,000 pounds, or other supplies used in conjunction with ~~a the~~ home occupation(s), ~~nor-~~
 - b. retail sales with the exception of internet-based sales.
- ~~(4)(5) No exterior alterations to an existing structure may be made in relation to the home occupation(s). If incorporating a home occupation(s) in a new single or two-family dwelling unit, the structure shall maintain the appearance of a typical residential structure.~~
- ~~(5) The home occupation may not exceed the lesser of 35 percent of the gross floor area of the dwelling unit and finished portions of accessory structures associated with that dwelling unit or 750 square feet whichever is less.~~
- ~~(6) No retail sales shall occur on the premises with the exception of internet-based sales.~~
- ~~(7) Each~~~~The~~ home occupation(s) is entitled to ~~one signage in accordance with Section 4.13. four square foot non-illuminated sign upon obtaining a sign permit.~~
- ~~(8)(7) The home occupation(s) shall not contribute exceed performance standards as contained in Chapter 4 relative to excessive noise, traffic, nuisance, fire hazard, and other possible adverse impacts as determined by the Codes Enforcement Officer.~~

D. Temporary Outdoor Sales

Where permitted, temporary outdoor sales are limited to no more than four events per calendar year, with no event to exceed seven consecutive days in duration

E. Temporary Construction Office or Yard

Temporary construction offices and yards may be located on the site where construction is taking place, or on an adjacent parcel with the permission of that parcel owner, between the date that a Building Permit for the construction is obtained until no more than 30 days after a Certificate of Occupancy for the completed construction is issued, or if no Certificate of Occupancy is required for the project, then until no more than 30 days after the construction is completed.

Chapter 3 - Property Use Standards
Section 3.4 Supplementary Use Standards
Subsection 3.4.1 Principal Uses

of the wind energy collection facility installation, shall not exceed 55 dba (decibels day/night average) for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;

- v. The turbine and tower shall have a nonreflective surface. ;
- vi. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades;
- vii. All signs on a wind turbine, tower, building or other structure associated with a small wind energy system visible from any public road, are prohibited with the exception of (a) the manufacturer's or installer's identification, (b) appropriate warning signs, or (c) owner identification,;
- viii. No illumination of the turbine or tower shall be allowed unless required by the FAA;
- viii. The wind turbine and tower shall be designed and installed such that unauthorized public access via step bolts or a ladder is prevented for a minimum of 12 feet above the ground.
- ix. This use shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator;
- x. A wind turbine which is not generating and has not generated electricity for 12 consecutive months shall be deemed abandoned and shall be dismantled by the owner within 120 days of receipt of notice from the Town unless the wind turbine is not in operation due to the property being in the process of being sold. A system owner may request in writing to the Codes Enforcement Officer an extension of up to one year if the owner is actively pursuing the repair of the system for future use.

(2) Solar Energy Collection Facilities

a. Ground Mounted Systems

i. General Standards

- (A) Ground mounted solar energy collection facilities shall be operated, and their angles of collection controlled, to prevent glare from entering the windows of any primary structure containing a residential use on an adjacent property.

ii. Small-Scale Ground Mounted Systems

- (A) A ground-mounted small-scale solar energy collection system shall mean a solar-energy conversion system consisting of ground-mounted solar arrays or other solar energy fixtures, and associated control or conversion electronics, occupying no more than one-half (.5) acre of land.
- (B) Maximum Height: All ground-mounted small-scale solar energy collection systems shall comply with accessory building height limits as contained in Subsection 4.2.5.B (4) e. (Setback Requirements for Accessory Structures).
- (C) Setbacks: If accessory to a principal structure, ground mounted small-scale solar energy collection systems shall be located in accordance with Subsection 4.2.5.B (4) e. (Setback Requirements for Accessory Structures). If a principal use, placement of a ground-mounted small-scale solar energy

Comment [AB90]: Staff revisions 8/24/16.

collection system shall comply with all applicable zoning district setbacks. If necessary for the system's effectiveness, ground-mounted small-scale solar energy collection systems may be located within the minimum setbacks as provided for accessory structures in Subsection 4.2.5.B.(4) e.

iii. Medium-Scale Ground Mounted Systems

- (A) A ground-mounted medium-scale solar energy collection system shall mean a solar-energy conversion system consisting of ground-mounted solar arrays or other solar energy fixtures, and associated control or conversion electronics, occupying between one-half (.5) acre and two and one half (2.5) acres of land.
- (B) Maximum Height: All ground-mounted medium-scale solar energy collection systems shall comply with accessory building height limits as contained in Subsection 4.2.5.B (4) e.
- (C) Setbacks: If located with a principal structure, ground mounted medium-scale solar energy collection systems shall be located in accordance with Subsection 4.2.5(4)e (Setback Requirements for Accessory Structures). If a principal use, placement of a ground-mounted medium-scale solar energy collection system shall comply with all applicable zoning district setbacks. If necessary for the system's effectiveness, ground-mounted medium-scale solar energy collection systems may be located within the minimum setbacks as provided for accessory structures in Subsection 4.2.5.B.(4) e.
- (D) The facility shall be secured from unauthorized access subject to the review and acceptance of the Brunswick Fire Chief relative to the provision of emergency services.
- (E) If located in the front yard, ground mounted medium-scale solar energy collection facilities shall be screened from view from any residential use, located within 100 feet or less of the facility, by a solid/completely blocking from view fence or vegetative buffer of at least 50% opacity at the time of installation, not to exceed six (6) feet in height.
- (F) Ground mounted medium-scale solar energy collection facilities shall be screened from view from each adjacent-abutting public right-of-way by a vegetative buffer of at least 50% opacity at the time of installation, not to exceed six (6) feet in height. All ancillary structures shall comply with all applicable zoning district dimensional standards.
- (G) Site lighting shall comply with Sections 4.10 (Outdoor Lighting) and 4.12 (Neighborhood Protection).

iv. Large-Scale Ground Mounted Systems

- (A) A ground-mounted large-scale solar energy collection system shall mean a solar-energy conversion system consisting of ground-mounted solar arrays or other solar energy fixtures, and associated control or conversion electronics, occupying over two and one-half (2.5) acres of land.
- (B) Maximum Height: Ground mounted large-scale solar energy collection facilities shall not exceed 20 feet in height, measured from the ground level to the highest point of the facility.

Chapter 3 - Property Use Standards
Section 3.4 Supplementary Use Standards
Subsection 3.4.1 Principal Uses

(C) Setbacks: Ground-mounted large-scale solar energy collection facilities shall be located a minimum of ten (10) feet from all property lines and other structures, or be setback a distance equal to the total height of the facility, whichever is greater. If located with a principal structure, if located with a principal structure, ground mounted medium-scale solar energy collection systems shall be located in accordance with Subsection 4.2.5(4)e (Setback Requirements for Accessory Structures). Additional setbacks may be required to mitigate visual and functional impacts.

(D) Ground mounted large-scale solar energy collection facilities shall be screened from view from any residential use, located within 100 feet or less of the facility, by a solid/completely blocking from view fence or vegetative buffer of at least 50% opacity at the time of installation, not to exceed six (6) feet in height.

(E) Ground mounted large-scale solar energy collection facilities shall be screened from view from each abutting public right-of-way by a vegetative buffer of at least 50% opacity at the time of installation, not to exceed six (6) feet in height. All ancillary structures shall comply with all applicable zoning district dimensional standards.

(F) The facility shall be secured from unauthorized access subject to the review and acceptance of the Brunswick Fire Chief relative to the provision of emergency services.

(G) Site lighting shall comply with Sections 4.10 (Outdoor Lighting) and 4.12 (Neighborhood Protection).

f.b. Building Structure Mounted Systems

- i. Solar energy collector systemss may be located-mounted on a principal or accessory structure in any zoning district.
- ii. Roof-mounted solar energy collector systemss shall not exceed the maximum height permitted in the zoning district in which it is located by more than 18 inches.
- iii. Roof-mounted solar energy collector systems shall not extend more than 18 inches above the tallest roofline of a single or two-family residential structure, or more than three (3) feet above the roofline of a multi-family, mixed use or non-residential structure.

Comment [AB91]: If on building, distance is irrelative.

~~g.c. Solar Energy Collection Facilities or Collectors Systems with the Village Review Overlay District~~

~~Ground mounted or structure mounted solar energy collection systems facilities or collectors~~ proposed ~~on a lot~~ within the Village Review Overlay District shall ~~obtain~~ require a Certificate of Appropriateness pursuant to ~~sub~~subsection 5.2.7 (Village Review Overlay Design Review).

~~(2)(3) Geothermal Energy Collection Facilities~~

- a. Accessory use geothermal energy collection facilities shall be located entirely underground, except that facilities connecting underground collection facilities to an aboveground structure are permitted provided:
 - i. They are located on a side or rear side of the building not abutting a public or private right-of-way unless screened by a vegetative buffer of at least 50% opacity at the time of installation, not to exceed six feet in height;

Comment [AB92]: Approved by ZORC 1/7/16

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Section 1.5 Conflicts; Relationship to Other Laws
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 more restrictive local, state, or federal law, rule, ordinance or regulation unless State or federal law requires a different outcome.

1.6 Nonconformities

1.6.1. General

A. Nonconforming Defined

As used in this Section, the term "nonconforming" refers to a lot, use, structure, site feature, or sign ~~which is allowed solely because it was that was lawfully established in lawful existence~~ at the time of the effective date of this Ordinance or a subsequent amendment ~~to the Ordinance took effect, but that no longer complies with the provisions of this Ordinance as applied to the property.~~

B. ~~Transfer of Ownership within the Shoreland Protection Overlay (SPO) District~~

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

C. ~~Repair and Maintenance within the Shoreland Protection Overlay (SPO) District~~

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

1.6.2. 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.

For purposes of the Shoreland Protection Overlay (SPO) District, a single nonconforming lot is a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the SPO or Sub-District of the SPO in which it is located.

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

(1) Undeveloped or partially developed

a. Outside Shoreland Protection Overlay (SPO) District

May be used as allowed by Chapter 3 (Property Use Standards) or subsection 1.6.3 (Nonconforming Uses) if either:

- i. The lot area is at least 3,000 square feet, and it complies with the Chapter 4 (Property Development 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 than 90%, and impervious surface coverage is no more than 110% of Chapter 4 standards.

b. Inside-Within SPO

May be built upon, without the need for a variance, provided that ~~the such~~ 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 and shore frontage can be met. Variances relating to setbacks or other requirements not involving lot area, ~~or~~ lot width and shore frontage shall be obtained by action of the Zoning Board of Appeals. "Develop" within the SPO is defined as a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

(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-Within 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 zoning district dimensional and density standards, 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-Within Subdivision

(1) Undeveloped

a. Outside and Inside-Within SPO

A single nonconforming lot may be used as allowed by Chapter 3 or subsection 1.6.3 if:

- i. Lot is in separate ownership and not contiguous with other lots in same ownership,

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Subsection 1.6.2 Nonconforming Lots

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.

Comment [JW2]: Any lots that do not meet the frontage and lot size requirements are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

(2) **Developed**

a. **Outside and ~~Inside-Within~~ 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 contained in Chapter 1, 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-Within~~ 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 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 practicable to the dimensional requirements in subsection 4.1 (Dimensional and Density Standards).

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

(1) **Both Lots Undeveloped ~~or Partially Developed~~**

a. **Outside or ~~Inside-Within~~ 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 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 lot area.~~

- i. ~~Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or~~

Comment [JW3]: This does not matter for SPO. Separate it from SPO if it matters elsewhere.

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~~ii.~~ Any lots that do not meet the frontage and lot size requirements of the SPO are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

~~iii.~~

(2) **Both Lots Developed**

a. **Outside or ~~Inside-Within~~ SPO**

~~iii.~~ If two (2) or more contiguous lots or parcels are in ~~common~~ single or joint ownership of record at the time of adoption or amendment 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 if the property is not served by public sewer, the lot can accommodate a subsurface wastewater sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules (in those areas not served by public sewer) are complied with.

If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

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

a. **Outside or ~~Inside-Within~~ 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 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.

