

Chapter 1 - General Provisions
Section 1.7 Definitions and Rules of Construction
Subsection 1.7.2 Definitions

~~Sign, Freestanding/Yard: A pole sign or monument sign. Any permanent or temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.~~

Comment [AB41]: Added 9/22/16

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

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

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

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

~~Sign, Illuminated, Tube: A sign illuminated by a light source supplied by a tube that is not concealed and is filled with gasses, forming letters, symbols or other shapes.~~

Comment [AB42]: ZORC addition 9/29/16

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

~~Sign, Moving: A sign which in part or in total rotates, revolves or otherwise is in motion.~~

Comment [AB43]: Deleted per Definition deleted by ZORC since no longer regulated. 10/11/16

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

~~Sign, Multi-tenant: A sign for a grouping of two (2) or more establishments that either share common parking on the lot where located or occupy a single structure or separate structures that are physically or functionally related or attached.~~

Comment [AB44]: Revised 9/22/16

~~Sign, Multiple-Driveway: A sign at the entrance or exit of a premise that has two (2) or more driveways.~~

Comment [AB45]: To replace directory sign name. 9/28/16

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

Comment [AB46]: Replaces entrance/exit sign name. 9/28/16

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

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

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

Comment [AB47]: Replaced with Multiple Driveway sign 9/28/16

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

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

~~Sign, Portable: A sign designed for and intended to be moved from place to place, on wheels or legs, and not be permanently affixed to land, buildings, or other structures. Portable signs shall include portable reader boards and other similar signs.~~

Comment [AB48]: Revised per ZORC discussion 9/28/16

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

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

Comment [AB49]: Deleted. Now freestanding/yard sign.

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

B. Specific Standards

- (1) Developments that include or are adjacent to buildings, sites, or districts listed on the National Register of Historic Places, identified by the Village Review Zone Contributing Resource Inventory, or Brunswick Comprehensive Plan as being of historical importance shall be designed in such a manner as to minimize impacts on the historic feature.
- (2) When historic features to be protected include buildings, the placement and the architectural design of adjacent new structures shall be compatible with that of the historic structures.
- (3) When required, Certificates of Appropriateness shall be required for new construction, alterations or additions to existing structures and demolition of structures within the Village Review Zone prior to Planning Board consideration, in accordance with subsection 5.2.7.C.2.
- (4) Developments that include or are adjacent to areas that may have archeological artifacts or resources, based on information available to the Town from the Maine Historic Preservation Commission, shall be referred to the Maine Historic Preservation Commission for evaluation, and any recommendations or information provided by that Commission shall be considered by the Review Authority before making a decision on the development application.

4.4 Flood Hazard Areas

A. General Standard

The risk of flooding for the proposed development is minimized if the activity occurs within a flood hazard area.

B. Specific Standards

Flood hazard areas make up the Flood Protection Overlay (FPO) District. Development in the FPO District shall comply with the standards in Subsection 2.3.4 (Flood Protection Overlay (FPO) District).

4.5 Basic and Municipal Services

4.5.1. Sewage Disposal

A. General Standard

Developments shall provide for adequate sewage waste disposal and shall not cause an unreasonable burden on municipal services if utilized.

B. Specific Standards: Municipal Sewer

- (1) Sewer lines that connect to the municipal sewer shall not be extended beyond the Growth Area designated in the Comprehensive Plan.
- (2) The Brunswick Sewer District may require the owners of property or developers of subdivisions and site plans located within the designated Growth Area to connect to the public sewer system.

Comment [AB169]: Added at the request of the Brunswick Sewer District 10/13/16

(3) The sewerage system shall conform to all standards of the Brunswick Sewer District.