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-Within~~ 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

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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~~ Within 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 dimensional and density regulations of the base or overlay district, except lot width or area.

1.6.3. Nonconforming Uses

The following standards apply both ~~inside-within~~ and outside the SPO District. For purposes of the SPO, a nonconforming use is the use of buildings, structures, premises, land or parts thereof which is not allowed in the SPO or Sub-District of the SPO in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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, 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.

C. Expansion of Use

A nonconforming use may be expanded throughout the existing structure housing the use. A nonconforming use may also be expanded throughout 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 subsection 5.2.3.C (Review of Expansions of Legally Nonconforming Unclassified or Omitted

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- 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.
- 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~~ Shoreland Protection Overlay - Resource Protection Sub-District (SPO-RP) or when located less than 250 feet from the ~~required structure setback from 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~~ Shoreland Protection Overlay - Resource Protection Sub-District (SPO-RP) or its equivalent was established on the lot or the structure setback within the SPO, 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).

Comment [JW12]: Simplified to avoid confusion with stream setback (75') - definition of each resource indicates where the setback is measured (i.e. upland edge, HAT, edge of stream floodplain wetlands...)

Comment [JW13]: Ch. 1000 requires?

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~~ Within 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, provided that the 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 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. 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

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Subsection 1.6.4 Nonconforming Structures

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)2.3.3.C(1), the total 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) (Nonconforming Structures/Expansion) . 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-Within~~ SPO District**

A nonconforming structure may be relocated to a different parcel provided it complies with the dimensional requirements of the base zoning district (and any applicable overlay district) in which it is relocated. 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.

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-Within~~ 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 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

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Subsection 1.6.5 Nonconforming Site Features

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-Within 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-within 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 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 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.

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 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.

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 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 Composting Operation: Composting that takes place on a farm. Agricultural composting operation does not include an operation that involves nonorganic municipal solid waste; that composts municipal sludge, septage, industrial solid waster or industrial sludge; or that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semivolatile organic compounds, polychlorinated biphenyls or dioxin.

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.

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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.

Archaeological and Historic Resources: Any material of past human life, activities, or habitation that are of historic or prehistoric significance.

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.

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.B(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.

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.

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.

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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.

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, 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.

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.

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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.

Stream: For purposes of the ~~Shoreland Protection Overlay (SPO) Stream Protection Sub-District (SPO-RP) within the Shoreland Protection Overlay District (SPO)~~, "stream" shall include a channel between defined banks. ~~A channel is~~ created by the action of surface water and has two (2) or more of the following characteristics:-

- (1A) It contains or is known to contain flowing water continuously for a period of at least six (6) months of the year under normal seasonal rainfall conditions.
- (2B) 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.
- (3C) 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.
- (4D) 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 drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

This definition is based on physical characteristics that need to be field verified. The mapped SPO-RP should not be considered a substitute for field verification.

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 craftsman 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

Comment [JW45]: "This definition is based on physical characteristics that in case of development need to be field verified. The mapped SPO-RP should not be considered a substitute for field verification."

Add this note somewhere.

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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.

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 highest annual 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.

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.

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 highest annual tide level, including all areas affected by tidal action. For freshwater wetlands, 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.

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.

Chapter 2 - Zoning Districts
Section 0 Summary Table
Subsection 1.7.2 Definitions

Table 1: Summary Table of Zoning Districts			
Old Zoning Districts		New Zoning Districts	
CU4	College Use 4 (Bowdoin Pines)	GC3	Growth College 3
CU7	College Use 7 (Longfellow)		
CU/TC	College Use/Town Conservation (former West Side BNAS)	GC4	Growth College 4
R-AR	BNAS Reuse – Aviation Related	GA	Growth Aviation
I-2	Large Scale Business, Industrial, & Institutional 2 (Church Rd. Ind. Park)	GI	Growth Industrial
I3	Large Scale Business, Industrial, & Institutional 3 (E. Bath Rd.-Harding Plant Area)		
R-B&TI	BNAS Reuse – Business and Technology Industries		
R-R&OS	BNAS Reuse – Recreation and Open Space	GO	Growth Outdoor Recreation
BCN	BNAS Conservation (growth area part)	GN	Growth Natural Resources
R-PO	BNAS Reuse – Professional Office		Combined earlier with RCMU
Rural Area Base Districts			
BCN	BNAS Conservation (rural area part)	RN	Rural Natural Resources
FF1	Farm and Forest 1 (Durham-Hacker Rd. Area)	RF	Rural Farm and Forest
CR1	Country Residential 1 (Northwest Brunswick)		
CR2	Country Residential 2 (Old Bath Rd. Area Outside Growth Area)	RR	Rural Residential
MU1	Mixed Use 1 (Lower Old Bath Rd. Area Outside Growth Area)		
CP1	Coastal Protection 1 (Mere Point Area)	RP1	Rural Protection 1
FF3	Farm and Forest 3 (New Meadows River Area)		
CP2	Coastal Protection 2 (Raymond Rd. Area)		
MU5	Mixed Use 5 (Portland Rd. Area)	RM	Rural Mixed Use
Overlay Zoning Districts			
APZ1	Aquifer Protection Zone 1	APO1	Aquifer Protection 1
APZ2	Aquifer Protection Zone 2	APO2	Aquifer Protection 2
APZ3	Aquifer Protection Zone 3	APO3	Aquifer Protection 3
NRPZ	Natural Resource Protection Zone (Shoreland Area)	SPO	Shoreland Protection Overlay
NRPZ	Natural Resource Protection Zone (Special Flood Hazard Area)	FPO	Flood Protection Overlay
<u>NRPZ</u>	<u>Natural Resource Protection Zone - 211.2.A.1(b-g)</u>	<u>SPO-RP</u>	<u>Shoreland Protection Overlay Resource Protection Sub-District</u>
<u>NRPZ</u>	<u>Natural Resource Protection Zone - marine activities; public or private boat launching facilities; and public recreation facilities adjacent to public swimming areas. (306.7; 211.2.R.1; and 211.2.D.1.e)</u>	<u>SPO-GD</u>	<u>Shoreland Protection Overlay General Development Sub-District</u>
<u>NRPZ</u>	<u>Natural Resource Protection Zone - marine activities; public or private boat launching facilities; and public recreation facilities adjacent to public swimming areas. (306.7; 211.2.R.1; and 211.2.D.1.e)</u>	<u>SPO-GD</u>	<u>Shoreland Protection Overlay General Development Sub-District</u>
RBSGO	Rural Brunswick Smart Growth Overlay – Wildlife Habitat Block	WPO	Wildlife Protection Overlay
RBSGO	Rural Brunswick Smart Growth Overlay – Wildlife Corridor		
MHZ	Mobile Home Park Zone	MHO	Mobile Home Park Overlay
FPZ1	BNAS Flight Path Zone 1 (Clear Zone)	AAO	Airport Approach Overlay
FPZ2	BNAS Flight Path Zone 2 (Noise/Accident Zone)		
TCZ1	Telecommunication Zone 1	TCO	Telecom Overlay
TCZ2	Telecommunication Zone 2		
VRZ	Village Review Zone	VRO	Village Review Overlay

- 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 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.
- (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

A. Purpose

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

- ~~(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~~ Applicability

- (1) The SPO District consists of:

a.

- ~~a.~~ All land areas within ~~a horizontal distance of 250 feet,~~ horizontal distance, of from the normal high-water line of any river; within 250 feet, horizontal distance, of the

Chapter 2 - Zoning Districts
Section 2.3 Overlay Zoning Districts
Subsection 2.3.3 Shorelands Protection Overlay (SPO) District

~~upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; and all land areas within 75 feet, horizontal distance of the edge of a stream.;~~

- ~~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.~~
- ~~b. The SPO Stream Protection Sub-District (SPO-SP) includes all land areas within 75 feet, horizontal distance of the edge of a stream, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a river, or upland edge of a freshwater or coastal wetland.~~
- ~~c. The SPO Resource Protection Sub-District (SPO-RP) includes the following areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.~~
 - ~~i. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.~~
 - ~~ii. Areas of two or more contiguous acres with sustained slopes of 20% or greater.~~
 - ~~iii. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.~~
 - ~~iv. Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or coastal wetlands, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W), and as shown on the Brunswick Official SPO Map.~~
- ~~e.d. SPO District and Sub-District boundaries are delineated on the Brunswick Zoning Map to the greatest extent practicable, and are defined herein.~~

Comment [JW64]: Add this for boat ramps, aquaculture, public rec. swimming areas – all with reduced setbacks and lax cutting standards.

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. All new principal or and accessory structures, except structures requiring direct access to the water as an operational necessity (including, but not limited to, piers, docks, retaining walls excluding functionally water-dependent uses, and public waterfront trails, but excluding recreational boat storage buildings), shall be~~

Comment [JW65]: Drafting SPO map with lidar 2-foot contours for replacement.

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~~located outside of any SPO Resource Protection Sub-District (SPO-RP), and~~ set back a minimum horizontal distance of: ~~at least~~

- i. 75 feet from the ~~normal high water line edge~~ 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 SPO 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.
 - 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-satisfy~~ 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.

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~~located outside of any SPO Resource Protection Sub-District (SPO-RP), and~~ set back a minimum horizontal distance of: ~~at least~~

- i. 75 feet from the ~~normal high water line~~ edge 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 SPO 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.
 - 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-satisfy~~ 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.

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- 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) Procedure for Administering Permits Within the SPO District

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

Comment [JW66]: Section for CEO / Development Review applicability

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

Comment [JW67]: Replace this template paragraph from Ch. 1000 with review procedure section if already detailed elsewhere in ordinance.

After the submission of a complete application to the Planning Board, Staff Review Committee, or Code Enforcement Officer, the review entity shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

Comment [JW68]: Replace this term with 'application' or 'proposal' if necessary.

~~(3)(4) Special Resource Protection Exceptions Permit Requirements~~

~~Properties that in addition to the criteria specified in 2.3.3.C.3., excepting structure setback requirements, lots were created prior to June 6, 1994, and lie within the minimum setback (250 feet) from moderate or high value habitat areas salt meadows that are rated "moderate" or "high" value waterfowl and wading bird habitat as shown on the Brunswick Official SPO Map; established in Section 2.3.3.C(1)iv above 2.3.3.C(1)a.iv above 2.3.3.C(1)a.iv above, and properties lots created prior to November 18, 2002, and lie within the minimum setback from a stream (i.e. the "SPO-SP") created as defined by the Town of Brunswick after November 18, 2002; and properties that were created prior to December 31, 2008, and lie within the minimum setback (250 feet) from freshwater wetlands or wetlands associated with rivers or that are rated "moderate" or "high" value waterfowl and wading bird habitat established in Section 2.3.3.C(1)a.iv above and shown on the Brunswick Official SPO Map, may be developed with 1-a single 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, ~~or~~ December 31, 2008 as ~~appropriate~~ applicable based on the description provided at Section 2.3.3.C.3;
- c. All proposed buildings, sewage disposal systems, and other improvements are
 - i. ~~Located~~ located on natural ground slopes of less than 20% percent; and
 - ii. ~~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.)
- d. 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 subsection 2.3.4 (Flood Protection Overlay (FPO) District).
- e. The total footprint areas defined, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by ~~v~~ variance.
- f. 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 extent practicable, but not less than a horizontal distance of 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 ~~the~~ "greatest 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.

Comment [JW69]: "Special Exception" Ch. 1000

Must also refer to conformance with SPO permit standards

Comment [JW70]: 6/6/94 may only apply to the eight (8) estuarine salt meadows on the 1973 MDIFW maps for waterfowl and wading bird habitat that were required for RP designation - 250-foot setback.

The Town's NRPZ map includes additional polygons for IWWH inland wetlands, and TWWH wetlands associated with the Andro that may have been added in 2008 based on the Zoning Ordinance amendment date in the NRPZ.

Revising the mapped bird habitat polygons is recommended because all wading bird, waterfowl, and shorebird feeding areas were refined by MDIFW in 2016.

Comment [JW71]: Check this reference.

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~~f.g.~~ A ~~Special Resource Permit~~~~Special Exception~~ 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)~~(5) **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.S (Marine Activity).

~~(5)~~(6) **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)~~(7) **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)~~(8) **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

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- (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.

~~(11)~~(12) **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 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 area. If five saplings do not exist, no woody stems less than 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 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 a cleared line of sight to the water through the buffer strip is not created.
- 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.

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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.

~~(22)~~(23) **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-Level~~ 1 or ~~Level-Level~~ 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

~~(23)~~(24) **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 4.9 (Parking and Loading). In addition parking spaces for vehicles with boat trailers shall be at least 40 feet in length.

~~(24)~~(25) **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.

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and approved by the Director, and the restored and/or enhanced acreage must be placed under permanent protection through a conservation easement, deed restriction, or similar mechanism, in accordance with subsection 4.1.4.C (Open Space Developments).

F. Density Bonus for Permanent Habitat Protection

A density bonus shall be granted in accordance with the eligibility provisions in subsection E above only if undisturbed land in the WPO on the parcel is permanently protected in accordance with the criteria and procedures contained in subsection 4.1.4.C

2.3.6. Mobile Home Park Overlay (MHO) District

A. Purpose

The Mobile Home Park Overlay (MPO) District is intended to recognize and provide for the development of mobile home parks in a manner that allows the Town to address their potential impacts on adjacent neighborhoods through special review and the application of specific standards, and subject to site plan and/or subdivision approval.

B. Mobile Home Park Standards

(1) Review Requirements

All new and expansions of mobile home parks are subject to subdivision approval.

(2) Underlying Base Zoning District Standards

- (3) All use and development regulations applicable in the underlying base zoning district shall continue to apply in the MHO District unless expressly provided otherwise in this subsection. Public Water and Public Sewer**

Sufficiently sized public water and public sewer facilities are required for all mobile home parks, unless it can be demonstrated that adequate on-site water supply and septic disposal systems are available.

(4) Minimum Lot Size and Density

The following minimum standards do not include minimum lot standards for land within the SPO. Minimum lot standards within the SPO are described in Section 4.2.5.F.

- a. With public sewer, the minimum individual lot size shall be 4,000 square feet.
- b. With on-site sewage disposal within a community septic system for the park approved by the Maine Department of Health and Human Services, the minimum individual lot size shall be 13,000 square feet, provided that the maximum residential density in the park does not exceed one dwelling unit per 20,000 square feet of net site area.
- c. Where on-site sewage disposal is located on each lot, the minimum individual lot size shall be 20,000 square feet.
- d. Mobile home parks shall not be additionally subject to the underlying district dimensional and density requirements.

(4)(5) Lot Dimensions

Dimensions for individual mobile home sites are as follows:

- a. Minimum Site Width: 50 feet

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 Subsection 2.3.7 Airport Approach Overlay (AAO) District

Table 2.4.7: Use Table for AAO District Zones		
P = Permitted C = Allowed Only with a Conditional Use Permit X = Prohibited		
Use	RPZ	APZ
Plant nursery	X	P
Urban agriculture	X	P
Veterinary office	X	C
Food, Beverage, and Entertainment		
Adult entertainment establishment	X	X
Golf course	X	C
Recreation facility, as a principal use	X	C
Restaurant or dining facility	X	X
Theater	X	X
Lodging		
Campground	X	X
Hotel	X	X
Retail Sales and Services		
Financial institution	X	C
Neighborhood store	X	C
Office	X	C
Retail, Class I	X	C
Retail, Class II	X	C
Service business, Class I	X	C
Service business, Class II	X	C
Studio	X	C
Transportation and Vehicle-Related Uses		
Aviation operations	P	P
Aviation-related business	X	P
Bus or rail station	X	C
Car wash	X	P
Marina or boat storage	X	P
Motor vehicle fueling station	X	X
Motor vehicle service or repair	X	P
Parking facility, as a principal use	X	C
Ultra-light airpark	X	X
Vehicle sales, rental, or storage	X	P
Industrial Uses		
Contractor's space	X	C
Industry, Artisan	X	C
Industry, Class I	X	C
Industry, Class II	X	C
Junkyard or automobile graveyard	X	P
Marine activity	X	P
Mineral extraction	X	X
Recycling collection facility, as a principal use	X	P
Renewable energy generating facility, as a principal use	X	C
Utility facility, major	X	C
Utility facility, minor	C	C
Warehousing and storage	X	C
Accessory Uses		
Accessory apartment	X	C
Bed and breakfast	X	X

Comment [JW81]: Add to SPO

Chapter 3 - Property Use Standards
 Section 3.2 Growth Area Permitted Use Table
 Subsection 3.1.2 Other Restrictions on Permitted Uses

Table 3.2: Permitted Use Table for Growth Area Zoning Districts

P = Permitted C = Allowed Only with a Conditional Use Permit X = Prohibited
 A = Allowed Only as an Accessory Use T = Allowed only as Temporary Use

Land Use	NEW ZONE	GR1	GR2 & 10	GR3	GR4	GR5	GR6	GR7	GR8	GR9	GM1	GM2	GM3	GM4	GM5	GM6	GM7	GM8	GC1	GC2	GC3	GC4	GA	GI	GO	GN	Supple- mentary Use Standards	
	CURRENT ZONE	RR	R1 & 8	R2	R3, 4, 5, 6	R7	TR1	TR2	TR3 & 4	TR5	MU2	MU3 & 6	MU4, 11, 14	MU1, CC	FC1 & 2	FC1, 2, 3	RCMU	MUOZ	CU1, 2 & 3	CU5 & 6	CU4 & 7	CU/TC	R-AR	R-13, RBT1	R-R&OS	BCN		
Motor vehicle service or repair		X	X	X	X	X	X	X	X	X	P	X	X	X	P	P	P	P	X	X	X	X	X	X	X	X		
Parking facility as a principal use		X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	C	C	P	P	P	P	P	X	
Ultra-light airpark			X	X	X	X	X	X	X	X	C	C	C	C	C	C	C	X	X	X	X	X	C	C	X	X		Error! Referenc e source not found.
Vehicle sales, rental, or storage		X	X	X	X	X	X	X	X	X	P	X	X	P	X	X	X	X	X	X	X	X	X	C	X	X	X	3.4.1.N
Industrial Uses																												
Contractor's space		X	X	X	X	X	X	X	X	X	C	C	C	C	C	P	P	X	X	X	C	X	A	P	X	X	3.4.1.O	
Industry, Artisan		X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	X	X	X	X	P	P	X	X	X		
Industry, Class I		X	X	X	X	X	X	X	X	X	P	C	C	C	X	P	X	X	X	X	X	P	P	X	X	X	3.4.1.P	
Industry, Class II		X	X	X	X	X	X	X	X	X	C	C	C	C	X	P	X	X	X	X	X	P	P	X	X	X	3.4.1.Q	
Junkyard or automobile graveyard		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	3.4.1.R	
Marine activity		X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	X	X	X	X	X	P	P	P	X	X	3.4.1.S	
Mineral extraction		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	3.4.1.T	
Recycling collection facility, as a principal use		X	X	X	X	X	X	X	X	X	P	C	C	C	C	P	P	X	X	X	X	P	P	X	X	X	Error! Reference source not found.	
Renewable energy generating facility, as a principal use		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	P	C	X	3.4.1.U	
Utility facility, major		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	X		
Utility facility, minor		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Warehousing and storage		X	X	X	X	X	X	X	X	X	P	C	P	P	C	X	P	C	P	A	A	P	P	P	X	X		
Accessory Uses																												
Accessory apartment		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	P	X	X	X	3.4.2.A	
Bed and breakfast		X	X	X	P	P	C	C	C	P	P	P	P	P	P	P	P	C	C	C	P	X	P	X	X	X		
Canopy																											3.4.1.M	
Day care facility, small		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X		
Day care facility, large		C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	X		
Drive-through service		X	X	X	X	X	X	X	X	X	P	X	P	P	P	C	C	P	X	X	X	X	X	X	X	X	3.4.2.B	
Helipad		X	X	X	X	X	X	X	X	X	X	X	C	X	X	X	X	C	X	X	X	X	C	X	X	X		
Home occupation		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	3.4.2.C	
Parking facility, as an accessory use		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Recreation facility, as an accessory use		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	P	X	P ¹¹		

Comment [JW87]: Add to SPO

Chapter 4 - Property Development Standards

4.1 Applicability of Property Development Standards

4.1.1. Generally

Except for single and two family developments, all developments shall comply with the standards in Chapter 4. Property development standards shall apply to all development, with the exception of one and two-family dwellings constructed on a lot not part of an approved subdivision or site plan, unless specifically stated to be applicable.

4.1.2. Single and Two Family Dwellings Constructed on Lots Separate From an Approved Subdivision or Site Plan

Single and two family residential dwellings constructed on lots separate from an approved Subdivision or Site Plan must comply with the standards in 4.2.2 (Dimensional and Density Standards), 4.5.1 (Sewer), 4.5.2 (Water), 4.5.3 (Solid Waste), 4.7 (Residential Recreation Areas), 4.8.2 (Curb Cuts), and 4.14.1 (Operation of Uses and Development) only.

4.2 Dimensional and Density Standards

4.2.1. General Standard

All development must comply with the applicable density and dimensional standards of the district in which the development is located.

4.2.2. Specific Standards

- A. The tables in Section 4.2.3 (Growth Area Dimensional and Density Standards) and Section 4.2.4 (Rural Area Dimensional Standards) set forth density and dimensional standards applicable to development in the various Growth Area and Rural Area base zoning districts. The standards in the tables are supplemented by provisions in Section 4.1.4 (Supplementary Dimensional Standards and Exceptions) that set forth additional standards, alternative standards, and exceptions to the standards in the tables. Where standards in Section 4.2.4 conflict with those in Section 4.2.2 or Section 4.2.3, the standards in Section 4.2.4 shall govern.
- B. Nothing in this Ordinance precludes the subdivision of buildings into units, either attached or detached, on a single lot, provided that all applicable lot area, dimensional, and density standards are met. Applications for approval of any such proposal that involve Development Review must also include all legal documents related to unit associations, ownership in common, and appropriate by-laws, deeds, and covenants to be recorded in the Cumberland County Registry of Deeds by the applicant.
- C. If a Common Development Plan designation has been obtained pursuant to Section 5.2.8.H, the terms of that designation may vary the standards in Tables 4.1.2 and 4.1.3, and may result in the required dimensional and density standards applying to the lot(s) approved as the Common Development Plan area.
- D. Section 4.2.5.F sets forth minimum lot standards for the Shoreland Protection Overlay Zone (SPO) unless the underlying zoning district requires more land area in which case the underlying zoning district standard shall apply.