C. Specific Standards: On-Site Disposal

- (1) Septic systems shall be built in accordance with the Maine Subsurface Wastewater Disposal Rules, CMR 241, as amended, and shall be suitability maintained for the type of system installed.
- (2) The Review Authority may require a hydrogeological study if the development involves a developed density of three or more bedrooms per acre of net site area. If needed, the hydrogeological study shall cover the evaluation of any significant nearby water resources—including, but not limited to, wells, ponds, and riverine and ocean resources. For properties located within the Rural Protection (RP) districts or the New Meadows River Watershed, the hydrogeological analysis shall include a computation of the project's projected nutrient load to the receiving tidal water. The hydrogeological study shall be prepared by, signed, stamped, and dated by a Maine Certified Geologist as required by 32 M.R.S.A. §§ 4903 and 4918.
- (3) The development plan shall include test pit samples to establish soil suitability, with locations flagged on the site. Each test pit must be marked with numbers corresponding to those indicated on the plan. There shall be two (2) passing test pits per lot, with each pit identifying soil consistency within a 20-foot radius of the central boring. The direction of groundwater flow and septic leachate impacts on existing and proposed well locations shall be described.
- (4) No portion of a septic system (including easements) shall be located within any portion of the right-of-way of a public road.
- (5) Surface wastewater disposal systems located within the Shoreland Protection Overlay shall be designed to accommodate a one (1) foot or more rise in sea level, based on highest average tide (HAT), over the average lifetime of the disposal system.
- (6) A common septic system serving more than one lot may be utilized if designed and constructed in accordance with community septic system criteria as established by the Maine Subsurface Wastewater Disposal Rules, CMR 241, as amended. Such system shall be supported by a hydrogeologic analysis by a Maine Certified Hydrogeologist. A back-up and maintenance plan must be provided. In the case of a "peat system," a financial guarantee approved by the Town shall be provided for bed replacement and disposal.

Comment [AB170]: Added townwide instead of just in what is now CP districts.

Comment [AB171]: May also include Mare Brook Watershed.

Comment [AB172]: Corrected reference

Comment [AB173]: Revised and now applicable in all SPO instead of current CP only.

4.5.2. Water Supply and Quality

A. General Standard

Developments shall have sufficient water available for the reasonably foreseeable needs of the development, and shall have no undue adverse impact on existing water supplies.

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 4.11 Architectural Compatibility

Subsection 4.11.2 Specific Standards

4.11.2. Specific Standards

~~A.~~ Developments shall comply with the Americans with Disabilities Act, ~~in a manner that is compatible with Brunswick's historic architecture.~~

Comment [AB198]: F or ZORC discussion

~~B.A.~~ Municipal resources shall be available to service the project, and any on-site or off-site impacts associated with the development of the project will be mitigated.

Comment [JE199]: F from current ordinance 411.11. MAW

~~C.B.~~ New buildings shall be oriented toward public streets through the location of the main entrance to the building or the provision of windows or façade improvements designed to enhance the view from the street.

Comment [AB200]: R removed per ZORC discussion 4/25/16

~~D.C.~~ _____ Development in the GM4 District shall be consistent with the Cook's Corner Design Standards.

~~E.D.~~ Development in the VRO District shall be consistent with the Village Review Overlay District Design Guidelines.

~~F.E.~~ Except on parcels owned by Bowdoin College or the Town of Brunswick, development of land previously part of the Brunswick Naval Air Station (BNAS), shall be consistent with design guidelines established and administered by the Midcoast Regional Redevelopment Authority (MRRA).

~~G.F.~~ Except for parcels previously part of the BNAS, ~~new construction and redeveloped structures within~~ Growth Mixed Use ~~or and~~ Growth Industrial Districts, ~~new construction and redeveloped structures, including multi-family developments, larger greater~~ than 10,000 square feet in total floor area, shall comply with the following:

Comment [JE201]: N ew subsection 3/23/16

(1) **Materials, textures and color.** The relationship of materials, texture and color of the building façade shall be visually compatible with that of the predominant materials traditionally used in the area. Materials common to New England, such as brick, clapboard and shingles are encouraged. ~~Highly reflective materials such as plastic panels, aluminum and metals shall not be used.~~ Roofing material shall ~~consist be~~ complementary to such building materials used, ~~and be darker in color.~~

Comment [AB202]: D eleted 9/19/16

(2) **Facades.**
a. Horizontal facades greater than 100 feet in length shall incorporate wall plane projections or recesses having a depth of at least three (3) percent of the façade length and extending at least 20% of the façade length. No uninterrupted length of any façade shall exceed 100 horizontal feet.

Comment [AB203]: R evised for ZORC discussion 10/7/16.

b. For ~~non-residential buildings-structures~~ over 20,000 square feet of gross floor area, ground floor facades facing public streets shall have display windows, clearly-defined entry areas, awnings or other such features along 40% or more of the horizontal length.