Chapter 4 - Property Development Standards
 Section 4.2 Dimensional and Density Standards
 Subsection 4.2.3 Growth Area Dimensional and Density Standards

4.2.3. Growth Area Dimensional and Density Standards

Table 4.2.3: Dimensional and Density Standards for Growth Area Zoning Districts [Unless separate standards approved in Common Development Plan]																											
Standard	New Zone	GR1	GR2 & 10	GR3	GR4	GR5	GR6	GR7	GR8	GR9	GM1	GM2	GM3	GM4 ⁽¹⁾	GM5	GM6	GM7	GM8	GC1	GC2	GC3	GC4	GA	GI	GO	GN ⁽²⁾	
	Current Zone	R-R	R1 & 8	R2	R3, 4, 5, 6	R7	TR1	TR2	TR3 & 4	TR5	MU2	MU3 & 6	MU4 11, 1-4	MU1, CC	HC1 & 2	TC1, 2, 3	R-CMU	MUOZ	CU1, 2 & 3	CU5 & 6	CU4 & 7	CU/TC	R-AR	I2, I3 & R-B&TI	R-R&OS	GCN ⁽²⁾	
Lot area, min.		n/a for residential uses; 7,000 sq. ft. for non-residential uses ⁽²²⁾									n/a for residential uses; 7,000 sq. ft. for non-residential uses ⁽²²⁾						n/a for residential uses; 7,000 sq. ft. for non-residential uses ⁽²²⁾										
Density, max. (dwelling units per acre of net site area)		8	4	6 ⁽³⁾	6	7	10	5	6	6	6	10	10	15	6	n/a	24	6	12	24 ⁽⁴⁾	5 ⁽⁵⁾	24	n/a	n/a	n/a	n/a	
Lot width, min. (feet)		40	65	75	75	65	65	65	65	65	60	65	75	60	75	n/a ⁽⁶⁾	n/a	75	65	65	65	40	50	50	n/a	n/a	
Building frontage, min. (% of lot width)		80													75 ⁽⁶⁾						n/a	n/a	n/a	n/a	n/a		
Building frontage, max. (% of lot width)		100													100 ⁽⁷⁾											n/a	
Front setback, min. (feet) ⁽⁸⁾		0	15	20	20	15	15	20	20	20	20	15	30	0	15	0 ⁽¹²⁾	0	20	15 ⁽¹⁹⁾	15	15	10	0	10	0	n/a	
Build-to Zone (feet) ⁽⁸⁾															0-5 ⁽¹⁰⁾											n/a	
Rear setback, min. (feet)		0	20	20	20	20	15	20	20	20	20	20	30	15	15	0 ⁽¹²⁾	0	30	15 ⁽¹⁹⁾	15 ⁽¹⁹⁾	15	10	20	20	20	n/a	
Side setback, min. (feet)		0	15	15	15	15	15	15	15	15	15	15	15	0	20	0 ⁽¹²⁾	0	30	15 ⁽¹⁹⁾	15 ⁽¹⁹⁾	15	10	15	15	10	n/a	
Impervious surface coverage, max. (% of lot area)		45	35	35	35	35	50	35	35	35	75	50	60	80 ⁽¹¹⁾	70	100 ⁽¹²⁾	100	50	60	50	50	50	80	80	10	⁽²⁾	
Building height, min. (feet)		24													24		24									n/a	
Building height, max. feet ⁽¹⁴⁾		50	35	35	35	35	35	35	35	35	40	35	60	60	45	40 ⁽¹⁵⁾	50	40	70 ⁽²⁰⁾	45	35	70	100	60	35	n/a	
Building footprint per structure, max. (1,000 square feet)		20 ⁽⁹⁾	5	5	5 ⁽¹⁶⁾ 5 ⁽¹⁹⁾	5 ⁽¹⁹⁾	7.5	5	5	5	20	5	30 ⁽²¹⁾	50 ⁽¹⁸⁾	20	n/a ⁽¹²⁾	n/a	7.5	n/a	8.5	5 ⁽¹⁷⁾	n/a	n/a	n/a	n/a	n/a	n/a

Chapter 4 - Property Development Standards
 Section 4.2 Dimensional and Density Standards
 Subsection 4.2.4 Rural Area Dimensional Standards

**Table 4.2.3: Dimensional and Density Standards for Growth Area Zoning Districts
 [Unless separate standards approved in Common Development Plan]**

Standard	New Zone	GR1	GR2 & 10	GR3	GR4	GR5	GR6	GR7	GR8	GR9	GM1	GM2	GM3	GM4 ⁽¹⁾	GM5	GM6	GM7	GM8	GC1	GC2	GC3	GC4	GA	GI	GO	GN ⁽²⁾
	Current Zone	R-R	R1 & 8	R2	R3, 4, 5, 6	R7	TR1	TR2	TR3 & 4	TR5	MU2	MU3 & 6	MU4 I1, I-4	MU1, CC	HC1 & 2	TC1, 2, 3	R-CMU	MUOZ	CU1, 2 & 3	CU5 & 6	CU4 & 7	CU/TC	R-AR	I2, I3 & R-B&TI	R-R&OS	BCN

NOTES:
 [1] All new, enlarged, or redeveloped buildings and additions in the GM4 District subject to Development Review shall also be consistent with the Cook's Corner Design Standards, unless such design standards are waived in accordance with Section 0 (Waiver Provisions (Waiver Provisions)).
 [2] Area of new disturbance per parcel shall not exceed 1% of total acreage, measured at time of ordinance adoption.
 [3] 1 du per 20,000 sf of net site area for developments using subsurface wastewater disposal systems.
 [4] Except that lands north of Bath Road shall be limited to 8 du/ac.
 [5] Except that parcel between South Street and Longfellow Avenue shall be limited to 10 du/ac.
 [6] Applicable only to the first floor of buildings along Maine Street. Does not apply to buildings on Park Row.
 [7] Does not apply to buildings on Park Row.
 [8] Front setback averaging applies; See subsection 4.2.5.B(4)
 [9] See Cook's Corner Design Standards for maximum front setbacks applicable along Bath Rd., Gurnet Rd., proposed Perimeter Rd, Thomas Point Rd., and all public and private connector roads.
 [10] Applicable only to the first floor of buildings along Maine Street. For all other buildings in the GM6 District, the build-to zone is determined by the range of front setback of principal buildings on the nearest occupied lots on either side on the same block face. Does not apply to buildings on Park Row.
 [11] Limited to 50% impervious coverage and maximum building footprint of 20,000 sq. ft. north of Route 1.
 [12] Except that parcels fronting onto Park Row front setbacks shall be consistent with the established average front setback (see subsection 4.2.5.B (4)), shall have minimum side and rear setbacks of 15 feet in width; a minimum lot width of 60 feet; a maximum footprint of 7, 500 square feet and a maximum impervious coverage of 45%;
 [13] Minimum height is triggered if floor area is being increased by 50%, and must be met at front lot line.
 [14] Unless restricted to a lower height by Flight Path Overlay (FO) District regulations (see Section 2.3.7).
 [15] Except that lands north of U.S. Highway 1 shall have a maximum building height of 60 ft.
 [16] May be increased to up to 30,000 square feet for a community living facility as defined by 30-A M.R.S.A § 4357-A, with a Conditional Use Permit approved in accordance with Section 5.2.3 (Conditional Use Permit).
 [17] 10,000 square feet for multifamily dwellings, and 20,000 square feet for the Bowdoin College Edwards Center for Art and Dance building.
 [18] 300,000 square feet if the structure meets one of the conditions listed in Section 4.2.5.B(9).
 [19] See subsection 4.2.5.B(4)d for additional setback requirements.
 [20] See subsection 4.2.5.B.(7) for additional height requirements..
 [21] No building footprint restriction shall apply for properties located south of Route 1, along Cressey Road and Columbia Drive.
 [22] For minimum lot size within the Shoreland Protection Overlay District (SPO) see Section 4.2.5.F.

4.2.4. Rural Area Dimensional Standards

Table 4.2.4: Dimensional and Density Standards Table for Rural Zoning Districts

Standard	New Zone	RN ⁽¹⁾	RF	RR	RP1	RP2	RM
	Current Zone	BCN	FF1, CR1	CR2, MU1	CP1, FF3	CP2	MU5
Minimum Lot Area	Residential ⁽⁶⁾	n/a	2 ac	1.5 ac	20,000 sf ⁽²⁾	20,000 sf ⁽²⁾	2 ac
	Nonresidential ⁽⁶⁾				4 ac ⁽²⁾	4 acres ⁽²⁾	

Chapter 4 - Property Development Standards
 Section 4.2 Dimensional and Density Standards
 Subsection 0

Table 4.2.4: Dimensional and Density Standards Table for Rural Zoning Districts

Standard	New Zone	RN ^[1]	RF	RR	RP1	RP2	RM
	Current Zone	BCN	FF1, CR1	CR2, MU1	CP1, FF3	CP2	MU5
Maximum Density	Developments subject to Development Review	n/a	1 du per 2 ac	1 du per 1.5 ac	1 du per 4 ac	hibu per 4 ac	1 du per 2 ac
	Developments not subject to Development Review				1 du per 5 ac	1 du per 5 ac	
Lot width, min. (feet)		n/a	150	150	125	125	150
Front setback, min. (feet)		n/a	25	25	30 ^[4]	30 ^[4]	25 ^[3]
Rear setback, min. (feet)		n/a	30	30	30 ^[4]	30 ^[4]	30
Side setback, min. (feet)		n/a	30	30	25 ^[4]	25 ^[4]	30
Impervious surface coverage, max. (% of lot area)		[3]	20%	20%	Lesser of 35% or 10,890 sf	Lesser of 40% or 21,780 sf	25%
New lawn area for wooded sites (1,000 square feet)		[3]			20	20	
Building height, max. (feet)		n/a	40	40	40	40	40
Building footprint per structure, max. (1,000 square feet)		n/a	10	10	10	10	10

NOTES: ac = acre(s) sf = square feet

- [1] Area of new disturbance per parcel shall not exceed 1% of total acreage, measured at time of ordinance adoption.
- [2] See Subsection 4.2.5.B (10) (Supplementary Dimensional and Density Standards and Exceptions) for additional requirements.
- [3] Wooded buffers fronting Old Portland Road on [effective date of this Ordinance] shall be maintained at a minimum depth of 25 feet for structures having a footprint less than 5000 square feet and a minimum depth of 50 feet for structures having a footprint over 5000 square feet, subject only to necessary interruptions for infrastructure, to be finalized during Development Review or Building Permit approval.
- [4] Additional building setback may be required in accordance with Subsection 4.2.5.B (4) e.
- [5] No building footprint restriction shall apply for properties located south of Route 1, along Cressey Road and Columbia Drive.
- [6] For minimum lot size within the Shoreland Protection Overlay District (SPO) see Section 4.2.5.F

Comment [JW127]: See above (#2)

Comment [JW128]: 10. Significant wildlife habitat. "Significant wildlife habitat" means:
 A. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by the Department of Marine Resources; and [2009, c. 561, §37 (AMD).]
 B. Except for solely forest management activities, for which "significant wildlife habitat" is as defined and mapped in accordance with section 480-1 by the Department of Inland Fisheries and Wildlife, the following areas that are defined by the Department of Inland Fisheries and Wildlife and are in conformance with criteria adopted by the Department of Environmental Protection or are within any other protected natural resource:
 (1) Significant vernal pool habitat;
 (2) High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas; and
 (3) Shorebird nesting, feeding and staging areas. [2005, c. 116, §2 (NEW).]
 [2009, c. 561, §37 (AMD) .]

4.2.5. Supplementary Dimensional and Density Standards and Exceptions

A. Calculation of Net Site Area

Net site area is calculated by subtracting from the parcel the full area of land that consists of:

- (1) Land areas of 5,000 or more contiguous square feet with sustained slopes of 25% or greater;
- (2) Any wetland, including but not limited to, coastal, forested and freshwater wetlands;
- (3) ~~Is located below the normal high water line of any freshwater or coastal wetland.~~
- (4) Any water body;
- (5) Any existing or proposed public street or private street right-of-way;
- (6) Habitat for species appearing on the official State or Federal lists of endangered or threatened species, where there has been evidence of the occurrence of the species;
- (7) Any of the following as defined by the Natural Resources Protection Act (NRPA):

F. Minimum Lot Standards within the SPO

	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Shore Frontage (ft.)</u>
a. Residential per dwelling unit		
i. Within the SPO		
Adjacent to Tidal Areas	30,000	150
ii. Within the SPO		
Adjacent to Non-Tidal Areas	40,000	200
iii. Within the SPO Adjacent to Tidal Areas in the Growth Zone and Served by Public Water and Sewer		
	#	#
iv. Within the SPO Adjacent to Non-Tidal Areas in the Growth Zone and Served by Public Water and Sewer		
	#	#
b. Governmental, Institutional, Commercial or Industrial per principal structure		
i. Within the SPO		
Adjacent to Tidal Areas, Exclusive Of Those Areas Zoned for Commercial Fisheries and Maritime Activities	30,000	150
ii. Within the SPO		
Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	None	None
iii. Within the SPO		
Adjacent to Non-Tidal Areas	60,000	300
c. Public and Private Recreational Facilities		
i. Within the SPO		
Adjacent to tidal and Non-Tidal Areas	40,000	200
1. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
2. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was		

Comment [JW142]: Note from Ch. 1000:
 In a district equivalent to a General Development District that is served by municipal water and sewer systems the Department may approve a municipal shoreland zoning ordinance that provides for greater residential densities than set forth in Section 15(A)(1) above.