Comment [AB204]: R evised by ZORC

c. For ~~non-residential buildings-structures~~ up to and equal to 20,000 square feet of gross floor area, ground floor facades shall be transparent between three (3) and eight (8) feet in height along 40% or more of the horizontal length.

(3) **Roof shapes.** The building roof shape shall be visually compatible with those buildings visually related. Where no clear pattern exists, a roof pitch of 5/12ths or steeper shall be used, or the building should be designed so as to appear to have a pitched roof. The roofline or parapet wall design shall screen any roof-mounted utility units.

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 4.13 Signs

Subsection 4.13.4 Temporary Signs Allowed and Not Subject to Permitting

~~Signs that display street numbers, last names, and personal names given to residential structures.~~

C. Contractor Freestanding/Yard Signs

- (1) The size of a ~~contractor freestanding/yard~~ sign shall not ~~to exceed 24 eight (8)~~ square feet ~~in GN, GR1-10, RR, RN, RF and RP1-2 Districts nor 24 square feet in all other Districts.~~
- (2) ~~With the exception of political signs, A contractor freestanding/yard sign may be place on-premise no more than three (3) days prior to the activity and shall be removed within three (3) days of the end of the activity. sign shall be removed within five (5) days of the issuance of a Certificate of Occupancy, where one is required. A contractor sign used during home improvement or renovation projects that are not subject to Certificate of Occupancy shall be removed within five (5) days after the work has been completed.~~
- (3) ~~Political signs on private property may remain indefinitely, and shall not be located on or in front of Town-owned property, including but not limited to schools, parks, cemeteries.~~
- (2)(4) ~~Freestanding/yard signs are prohibited to be located within a public right-of-way.~~

Comment [AB229]: Revised per ZORC discussion 9/29/16

B. Farm Stand Signs

~~Farm stand signs are permitted provided that each sign is no greater than ten (10) square feet in area and they displayed only during the season when the premises are open for business. Farm stand signs may have changeable copy and shall only be located on the property at which the farm stand exists.~~

C. Lawn, Yard, or Garage Sale Signs

- (1) ~~Lawn, yard, or garage sale signs are prohibited on any State or Town owned parcel.~~
- (2) ~~Signs shall not be posted more than three (3) days prior to the sale and shall be removed within 24 hours of the end of the sale.~~
- (3) ~~Signs are limited to four (4) square feet in area.~~

D. Motor Vehicle Signs

~~The use of business logos, identification or advertising on registered motor vehicles primarily and actively used for business purposes is permitted.~~

E. Political Campaign Signs

~~Political Campaign Signs are permitted on private property, not to exceed eight (8) square feet in size. Political signs shall not be located on or in front of Town owned property including but not limited to schools, parks, cemeteries, road right of ways, and Town owned buildings.~~

Comment [AB230]: Deleted by ZORC 10/11.

Comment [AB231]: Revised per ZORC discussion 9/29/16

F. Real Estate Signs

- (1) ~~A real estate sign for the sale of a residential structure shall not exceed four (4) square feet in area. A real estate sign for all other uses and vacant land shall not exceed 32 square feet in area.~~
- (2) ~~Real estate signs shall be removed within ten (10) days after the sale or lease of the property.~~

Chapter 1 - General Provisions
Section 1.6 Nonconformities
Subsection 1.6.4 Nonconforming Structures

- i. ~~For structures located less 75 feet from a stream, and than 125 feet from a water river body or upland edge of a freshwater wetland, or coastal~~ 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. ~~For structures located within the Shoreland Protection Overlay – Stream Protection Sub-District (SPO-SP), 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 November 18, 2002, whichever is greater. The maximum height of any structure may not exceed 20 feet, or the height of the existing structure, whichever is greater.~~
- iii. In addition to the limitations as set forth in ~~S~~ubsection 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 ~~Shoreland Protection Overlay - Resource Protection Area Sub-district (SPO-RP) or its equivalent~~ was established on the lot, ~~whichever is greater~~. The maximum height of any structure shall not exceed 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, stream, or upland edge of a wetland must meet the footprint and height limits in ~~S~~ubsections 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 (3) feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill).

C. Restoration, Reconstruction or Replacement

(1) Outside SPO District

Any nonconforming structure that is destroyed or damaged by any cause may be restored or reconstructed to its pre-destruction or pre-damage condition, or replaced with a structure comparable to the destroyed or damaged structure, provided that a Building Permit for the restoration, reconstruction, or replacement is obtained within two (2) 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 (2) years shall comply with the current requirements of this Ordinance.

corrected
10/12

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.

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. Where a stream and its associated shoreland area are located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

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 Sub-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 (2) 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.

d. SPO District and Sub-District boundaries are delineated on the Brunswick Zoning Map.

C. Additional Requirements for the SPO District

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

(1) Setbacks of Structures from Water Bodies and Wetlands

All new principal and accessory structures, excluding functionally water-dependent uses, and public waterfront trails, shall be located outside of any SPO Resource Protection Sub-District (SPO-RP). For purposes of this subsection, recreational boat storage buildings are not considered a functionally water-dependent use. All new principal and accessory structures shall be set back a minimum horizontal distance of at least:

Any new principal or accessory structure, except structures requiring direct access to the water as an operational necessity (including, but not limited to, piers, docks,

Comment [AB80]: Reformatted section 10/12/16

~~of issuance to complete the project. If incomplete at the end of two years, the permit shall expire.~~

(4) Water-Dependent Structures

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

(5) Agriculture

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

(6) Aquaculture

- a. Aquaculture land use activities extending over or below the normal high-water line or within the wetland located in the SPO-SP and the SPO-RP District shall require Planning Board approval in accordance with the SPO permit standards in Section 5.2.6.

~~(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.

Comment [AB82]: Reworded by ZORC 10/12/16

~~(7)~~(8) **Timber Harvesting**

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

Comment [AB83]: Reworded by ZORC 10/12/16

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

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

Comment [AB84]: In accordance with Mandatory Shoreland Zoning Act, in 2013, the Town opted to completely repeal the timber harvesting provisions from the current NRPZ standards, now enforced by the Bureau of Forestry.

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.6 Shoreland Protection Overlay Zone Permits

Codes Enforcement Officer with a second Elevation Certificate completed by a professional land surveyor, engineer, or architect based on the Part 1 permit construction, "as built" for verifying compliance with the elevation requirements of Subsection 2.3.4.D(2) (Residential Structures), Subsection 2.3.4.D(3) (Nonresidential Structures), Subsection 2.3.4.D(4) (Mobile Homes), or Subsection 2.3.4.D(12) (Coastal Floodplains). Following review of the Elevation Certificate the Codes Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or

- b. A Flood Hazard Development permit for floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Subsection 2.3.4.D(3)a. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or
 - c. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50 percent of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided in Subsection 2.3.4.D(6) (Accessory Structures), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
- (7) Maintain, as a permanent record, copies of all flood Hazard Development Permits issued and data relevant to those permits, including reports of the Board of Appeals on Variances granted under Subsection 5.2.6.B, and copies of Elevation Certificates, Floodproofing Certificates and Certificates of Compliance required under the provisions of this Ordinance.

5.2.6. Shoreland Protection Overlay Zone Permits

A. Permit Required

All development or other land use activity within the Shoreland Protection Overlay zone shall require a Shoreland Protection Permit from the applicable Review Authority in accordance with development review thresholds as stated in Table 5.2.8.B and the following review criteria. This permit shall be in addition to any other permit or plan approvals which may be required by this Ordinance. 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.

A. B. Permit Review Criteria

(1) After the submission of a complete application to the Planning Board, Staff Review Committee, or Code Enforcement Officer, the Review Authority shall take action on an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed-based on the following review criteria:

- a. The development or other land use activity will maintain safe and healthful conditions;

added back
10/12/16

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.6 Shoreland Protection Overlay Zone Permits

- b. The development or other land use activity will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. The development or other land use activity will adequately provide for the disposal of all wastewater;
 - d. The development or other land use activity will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - e. The development or other land use activity will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. The development or other land use activity will protect archaeological and historic resources as designated in the comprehensive plan;
 - g. The development or other land use activity will avoid problems associated with floodplain development and use; and
 - h. The development or other land use activity is in conformance with standards set forth in Section 2.3 (Shoreland Protection Overlay District) and Section Chapter 4 (Property Development Standards), as applicable.
- (2) If a permit is denied or approved with conditions, the reasons for denial or conditions of approval shall be stated in writing. No approval shall be granted for an application involving an illegally created lot or structure.