Comment [JW143]: Or Marine Activity?

Comment [JW144]: Same comment.

Chapter 4 - Property Development Standards
Section 4.3 Natural and Historic Areas
Subsection 4.3.1 Mapping of Natural and Historic Areas Requirements

established by the owner of land on both sides thereof after September 22, 1971.

3. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

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

4.3 Natural and Historic Areas

4.3.1. Mapping of Natural and Historic Areas Requirements

A. General Standard

The development application shall include maps of all existing features important to the natural, scenic, and historic character of the Town or that add to the visual quality of a development. To the greatest extent practicable, developments shall avoid such features and incorporate them into the development site design as dedicated open space or as otherwise protected features.

B. Specific Standards

- (1) Any active farmland generating income within the development or proposed development shall be mapped and may be done with the help of the local soil and water conservation service.
- (2) Rivers, streams and brooks, as defined in Title 38, Section 480-B, Subsection 9, M.R.S.A., shall be mapped.
- (3) All freshwater wetlands, regardless of size, and forested wetlands over two (2) acres in size shall be mapped. Such maps may be done with the help of the Cumberland County Soil and Water Conservation District.
- (4) Other mapping requirements contained in Chapters 2 and 3 shall also be included on maps accompanying the development application.

4.3.2. Pollution

A. General Standard

The development will not result in undue water or air pollution.

Chapter 5 - Administration
Section 5.1 General Provisions
Subsection 5.1.1 Reviewers and Decision-Makers

- b. The members include a resident of the Village Review Zone and a Brunswick resident who is a representative of the Pejepscot Historical Society. To the extent possible, the remaining members include Brunswick residents with expertise or experience in the fields of architecture, historic preservation and construction engineering.

(2) Powers and Duties

The Village Review Board shall have the following powers and duties:

- a. Review new construction, additions, alterations, relocations and demolitions within the Village Review Zone, and issue a Certificate of Appropriateness for applications satisfying the requirements of this Section.
- b. Develop, regularly update, and consult the Village Review Zone Design Guidelines in review of applications for Certificates of Appropriateness.
- c. Act in an advisory capacity to the Town Council, Planning Board and other Town entities regarding the protection of historic sites, structures, and artifacts.
- d. Review and comment upon proposed National Register of Historic Places nominations for properties within the Town.
- e. Maintain and update the existing historic building/structure survey using forms and guidelines established by the Maine Historic Preservation Commission.
- f. Provide educational and informational opportunities for Brunswick residents and businesses regarding historic preservation.
- g. Adopt rules of procedure and shall establish appropriate meeting times.

E. Staff Review Committee

(1) Membership

The Staff Review Committee consists of the Director, Public Works Director, Codes Enforcement Officer, Town Planner, Parks and Recreation Director, Fire Chief, Police Chief, Town Assessor, Marine Resource Officer/Harbor Master, General Manager of the Brunswick and Topsham Water District, and the General Manager of the Brunswick Sewer District, and their official designees. For the review of projects in the GR1, GA, GO, GI (within former BNAS), GN, GM7 Districts, the Staff Review Committee is expanded to include one nonvoting staff representative from the Midcoast Regional Redevelopment Authority (MRRRA) designated in writing by the Executive Director of MRRRA.

(2) Powers and Duties

The Staff Review Committee shall have the following powers and duties:

a. Development Review.

When acting in its Development Review capacity:

- i. The Staff Review Committees exercises all of the powers exercised by the Planning Board including the power to grant waivers, and the power to approve, approve with conditions, or deny applications for Site Plan approval.
- ii. Actions by the Staff Review Committee to approve an application, with or without conditions, require the approval of three (3) members or a majority of those members present and voting, whichever is greater. A quorum shall consist of three (3) members. The Staff Review Committee may waive provisions of this Chapter, in accordance with subsection O {

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.6 Appeals of Administrative Decisions and Variances

- b. The Zoning Board of Appeals may impose conditions on the Variance, including limiting the Variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.

(5) Criteria for Approval of a Disability Variance for Vehicle Storage

- a. The Zoning Board of Appeals shall not grant a Variance pursuant to Subsection 5.2.6.B(1)c. for this purpose unless it finds that all of the following criteria have been met:
 - i. The Variance is necessary for the owner of a dwelling who resided in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose.
 - ii. The width and length of the structure may not be larger than two times the width and length of the noncommercial vehicle.
 - iii. The owner shall submit proposed plans for the structure with the request for the Variance pursuant to this paragraph to the Zoning Board of Appeals.
 - iv. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.
 - v. For the purposes of this Subsection 5.2.6.B, "noncommercial vehicle" means a motor vehicle as defined in Maine Statutes Revised, Title 29-A, Section 101, Subsection 42 with a gross vehicle weight of no more than 6,000 pounds bearing a disability registration plate issued pursuant to Title 29-A, Section 521 and owned by the person with the permanent disability. For purposes of this Subsection, "disability" has the same meaning as a physical or mental disability under Maine Statutes Revised Title 5, Section 4553-A.
- b. The Zoning Board of Appeals may impose conditions on the Variance, including limiting the Variance to the duration of the disability or to the time that the person with the disability lives in the dwelling.

(6) Additional Criteria for Variances in the SPO and FPO Districts

- a. In addition to meeting the criteria in Error! Reference source not found..B.(2) a. through d., above, as applicable, an application for a Variance on property located in the SPO District shall meet the following additional requirements:
 - i. The Board shall make a positive finding for each of the following additional criteria, where applicable:
 - (A) Will ~~not result~~ maintain in unsafe or and unhealthful conditions;
 - ~~(B) Will not result in erosion or sedimentation;~~
 - ~~(C)(B) Will not result in water pollution; Will not result in pollution, erosion, or sedimentation to surface waters~~
 - ~~(D)(C) Will not result in damage to have an adverse impact on~~ spawning grounds, fish, aquatic life, bird and other wildlife habitat
 - ~~(E)(D) Will conserve shoreland vegetation;~~
 - ~~(F)(E) Will conserve visual points of access to waters as viewed from public facilities;~~
 - ~~(G)(F) Will conserve actual points of public access to waters;~~

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~~(H)(G)~~ Will conserve natural beauty; and

~~(H)(H)~~ Will avoid problems associated with the floodplain development and use, such as erosion, increased risk of flood damage to upstream properties or increased flood damage.

- b. In addition to meeting the criteria in Subsection Error! Reference source not found..B.(2) a. through d., as applicable, an application for a Variance on property located in the FPO District shall meet the following additional requirements:
- i. Within any designated regulatory floodway will not result in an increase in flood levels during the base flood discharge;
 - ii. Is supported by good and sufficient cause;
 - iii. Will not result, should a flood comparable to the base flood occur, in increased flood height, additional threats to public safety, public expense or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances;
 - iv. Will not cause a conflict with other state, federal or local laws or ordinances; and,
 - v. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a Variance as it deems necessary.
 - vi. If the Variance is for new construction, substantial improvements, or other development for the conduct of a functionally water-dependent use, the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety, and other criteria of Subsection 5.2.5.C (Review Standards for Flood Hazard Development Permit Applications) and Section 2.3.4 (Flood Protection Overlay (FPO) District) are met.
 - vii. If the Variance is for the repair, reconstruction, rehabilitation, or restoration of Historic Structures, the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure, the Variance is the minimum necessary to preserve the historic character and design of the structure, and the development meets the criteria of Subsection 5.2.6.B(2) (General Criteria for Approval).
- c. Any applicant who meets the criteria of Subsection 5.2.6.B(2) (General Criteria for Approval) and Section 5.2.5.F (Additional Criteria for Variances in the SPO and FPO Districts) shall be notified by the Zoning Board of Appeals in writing that:
- i. The issuance of a Variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - ii. Such construction below the base flood level increases risks to life and property; and,

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economic feasibility for restoration, renovation, or rehabilitation of the contributing resource versus demolition or relocation of same.

- iii. The proposed replacement structure or reuse of the property is deemed to be as appropriate and compatible with the existing streetscape and surrounding contributing resources.
- b. Demolition, partial demolition or relocation of a noncontributing resource visible from a public right-of-way, shall be approved by the Village Review Board if it is determined that the proposed replacement structure or reuse of the property is deemed more appropriate and compatible with the surrounding contributing resources than the resource proposed for demolition.

D. Expiration of Certificate of Appropriateness

If two (2) years after issuance of a Certificate of Appropriateness, the approved work is not found to be complete by the Codes Enforcement Officer, the approval shall lapse. The applicant may, at any time before the date of approval expiration, make a written request to the Village Review Board for an approval time extension. This request shall explain the reasons why the improvements have not been completed and indicate how the applicant expects to complete the project if the Board grants an extension. The Board may consider any changes to this Ordinance or any other new information relevant to the application when considering an extension request.

5.2.8. Development Review

A. In General

- (1) Development review includes Subdivision and Site Plan review, and certain changes of use and other procedures as outlined in Subsection 5.2.8.B(2) (Development Activities Subject to Development Review).
- (2) All time frames for Development Review expressed in this section are minimums. The Town's staff and reviewing entities shall make every effort to conduct reviews as expeditiously as possible.

B. Applicability

(1) Development Activities Not Subject to Development Review

Development Review does not apply to:

- a. Single or two-family dwellings, and uses or structures accessory to single or two-family dwellings.
- b. Agricultural land management practices, including farm and woods roads developed in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," as amended, unless located within the Shoreland Protection Overlay Resource Protection Sub-District (SPO-RP).
- c. Unpaved trails and paths developed in accordance with "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices," as amended, unless located within the Shoreland Protection Overlay Resource Protection Sub-District. (Groups or individuals planning such trails and paths are encouraged to consult with the Planning and Development Department prior to construction).
- d. The initial non-military re-occupancy of a building in the Brunswick Landing area existing as July 20, 2009, provided all of the following are met:

Comment [JW237]: Yes, agriculture activities in SPO-RP may trip development review depending on the proposed activity (i.e. disturbing 100 cubic yards for a new corn field in existing forested land). Maintenance and repair may be allowed without development review. RP may be defined to exclude existing developed land per Ch. 1000. This may include land that is routinely disturbed for normal farming activities. Normal farming activities may not include converting forested land to fields but tilling an existing field, or creating new farm roads should be allowed.

**Table 5.2.8.B
 Development Review Threshold Criteria**

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
Ultra-Light Airpark	All Zoning Districts	All	Major Development Review	Planning Board
Hours of Operation	Residential Districts	Non-residential use with operating hours between 11pm and 7am	Major Development Review	Planning Board
For Shoreland Protection Overlay:				
Filling and Earthmoving Activity	SPO	>10 cubic yards 10 cubic yards or less	SPO Permit	CEO
	SPO-RP	>10-100 cubic yards, >100 cubic yards	Minor Development Review, Major Development Review	CEO; Staff Review Committee; Planning Board
	SPO-SP	10 cubic yards or less >10-100 cubic yards >100 cubic yards	SPO Permit; Minor Development Review, Major Development Review	CEO; Staff Review Committee; Planning Board

Comment [JW243]: Currently less than 10 cy is reviewed by CEO. Ch. 1000 allows this to comply with basic management (E&S control, etc.) but not require review.

Comment [JW244]: Same 10 cy comment

Comment [JW245]: Same 10 cy comment

C. Cumulative Development and Amendments

- (1) Development Review thresholds shall be based upon cumulative development totals over a five (5) year period. If any threshold is exceeded during any five (5) year period, all development within that time period shall be subject to review.
- (2) Amendments to approved plans shall be subject to the appropriate level of review.

D. Joint Meeting, Hearing, and Application

If a Development Review application includes both Subdivision and Site Plan review, the Planning Board shall consider the Subdivision and Site Plans together. A single application may be filed, provided that it contains all necessary information for both approvals.

E. Effect of Violations on Application

No application shall be approved by the Review Authority as long as the property is in violation of any requirements of this Ordinance or of any previous conditions of approval imposed upon the property. This provision does not apply if the application is made in whole or in part for the purpose of bringing the development into compliance with those requirements or conditions.