C. Special Exceptions for Development Within the Shoreland Protection Overlay

In addition to the criteria specified in Subsection 2.3.3.C.3, lots created prior to June 6, 1994, and lie within the minimum setback (250 feet) from salt meadows that are rated "moderate" or "high" value waterfowl and wading bird habitat as shown on the Brunswick Official Zoning Map; 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 Subsection 1.1.1.A(1)a.i above 2.3.3.C(1)a-iv above and shown on the Brunswick Official Zoning Map, may be developed with a single family dwelling through the Minor Development Review process if the Staff Review Committee issues a Special Exception, finding that the applicant has demonstrated that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the SPO District, where the structure can be built;
- (2) The lot was established and recorded in the Cumberland County Registry of Deeds prior to June 6, 1994, November 18, 2002, or December 31, 2008 as applicable based on the description provided at Section 2.3.3.C.3;
- (3) All proposed buildings, sewage disposal systems and other improvements are

Comment [JW261]:
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 [JW262]: C
heck this reference.

Comment [AB263]: D
eleted reference to other stream mapping.

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.6 Shoreland Protection Overlay Zone Permits

- a. Located on natural ground slopes of less than 20%; and
 - b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.
- (4) 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).
 - (5) 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 variance.
 - (6) 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.
 - (7) A 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.

Chapter 5 - Administration
 Section 5.2 Specific Procedures
 Subsection 5.2.9 Development Review

- v. The amount of impervious surface on the project site is not increased by more than 2,000 square feet.
- vi. There is adequate parking available for the new use in accordance with Section 4.9 (Parking and Loading).
- vii. The re-occupancy of the building will not change the primary use of the building from residential to non-residential or from non-residential to residential.
- viii. The initial non-military re-occupancy of a building shall not be considered a Change of Use even if it does not meet the vacancy time limits of Subsection 5.2.1.B(1) (Change of Use Defined). All subsequent re-occupancy of buildings in the Growth Districts applied to former BNAS lands shall be subject to the Change of Use review requirements of Subsection 5.2.1.B (Change of Use Permit) as applicable.
- e. The Change of Use of a building in the Brunswick Landing area with less than 10,000 square feet of floor area, provided that the new use does not significantly intensify the use of the property compared to its previous use. A new use that increases the required off-street parking required by Section 4.9 (Parking and Loading) by more than 20 percent, or that increases the number of peak hour vehicle trips based upon the current edition of the ITE Trip Generation Manual, as amended, by more than 20 percent, or that meets any of the review thresholds of Subsection 5.2.9.B(2) (Development Activities Subject to Development Review) shall be considered to significantly intensify the use. If the Codes Enforcement Officer determines that there will be a significant intensification of the use, the activity shall be deemed to be a minor development subject to Development Review.

(2) Development Activities Subject to Development Review

- a. The activities listed in Table 5.2.7.B shall be subject to Development Review based on the applicable thresholds.
- b. Activities that do not meet the thresholds may still require additional review and/or permitting by the Codes Enforcement Officer or as required within applicable zoning overlay zones.
- c. A Certificate of Appropriateness from the Village Review Board is required if the proposed development is within the Village Review Overlay Zone.

Thresholds for development review apply only to new or “add-on” construction, except as indicated in Subsection 5.2.9.C (Cumulative Development and Amendments). If development is proposed on two (2) or more lots and the Director finds that the development functions as a single project, thresholds for development review shall be applied to the project as though the lots on which it is located is a single lot.

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

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
Construction of New Floor Area	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Less than 1,000 sq.ft.	Building Permit	Code Enforcement Officer
		1,000 – 5,000 sq.ft.	Minor Development Review	Staff Review Committee
		Over 5,000 sq.ft.	Major Development Review	Planning Board
	All Other Zoning	Less than 2,000 sq. ft.	Building Permit	Codes Enforcement Officer