F. Restrictions on Activities During Review

(1) Pending Application

An application for Development Review approval shall be considered to be pending from the submittal date of a Development Review application through the date of Final Plan application denial, approval, or conditional approval. An application shall not be considered to be pending upon the following:

- a. The expiration of Sketch Plan approval, in accordance with Subsection 5.2.8.Q (Expiration of Development Review Approval);
- b. The receipt of the applicant's written statement withdrawing the application submitted to the Director; or

- Bio retention slope 

Notes

4.3.2 A in due pollution ~ vague.

4.3.2 B.2.d. delete - dump in streams horrible

4.3.6 - EIS All Dev. ~~require~~

4.1.1 AND BASIC EIS CONTROL PER SECTION (Basic Stormwater)
- refer to contractor DESIGN MANUAL

4.8.1 B.4. 5 The use of curb bump outs and other
new street based sw treatment methods
including porous pavement are to be encouraged

4.9.2 B.2. 10 The use of islands for stormwater treatment are encouraged
to minimize st. water pollution

4.9.3 B.4. interior
landscaping

→ 4.9.2 C.2 ~ add to include porous pavement and
bio retention islands

A.5.A ... revise

Khaa.

Chapter 4 - Property Development Standards
Section 4.5 Basic and Municipal Services
Subsection 4.5.3 Solid Waste Disposal

Replace w/
new format
point system

~~4.4.3~~ 4.5.3. **Solid Waste Disposal**

A. General Standard

Development utilizing municipal solid waste disposal services shall not cause an unreasonable burden on the municipality's ability to dispose of solid waste.

B. Specific Standards

~~The development/ applicant shall pay the solid waste impact fee as calculated by the Brunswick Public Works Department.~~

4.5.4. Stormwater Management

Comment [AB145]: Moved to Municipal Services Section.

A. General Standard

Developments shall be designed to minimize the total area of impervious surface on the development site and shall incorporate stormwater management measures to minimize runoff volume and rate, as well as pollutant and nutrient loadings, from the site.

B. Specific Standards: Applicability

- (1) ~~Non-subdivision single and two-family dwelling units are exempt from the requirements of this section.~~
- (2) ~~Any development requiring a Chapter 500 Stormwater Permit, as amended, from the Maine Department of Environmental Protection (DEP) shall be deemed to have met the requirements of this section.~~
- (3) ~~Developments not requiring a DEP Stormwater Permit and not otherwise exempt from the requirements of this section shall meet the standards set forth in subsection Error! Reference source not found, below.~~

C. Specific Standards: Stormwater Runoff Quality Standards

Comment [AB146]: Under review by Jared.

- (1) ~~The stormwater management plan shall meet runoff treatment standards based on a percentage of impervious surfaces, and shall also meet a minimum treatment for the total disturbed area, as outlined in the Table Error! Reference source not found., Site Sizing Scale Table for Stormwater Treatment Sizing.~~

Impervious Surface Area	Impervious Surface Treatment (%)	Total Disturbed Area Treatment (%)
Over 1 acre ¹	95%	80%
1 acre < 0.75 acre	70%	60%
0.75 acre < 0.5 acre	50%	40%
0.5 acre < 0.25 acre	25%	20%
Under 0.25 acre	Shall meet Erosion Control requirements or DEP Chapter 500's Basic Standards	

NOTES:
1. Developments with more than 1 acre of impervious surface are required to obtain a DEP Stormwater Permit in accordance with DEP Chapter 500 standards.

① imp. sur.
② % imp. treat
③ total developed
req. to be treat.

- treatment - EPS control

Define their terms for applicability

NEW DEVELOPED AREA

REDEVELOPED AREA not including maintenance

maintenance - repair repairing, stabilizing erosion control, sediment control, installing new vegetation



L.I.P. applicability

Keep this Applicability

quantity / quality / MPPOINT SYSTEM

To be added in performance Standards

5.2.31 Stormwater Quality and Phosphorous Control:

The direct discharge of stormwater from ditches, swales and developed sites to streams, rivers and lakes estuaries can contribute to water pollution as stormwater can contain sediment, nutrients (such as phosphorus), hydrocarbons and other harmful substances. These impacts can contribute to degraded water quality or promote algae blooms further depleting necessary components to maintain a safe and effective ecosystem. Increased stormwater runoff flows can also damage roads, ditches, culverts and other drainage structures that are not designed to accommodate storm flows. These problems can worsen when an undeveloped woody or well vegetated site is cleared for development since stormwater that was previously intercepted by vegetation and absorbed into the ground is allowed to flow more freely across and ultimately off the site. The closer proposed stormwater flows are kept to original undeveloped conditions in terms of volume, rate, timing and pollutant load for the area encompassed by a project, the less likely that stormwater flows will damage the site, or public or private property, or cause harm to water bodies.

The introduction of excessive amounts of phosphorus pollutant loads in the forms of sediment from developed areas into streams, rivers and estuaries lakes and ponds has been identified as a significant threat to water quality. The introduction of stormwater quality treatment Best Management Practices (BMPs) can minimize impacts to receiving wetlands and water bodies. The preferred stormwater treatment BMP for residential and small commercial lots development is the incorporation of naturally vegetated buffers whenever site conditions are suitable. Alternative stormwater treatment BMPs for residential residential and small commercial development lots, such as, but not limited to infiltration, bio-retention measures, soil filter swales, and wetponds which should be used when site conditions on the lot prevent the effective use of buffers.

The purpose of this standard is to maintain the water quality of the area's streams, rivers and estuaries lakes, ponds and streams by preventing the introduction of excessive amounts of pollutants to water bodies.

1. Applicability:

new judgment on development but not including range base activity.

This section shall apply to all development, construction, alteration or building on lots, where any portion of the lot is within 250' of a great pond protected waterbody or estuary, as measured from the normal high water mark, or 100' of a perennial stream, as identified on a USGS map. Projects that must meet this standard include, but are not limited to;

a. All lots subject to Site Plan Review including any additions, modifications, or new commercial, retail, industrial, institutional and/or recreational structures and uses that have not received prior approval by the Planning Board that included a Phosphorus Export Analysis or a Stormwater Management Plan that meets the applicable requirements of the State of Maine Chapter 500 Stormwater Rules, Stormwater Standards, as amended.

1) All such lots subject to Article 7 Site Plan Review Chapter 4: Developmental Review shall conform to the requirements of Article 7, 7.4 Submission Requirements, Sections C, and 7.5 Chapter 500 Section 504 Criteria Standards, E. Surface Water Drainage Stormwater Management in addition to the provisions of this section.

REDEVELOPMENT - All proposed reconfiguring, addition or expansion that is part of a development review

OLD CAW MEDICINE STON.

2) Except for Minor Developments and Minor Modifications, for which Planning Board approval is not required and the Reviewing Authority may approve, all projects subject to Site Plan Review shall submit a phosphorus export analysis and calculations based on "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development" (latest edition), issued by Maine DEP. Minor Developments and Minor Modifications subject to Reviewing Authority review only shall use the point system in Section 2, a.

b. New residential structures and uses that have not received prior approval by the Planning Board that included a Phosphorus Export Analysis, or a Stormwater Plan that meets the requirements of the State of Maine Chapter 500 Stormwater Rules, Stormwater Standards, as amended.

c. Expansions of existing single family structures and duplexes, new accessory structures associated with single family structures and duplexes, or extensions of more than 150 feet of existing driveways, any of which individually or cumulatively increase the impervious area on the lot by 1,500 square feet or more.

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2. Application Review

The applicant shall submit a site plan that demonstrates to the satisfaction of the applicable Reviewing Authority (either the Planning Board or the Code Enforcement Officer and Planner) that the project will comply with this standard. Such plans shall be completed by the applicant, or qualified designer, or design professional, with stormwater design and management expertise. The Reviewing Authority shall review the Stormwater and Phosphorus Management Plan and approve a permit based on one of the following methods. If the Reviewing Authority determines, because of particular circumstances of the property, that a third party review of the storm water and phosphorous management control plans would help achieve the purposes of this ordinance, the reviewing authority may require review and endorsement of such plans by the a third party qualified in stormwater design and management, or State of Maine Professional Engineer to conduct such review, the cost of which shall be borne by the Applicant.

a. Point System

1) Point Credits

The Reviewing Authority shall issue a Stormwater and Phosphorus Management Control Permit if the applicant meets or exceeds fifty (50) points based on the following point schedule. The applicant shall submit a Sketch Plan of the development/lot showing how each of the following point credits, or deductions apply to the proposed development. The Sketch Plan shall show approximate locations and dimensions of each stormwater BMP, or other measure.

a) 10 Points for correcting an existing erosion problem on the project site, as approved by the CEO.

~~b) 10 Points for a building footprint less than 1,500 square feet~~

~~c) 10 Points for a clearing limitation of less than 20% of the lot, or 15,000 square feet, whichever is less; or 20 Points for a clearing limitation of less than 15% of the lot, or 10,000 square feet, whichever is less~~

By the owner
or designee
RESPONSIBILITY
PROPERTY

shall
which included
ADD as a
management/
requirement
of 10% tree
retention

ADD THIS PER

minor det.
threshold for
building area
lefts.

d) 15 Points for the installation of rock-lined drip edges or other soil filtration system to serve no less than 50% of the new impervious ^{building} area on the site. Test pit information certified by a Licensed Site Evaluator, or a Professional Engineer, must show that three feet of separation exists between the Seasonal High Groundwater Table and the bottom of any proposed infiltration structure. Infiltration systems must be sized to accommodate one inch of runoff from contributing impervious areas within the structure (this will include an assumption of 30% void space in washed stone) and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMPs): or

25 Points for the installation of rock-lined drip edges or other soil filtration system to serve no less than 75% of the new impervious building area on the site. Test pit information certified by a Licensed Site Evaluator, or a Professional Engineer must show that three feet of separation exists between the Seasonal High Groundwater Table and the bottom of any proposed infiltration structure. Soil filtration or infiltration systems must be sized to accommodate one inch of runoff from contributing impervious areas within the structure (this will include an assumption of 30% void space in washed stone) and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMPs).

e) 25 Points for the installation of rain gardens, soil filtration system, or wetpond design to serve no less than 50% of the total new impervious area on the site. Rain gardens, filtration and wetponds shall be sized to accommodate one inch of runoff from contributing impervious areas within the six-inch ponding area, and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMPs) or

40 Points for the installation of rain gardens, soil filtration system, or wetpond design to serve no less than 75% of the new impervious area on the site. Rain gardens, filtration and wetponds shall be sized to accommodate one inch of runoff from contributing impervious areas within the six-inch ponding area, and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMPs) .

f) 30 Points for a 50 foot wide (no greater than 15% slope) wooded buffer strip, or a 75 foot wide vegetated buffer (no greater than 8% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer; or

35 Points for a 75 foot wide (no greater than 15% slope) wooded buffer strip, or a 100 foot wide vegetated buffer (no greater than 15% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer; or

40 Points for a 100 foot wide (no greater than 15% slope) wooded buffer strip, or a 150 foot wide vegetated buffer (no greater than 15% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer.

2) Point Deductions The Reviewing Authority will deduct points based on the following point schedule:

check report first / runoff
infiltrates runoff

keep atm. or a qualified professional or infiltration

infiltration

fine

top bedrock

increasing residential impervious area

infiltr. felt

- a) 5 Points deducted for a new structure footprint exceeding 2000 square feet, and an additional 5 points deducted for each additional 500 square feet of structure footprint.
- b) 5 Points deducted for over 20,000 square feet of disturbance, and an additional 5 points deducted for each additional 5,000 square feet of disturbance.