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.9 Development Review

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

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
	Districts	2,000 - 10,000 sq. ft.	Minor Development Plan	Staff Review Committee
		Over 10,000 sq. ft.	Major Development Review	Planning Board
Net New Impervious Surface	All GR, GC and Rural Districts; GM1, GM2, GM5, GM6, GM8	Less than 1,000 sq. ft.	Building Permit	Codes Enforcement Officer
		1,000 - 5,000 sq. ft.	Minor Development Review	Staff Review Committee
		Over 5,000 sq. ft.	Major Development Review	Planning Board
	All Other Zoning Districts	Less than 2,000 sq.ft.	Building Permit	Code Enforcement Officer
		2,000 - 10,000 sq. ft.	Minor Development Review	Staff Review Committee
		Over 10,000 sq. ft.	Major Development Review	Planning Board
	All Zoning Districts	Development Subject to Conditional Use Permit or Special Permit creating less than 5,000 sq. ft.	Minor Development Review	Staff Review Committee
		Development Subject to Conditional Use Permit or Special Permit creating 5,000 or more sq. ft.	Major Development Review	Planning Board
Net Cumulative Total of New Floor Area and New Impervious Surface	All GR, GC and Rural Districts; GM1, GM2, GM6, GM8, GN	Less than 1,500 sq. ft.	Building Permit	Codes Enforcement Officer
		1,500 – 7,500 sq.ft.	Minor Development Review	Staff Review Committee
		Over 7,500 sq.ft.	Major Development Review	Planning Board
	GM3, GM4, GM5, GI	Less than 3,000 sq.ft.	Building Permit	Code Enforcement Officer
		3,000 – 15,000 sq. ft.	Minor Development Review	Staff Review Committee
		Over 15,000 sq.ft.	Major Development Review	Planning Board
	GM7, GA, GI, GO	Less than 3,000 sq.ft.	Building Permit	Code Enforcement Officer
		3,000 - 20,000 sq. ft.	Minor Development Review	Staff Review Committee
		Over 20,000 sq. ft.	Major Development Review	Planning Board
	Change of Use	All Zoning Districts	Less than 10,000 sq. ft.	Change of Use Permit
All Zoning Districts outside of Brunswick Landing		Over 10,000 sq.ft.	Major Development Review	Planning Board
GM7, GA, GI, GO Districts within Brunswick		10,000 – 20,000 sq. ft.	Minor Development Review	Staff Review Committee
		Over 20,000 sq. ft.	Major Development Review	Planning Board

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.9 Development Review

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

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
	Landing			
	All Growth Residential Districts	Conversion of single or two-family residence to any other use	Major Development Review	Planning Board
Construction of Multi Family Dwelling Units that does not create a subdivision	All Zoning Districts	Less than 3 units	Building Permit	Code Enforcement Officer
	All Zoning Districts	Between 3-5 units	Minor Development Review	Staff Review Committee
	All Zoning Districts	Over 5 units	Major Development Review	Planning Board
Traffic	All Zoning Districts	An activity generating more than 100 peak hour vehicle trips, based on ITE Trip Generation Manual, as amended, unless previously addressed as part of an approved plan, or upon recommendation by the Town Engineer.	Major Development Review	Planning Board
Mobile Home Park development or expansion	All Zoning Districts	All	Major Development Review	Planning Board
Development on a Road with a Level of Service of "F"	All Zoning Districts	Construction of new floor area of over 2,000 sq. ft., creation of new impervious surface of over 2,000 sq. ft. or cumulative total of new floor area and impervious surface of over 3,000 sq. ft.	Major Development Review	Planning Board
New Road Construction	All Zoning Districts	New private or public Road proposed as part of development application	Major Development Review	Planning Board
Subdivision	All Zoning Districts	Subdivision as defined by 30-A M.R.S.A. Section 4401, as amended	Major Development Review	Planning Board
Mineral Extraction	All Zoning Districts	Pursuant to Section 3.4.1.T	Major Development Review	Planning Board
Ultra-Light Airpark	All Zoning Districts	All	Major Development Review	Planning Board
Solar Energy Collection Facilities, Ground-Mounted	Where Permitted (See Tables 3.2 and 3.3)	Large Scale Facilities	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 (SPO):				
Filling and Earthmoving Activity	Shoreland Protection Overlay	Over 10 cubic yards	SPO Permit	Codes Enforcement Officer
	Shoreland Protection Overlay-	10 cubic yards or less	SPO Permit	Code Enforcement Officer
		Over 10 to 100 cubic yards	Minor Development	Staff Review