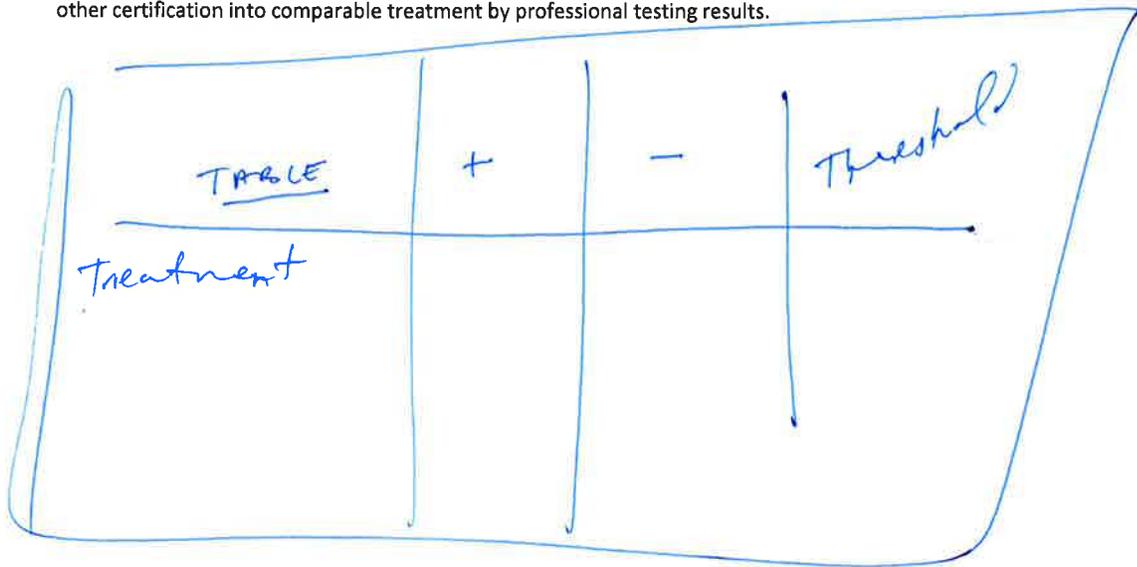
b. Alternate Means of Calculation:

In those cases where the Reviewing Authority determines that use of the points system is inadequate to achieve the purposes of storm water and phosphorous management control or is otherwise inappropriate because of particular circumstances of the property, the Reviewing Authority may assess conformance with this standard based on the following:

1.) Phosphorus export calculations based on "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development", issued by Maine DEP. Any such design must be certified by a Licensed Professional Engineer.

-2) A Stormwater Management Plan designed in accordance with Section 4B of the State of Maine Chapter 500 Stormwater Regulations, General Standards (June 6, 2006, and as amended). Any such design must be certified by a Licensed State of Maine Professional Engineer.

3.) A licensed State of Maine Professional Engineer certifies that the proposed treatment measure matches or exceeds the performance of the treatment measure under the specific point system allowance. It shall be the engineers responsibility to provide evidence that the measure has been approved by the Maine Department of Environmental Protection or provides other certification into comparable treatment by professional testing results.



- (6) Proposed plantings in the Town right-of-way shall be reviewed and approved by the Town Arborist and abutting residential property owners as needed.

4.6.4. Specific Standards: Buffers

- (1) Landscaping shall provide for smooth transitions between surrounding properties, proposed and existing buildings, streetscapes, driveway or access road entrances, and parking and pedestrian walkways. Compatible transitions may be achieved by utilizing buffer areas with screening materials, landscaping, and/or natural topography. Appropriate buffer area plantings shall be determined in consultation with the Town Arborist or designee.
- (2) A single or double row of trees may be required, depending on the difference in scale and character of the adjacent uses and structures.
- (3) In order to provide year-round visual screens, tree plantings shall be comprised largely or entirely of evergreen trees. ~~White pines shall not be used for low-level visual screening.~~ Evergreen trees shall be between four (4) and eight (8) feet in height, with an average height of six (6) feet. Larger trees may be required for buffering of larger projects with structures that differ significantly from those on adjacent properties, or that produce significant potential visual or operating impacts.
- (4) Evergreen trees planted in a single row shall be spaced between six (6) and ten (10) feet apart, with the majority being no more than eight (8) feet apart. If a double row of trees is required and trees are offset to reduce visibility from adjacent properties, wider spacing may be used, as long as visual screening from adjacent properties is achieved.
- (5) ~~Alternative buffer materials may be approved by the Review Authority pursuant to Subsection 4.16.2 (Alternative Equivalent Compliance).~~

Comment [AB147]: Per ZORC meeting discussion 3/24/16.

Comment [AB148]: Revised 3/14 per ZORC discussion.

4.6.5. Specific Standards: Parking Lot and Entrance Landscaping

Proposed and expanded parking lots, and associated entrances from a right-of-way, shall be landscaped in accordance with Subsection 4.9.3.B (Landscaping).

4.6.6. Specific Standards: Landscaping Maintenance

All required landscaping shall be maintained pursuant to subsection 4.15.2 (Maintenance).

4.7 Residential Recreation Requirements

4.7.1. General Standard

~~New dwelling units Residential developments~~ shall pay a recreation facilities impact fee or ~~provide for reserved land for recreational use~~ to avoid the creation of additional burdens on the Town's ability to provide recreational services.

4.7.2. Specific Standards

A. Applicability

Any ~~residential~~ construction that creates one or more new dwelling units shall ~~shall~~ ~~be pay a~~ ~~subject to a recreation facilities impact fee in lieu of reservation of recreation areas~~ or reserve land to be used by the Town for recreational purposes, based upon the expected population of the proposed development considering typical occupancy rates. This includes single- and two-family ~~homes~~ ~~dwelling units~~ that are not part of a subdivision or site plan, conversions of non-residential buildings to residential use, and modifications to existing buildings that increase the number of dwelling units. For purposes of this Subsection, dwelling units shall include assisted living/congregate living facilities, boarding homes and nursing homes. In the case of an activity that increases the number of dwelling units in a building or property, the fee or reserved land area shall be based upon the increased number of dwelling units. A fee or reserved land area shall not be required for the replacement of existing dwelling units, either demolished or reconfigured onsite.

B. ~~Fee in Lieu of Reservation of Recreation Area~~ Recreation Facilities Impact Fee

- (1) The ~~fee in lieu of recreation~~ ~~recreation facilities impact fee~~ ~~reservation areas~~ shall be calculated ~~and administered~~ in accordance with the "Recreation Facilities Impact Fee Methodology, as amended" separately adopted by the Brunswick Town Council and attached in Appendix F.
- (2) All ~~impact fees in lieu of recreation reservation areas~~ collected under these provisions shall be segregated and accounted for in a separate impact fee account designated for the particular improvements in question.
- (3) The Town shall use collected fees for the construction of a new, or improvement of an existing, recreation or conservation area. Fees may be used for any of the following types of capital related costs:
 - a. Acquisition of land or easements;
 - b. Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the construction of the improvement;
 - c. The actual construction of the improvement including, without limitation, demolition costs, clearing and grading of the land, and necessary capital equipment;
 - d. Environmental mitigation costs;
 - e. Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project;
 - f. Debt service costs including interest if the Town borrows for the construction of the improvement;
 - g. Recreation facility or equipment relocation costs; and
 - h. Additional costs that are directly related to the project.

0 The Recreation Commission has the sole authority to determine if the requirement to provide recreation facilities can be met through the provision of land or facilities as part of the development rather than paying the impact fee. If a developer or property

Section 4.7 Residential Recreation Requirements

Subsection 4.7.2 Specific Standards

- (4) The Recreation Commission, by formal vote, may waive the payment of the required impact fee, in whole or in part, upon a finding that the developer or property owner is required, as part of a development approval by the Town, or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee.

C. Reservation of Recreation Area

The Recreation Commission has the sole authority to determine if the requirement to provide recreation facilities can be met through the provision of land or facilities as part of the development rather than paying the impact fee. If a developer or property owner wishes to provide land or recreational facilities, the Commission shall consider the request in accordance with the provisions of this subsection and permit the provision of land or facilities to meet the requirement, only if the Commission finds that that the waiver standards of this subsection are met.

The Recreation Commission may, by formal vote, waive the payment of a required impact fee ~~in lieu of reservation of recreation area~~, in whole or in part, if it finds:

(1) That the requirement for additional recreational facilities can be met in whole or in part within the development, and

(2) That the Commission determines the provision of these facilities as part of the development is preferred to the payment of the impact fee. In making this determination, the following standards shall apply:

a. That one or more of the following conditions are met:

- i. The land is adjacent to other recreational or preserved conservation land and its proposed development and use are consistent with the adjacent land;
or
- ii. The land will allow for the connection and/or expansion of a trail system or other pedestrian facility that will be available for public use; or
- iii. The land will provide public access to a waterbody; or
- iv. The land will meet other recreational needs that have been identified by the Recreation Commission, or
- v. The land will be open for public use.

b. The amount of land to be provided is based on An estimate of the number of anticipated residents of the development based on occupancy rates acceptable to the Town, is submitted by the applicant.

c. The Recreation Commission shall determine if that the reserved land and/or proposed facilities are suitable for recreational use, and if the proposed facilities are appropriate given community-wide recreation needs and the needs of the residents of the development.

d. The designation of the land for recreational facilities shall be indicated on the plan for the development.

~~An estimate of the number of anticipated residents of the development based on~~

0 The Recreation Commission has the sole authority to determine if the requirement to provide recreation facilities can be met through the provision of land or facilities as part of the development rather than paying the impact fee. If a developer or property

Section 4.7 Residential Recreation Requirements

Subsection 4.7.2 Specific Standards

~~occupancy rates acceptable to the Town is submitted by the applicant.~~

~~(1) The Recreation Commission shall determine if the reserved land and/or proposed facilities are suitable for recreational use and if the proposed facilities are appropriate given community-wide recreation needs and the needs of the residents of the development.~~

~~(2)(1) The designation of the land for recreational facilities shall be indicated on the plan for the development.~~

D. Improvement of Recreation Area

If the Recreation Commission determines that the proposed reservation area meets the standards in subsection 4.7.2.C, the reserved recreation area shall be improved in accordance with the requirements of the Review Authority. In determining these requirements, the Review Authority shall consider the Comprehensive Plan and the long-range plans of the Recreation Commission.

E. Ownership and Maintenance of Reserved Recreation Area

The developer/applicant and Review Authority shall agree on the means of future ownership and control of the reserved recreation area, which shall be one or more of the following:

- (1) The recreation area may be held and maintained in common by the future owners of the development, under the by-laws of an owners' association, as approved by the Review Authority.
- (2) The recreation area may be held and maintained in perpetuity by a land trust or other suitable private organization.
- (3) The recreation area may be deeded to the Town for future maintenance and improvement, if acceptable to the Town Council.

F. Refund of Recreation Facilities Impact Fees

Recreation facilities impact fees shall be refunded in the following cases:

- (1) If the building or other permit is surrendered or lapses without commencement of construction, the permit holder, its successor, or the developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. A request for a refund shall be made in writing to the Town Manager and a refund shall occur within 90 days of the request.
- (2) Any fees collected that are not spent or obligated by contract for the specified improvements by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall be returned to the current owner of the property for which the fee was paid together with interest calculated at three (3) percent per year from the date of payment. Upon a written request from the Town Manager, the current owner may authorize the Town to retain the fees paid, plus interest, for the specified improvements following the ten (10) year period.

Appendix F - Recreation Facilities Impact Fee Methodology, as Amended

Revised July 14, 2016

This methodology establishes the impact fee that should be paid by residential development for expanded active recreational facilities. In developing the fee, we looked at the need for new or expanded infrastructure to provide adequate active recreation facilities for a growing population and the potential costs of those facilities.

1. Current Supply of Parks and Active Recreational Facilities – As of the March 2015, the Town of Brunswick had a total of approximately 185 acres of parks and active recreational facilities available for public use (see attached inventory). Most of these facilities are owned by the Town while a few are leased or are used through agreements with other agencies. This figure includes only developed facilities. Where a portion of a site is undeveloped, only the portion available for active recreational or park use is included. The following is a brief summary of the current supply of these facilities.

A. Recreational Facilities – The Town has approximately 177 acres that is used for active recreational activities including developed trails. This does not include the significant acreage in open space and conservation land owned by the Town. These recreational facilities include the Coffin Pond swimming facility, the Androscoggin River bikeway, and a number of boat launches and water access points. Most of the Town's recreational fields are concentrated at a small number of locations including Edwards Field, Lishness Park, Shulman Field, Crimmins Field, and facilities adjacent to schools that are available for public use. Most of the facilities are intensively developed with little potential for the creation of new or expanded facilities. With a 2010 household population of 18,545 (not including group quarters population), this is approximately 0.0095 acres of recreational area per household resident or 9.55 acres per 1000 year-round household residents.

B. Parks – The Town has approximately 7.5 acres of park land. The majority of this land is in the Mall. This is approximately 0.00041 acres of parks per capita or 0.4 acres per 1000 year-round household residents.

C. Combined Facilities – Taken together, the Town currently has 184.61 acres of parks and active recreational land and facilities. This is 0.0995 acres per household resident or 10 acres per 1000 year-round household residents.

2. Adequacy of Current Parks and Recreational Facilities -- The current supply of approximately 185 acres of parks and recreational facilities allows the community to meet its current recreational needs but there is demand for additional facilities including more facilities for sports and active recreation, an improved and expanded swimming facility, additional bicycle/pedestrian connections, and expanded trail development. The Town has been able to relocate the Recreation Center to the former Naval Air Station Brunswick (NASB) facility and obtain the use of a ball field at NASB through a lease with Southern Maine Technical College. The Town has also been able to recently expand Crimmins Field to include two full-size soccer fields. However, as the household population of the Town grows as a result of residential development, there will be a need to continue to expand the supply of park and active recreational facilities to maintain the current level of service.

3. The Need for Expanded Facilities – The need for community recreation facilities and parks is a function of the size of the community's population. As the community grows, it needs more recreation land, fields, facilities, playgrounds, and parks. The Town's adopted Parks, Recreation, and Open Space (PROS) Plan identifies the need to expand the supply of recreational facilities to serve a growing population. The action plan identified the following needed improvements:

- Acquire the former Merrymeeting Park should it become available
- Acquire and develop more water access points
- Construct the first phase of the bike path extension
- Construct the second phase of the bike path extension
- Develop at least three multi-purpose fields and parking on the East Brunswick land
- Build a new playground at Lishness Field
- Expand the playground at Davis Park
- Develop a playground and building on the East Brunswick land
- Construct tennis and basketball courts in East Brunswick
- Install a playground at the Androscoggin River Bike Path
- Construct 5 lighted tennis courts

A number of other needs articulated in the PROS Plan have been addressed through more recent projects including the acquisition of the former Navy transmitter site in East Brunswick, outdoor basketball court, ballfield and trails at McKeen Landing as well as the fitness center and conveyance of other open spaces located on the former Naval Air Station. In addition there has been an expansion of the sports complex at Crimmins Field, the addition of lighted tennis courts at Brunswick High School and new recreation facilities adjacent to the Harriet Beecher Stowe Elementary School.

Most recently the Recreation Commission has worked to secure necessary funding to allow for an architectural analysis to determine the extent of improvements necessary to bring the Recreation Center at Brunswick Landing up to code to allow the full building to be used for general assembly purposes. The Commission is also working toward completing a feasibility study relative to a possible new outdoor pool for the community. In addition, a Town Council appointed Recreation, Trails and Open Space Committee delivered a report recommending that an approximate seven (7) mile trail system be constructed upon the 591-acre Kate Furbish Preserve and that a larger perimeter trail be developed that would circumnavigate the 3,000-acre Brunswick Landing.

Historically, the National Recreation and Park Association published standards for the amounts and types of park and recreational facilities per capita. The "old" national standard called for 10 acres of park and recreation land per 1000 residents or 0.010 acres per capita. The Town currently provides 10 acres of parks and active recreation area per 1000 year-round household residents. In the 1990s, this standard was replaced by a recommendation for a locally derived standard to recognize local and regional differences. Even allowing for the currently identified needs, the estimated need of 0.010 acres per capita is at the low end of currently accepted standards for Maine communities. Developing new facilities as the population grows that will allow the Town to maintain a standard of 0.010 acres of land and facilities per capita or 10 acres per 1000 population will serve as a reasonable basis for the recreational facilities impact fee as long as these areas are developed to allow intensive utilization similar to the use of current Town facilities.

4. The Estimated Cost for Expanded Facilities – The cost of recreational facilities is related to the type of facility and the intensity of development. The estimated cost for active recreational facilities of the type needed by the Town to serve future growth typically is in the range of \$50,000 to \$150,000 per acre. When the Androscoggin River Bicycle and Pedestrian Path was developed over a decade ago, the construction cost was around \$50,000 per acre. The recent reconstruction of Crimmins Field cost \$741,320 for the development of 5.634 acres of the site for a

per acre cost of approximately \$131,500. Construction of trails is much less expensive. Since the need for additional facilities is primarily for facilities that will support intensive use, it is reasonable to plan for a relatively high intensity of development for new facilities. Therefore an estimated cost of \$100,000 per acre for expanded recreational facilities is used as the basis for the calculation of the impact fee. This strikes a balance between the cost for sports fields similar to the Crimmins Field project, multi-use paths, and other lower cost trail development.

Applying the cost per acre for new recreation facilities (\$100,000/acre) to the need of 0.010 acres per capita, results in a base cost for providing new recreational facilities of \$1,000 per capita. This figure should serve as the basis for the recreational facilities impact fee.

5. The Share of Need Attributable to Growth – The population residing in the existing housing stock has dropped significantly since the 1990'S as a result of decreasing household size. During the 1990's, population decline in the existing housing stock essentially offset the population increase resulting from new housing development. The trend to smaller household sizes continued between 2000 and 2010 but at a smaller rate of decline as the average household size dropped from 2.34 to 2.19. This trend is likely to continue but at an even slower rate going forward. As a result, the population living in the existing housing stock will continue to decrease but at a slower rate than experienced over the past two (2) decades. This decrease will continue to reduce the impact of new residential development on household population growth and thus, the need for expanded recreational facilities. Therefore, the recreational facilities impact fee should be established at about two-thirds (2/3) of the fee that would apply using the per capita basis and estimated costs, or \$650 per capita.

6. Who Should Pay The Fee – Any residential development activity should pay this impact fee based upon the expected population of the project considering typical occupancy rates. This includes single-family and two-family dwelling units not part of a subdivision, conversions of non-residential buildings to residential use, and modifications to existing buildings that increase the number of dwelling units.

7. Calculation of the Fee – The recreational facilities impact fee should be the adjusted per capita cost of providing additional recreational facilities (\$650) multiplied by the anticipated number of residents in the dwelling unit. Based upon national studies of occupancy levels of various types of housing in the Northeast United States and the State of Maine published manual – Financing Infrastructure Improvements through Impact Fees, the following occupancy factors are applied to determine the impact fee per unit. This results in the following recreation facilities impact fee based upon the type of dwelling unit and the typical occupancy of that type of unit:

Section C.4 Individually Listed Properties

<u>Type of Housing</u>	<u>Occupancy</u>	<u>Impact Fee</u>
<i>Single-Family Home</i>		
- 2 or less bedrooms	<u>1.58 per/du</u>	<u>\$1,027</u>
- 3 bedrooms	<u>2.57 per/du</u>	<u>\$1,670</u>
- 4 or more bedrooms	<u>3.02 per/du</u>	<u>\$1,963</u>
<i>Attached or Multifamily Housing</i>		
- 1 bedroom	<u>1.17 per/du</u>	<u>\$760</u>
- 2 bedrooms	<u>1.85 per/du</u>	<u>\$1,202</u>
- 3 or more bedrooms	<u>2.14 per/du</u>	<u>\$1,391</u>
<i>Mobile Homes in a MH Park</i>		
- 1 bedroom	<u>1.39 per/du</u>	<u>\$487</u>
- 2 bedrooms	<u>1.93 per/du</u>	<u>\$625</u>
- 3 or more bedrooms	<u>3.29 per/du</u>	<u>\$2,130</u>
<i>Age Restricted Housing including Elderly Housing, Assisted Living, and Retirement Communities</i>		
- 1 bedroom	<u>1.05 per/du</u>	<u>\$682</u>
- 2 or more bedrooms	<u>1.50 per/du</u>	<u>\$975</u>

TOWN OF BRUNSWICK, MAINE
RECREATION INVENTORY

3/25/2004 - Updated 3-6-15

	Map/Lot	Total Area	Recreation Area	Park Area	Open Spaces/Pas Rec Area	Future Rec Area	Total Park Rec & OS	Acres per Capita (HH)	Other
ACTIVE RECREATIONAL FACILITIES									
Androscoggin River Bicycle Path		32	18.8		13.2		32		Paved bikeway, picnic area, 2 outhouses, soccer field, dog park
Barnes Point Landing		0.17	0.17				0.17		Boat launch, parking (4), Scenic overlook
Bay Bridge Landing Wetland Park		5.93	1.99		3.94		5.93		Walking loop, parking
Coffin Pond Recreation Area		40.9	10.99		29.91		40.9		Freshwater swimming area w/ slide and building, lighted skating rink, playground, fishing, trails, parking
Coffin's Ice Pond		6.26	0.94		5.32		6.26		trail, pedestrian footbridge
Cox Pinnacle		103.4	7.67		95.73		103.4		
Edward's Field		11	11				11		3 multi-use athletic fields, basketball court, playground, Running track, concession stand, benches, parking (75)
Fish Viewing Facility		0	0				0		Parking (8)
Furbish Preserve		591	9.9		581.1		591		Trails (by golf course only)
Greater Commons		144.63	10.37		134.26		144.63		Trails
Hambledon Avenue Playground		0.67	0.67				0.67		Playground
Harriet Beecher Stowe gym		0.24	0.24				0.24		Oversize gym
Lishness Park (on land leased from the Brunswick Sewer District)		15.7	9.58		6.12		15.7		2 multi-use athletic fields (one lighted), ice rink, concession stand, children's trail, parking (80)
Longfellow Playground		0.4	0.4				0.4		Playground, basketball court
Maquott Bay Conservation Land		124.6	4.48		120.12		124.6		Trails, parking lot
Maquott Landing		6	0.91		5.09		6		Boat launch
McKeen Street Housing common areas		8.95	8.95	0			8.95		Paved basketball court, 4 playground locations, little league baseball field, paved paths
Mere Point Boat Launch		7.47	7.47				7.47		Deep water boat launch, parking, scenic overlook
Mill Street Canoe Portage		3.4	3.4				3.4		
Nathaniel Davis Park		2.4	2.4	0	0	0	2.4		Playground
Orion Field		1.58	1.58				1.58		Softball field
Princes Point Boat Launch (State)		1	1		0		1		Boat Launch
Recreation Center		7.3	7.3				7.3		Large indoor gym and track space, parking lots, preschool
Sawyer Park		21.4	6.1		15.3		21.4		Boat launch, trails, picnic area, parking, access road
Senior Gardens		1.01	1.01				1.01		Community garden plots
Shulman Park		18.55	6.26		12.29		18.55		Soccer field, Parking (63)
Simpson's Point		0.4	0.4				0.4		Boat Launch
Town Commons		71	6.33		64.67		71		Trails, parking lot
Water Street Landings		3.04	3.04				3.04		Boat launches, large parking lot
Wildwood Field		3.82	3.82				3.82		Soccer field, parking
High School			12.9				12.9		Tennis courts, track w/infield, 3 athletic fields
Jordan Acres School			1.93				1.93		Athletic field
Mawhome School			0.13				0.13		Playground
Coffin School			0.36				0.36		Playgrounds
Junior High School			3.9				3.9		Athletic fields
Crimmins Field			6.82		7.18		14		2 multi-use athletic fields, school access paths
Stowe Field			3.86				3.86		Lighted multi-use athletic field, large playground
Subtotal Active Recreational Facilities		1234.22	177.07	0	1094.23	0	1271.3	0.0686	
PARKS									
Maine Street Station		0.32	0.32	0			0.32		Intown park w/benches and performing area
Mall - Upper and Lower		7.06	7.06	0			7.06		Gazebo, large event lawn space, Benches, lighted skating rink
Swinging Bridge Park		0.16	0.16	0			0.16		Scenic overlook, benches, parking
Subtotal Parks		7.54	7.54	0	0	0	7.54	0.0004	
Total Recreation and Parks		1241.76	184.61	0	1094.23	0	1278.84	0.069	