Comment [JE273]: Added from supplemental use section 5/11/16

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.9 Development Review

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

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
	Resource Protection District		Review	Committee
		Over 100 cubic yards	Major Development Review	Planning Board
	Shoreland Protection Overlay-Stream Protection District	10 cubic yards or less	SPO Permit	Code Enforcement Officer
		Over 10 to 100 cubic yards	Minor Development Review	Staff Review Committee
		Over 100 cubic yards	Major Development Review	Planning Board
Forest management activities including timber harvesting and land management roads	Shoreland Protection Overlay	All	Yes	Maine Bureau of Forestry
Clearing or removal of vegetation for activities other than timber harvesting	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
	Shoreland Protection Overlay-Resource Protection District	All	SPO Permit	Code Enforcement Officer
	Shoreland Protection Overlay-Stream Protection District	All	SPO Permit	Code Enforcement Officer
Piers, docks, wharfs, bridges, and other structures and use activities extending over or below the normal high-water line or within a wetland	Shoreland Protection Overlay	Temporary	SPO Permit	Code Enforcement Officer
		Permanent	Major Development Review	Planning Board
Principal and Accessory Structures or uses other than functionally-water dependent	Shoreland Protection Overlay	Outside structure setback	SPO Permit	Code Enforcement Officer
	Shoreland Protection Overlay-Resource Protection District	Within structure setback	See Section 1.6 (Nonconformities)	Code Enforcement Officer
	Shoreland Protection Overlay-Stream Protection	Within structure setback	See Section 1.6 (Nonconformities)	Code Enforcement Officer

Comment [JW274]: Consider minor review (SRC Review Authority) for permanent piers outside SPO-SP and SPO-RP

Chapter 5 - Administration
 Section 5.2 Specific Procedures
 Subsection 5.2.9 Development Review

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

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
	District			
Agriculture	Shoreland Protection Overlay	All	Yes, unless otherwise stated in Section 2.3.3.C(5)	Code Enforcement Officer
Conversion of seasonal residences to year-round residences	Shoreland Protection Overlay	All	Change of Use Permit unless residential use is prohibited within zoning district.	Code Enforcement Officer
Home Occupations	Shoreland Protection Overlay	All	Performance Standard in Section 2.3.4.2.C	Code Enforcement Officer
Aquaculture	Shoreland Protection Overlay	All	Yes, unless otherwise stated in Section 2.3.3.C(6)	Code Enforcement Officer
Mineral Exploration	Shoreland Protection Overlay	All	Yes, unless otherwise stated in Section 2.3.3.C(14)	Code Enforcement Officer
Fire Prevention Activity	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Motorized vehicular traffic on existing roads and trails	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Wildlife Management Activity	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Soil and water conservation Activity	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Surveying and Resource Analysis Activity	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Emergency Operations	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Signs	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Service drops, as defined, to permitted uses	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer

Comment [AB275]: A ready requires PB review in all zoning districts

Chapter 5 - Administration
Section 5.2 Specific Procedures
Subsection 5.2.9 Development Review

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

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
Road construction	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
	Shoreland Protection Overlay – Resource Protection	All	No	N/A
	Shoreland Protection Overlay – Stream Overlay	All	Yes	Planning Board
Parking facilities	Shoreland Protection Overlay	All	No	N/A
	Shoreland Protection Overlay – Resource Protection	All	No	N/A
	Shoreland Protection Overlay – Stream Overlay	All	No	N/A
Marinas	Shoreland Protection Overlay	All	Yes	Planning Board
	Shoreland Protection Overlay – Resource Protection	All	No	N/A
	Shoreland Protection Overlay – Stream Overlay	All	Yes	Planning Board
Uses similar to permitted uses	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Uses similar to uses requiring CEO approval	Shoreland Protection Overlay	All	Yes	Code Enforcement Officer
Uses similar to uses requiring Staff Review Committee approval	Shoreland Protection Overlay	All	Yes	Staff Review Committee
Uses similar to uses requiring Planning Board approval	Shoreland Protection Overlay	All	Yes	Planning Board
Notes: [1] Development Review Thresholds for those uses or activities within the Shoreland Protection are described as follows: Yes - Permitted land use or activity. No permit required but the land use or activity must comply with all applicable				

Table 5.2.8.B
Development Review Threshold Criteria

Impact Criteria	Zoning District	Threshold	Level of Review	Reviewing Authority
zoning district standards and Shoreland Protection Overlay district standards)				
No - Prohibited land use or activity				

Comment [AB276]: All SPO thresholds added per Chapter 1000 10/13/16

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
- c. The failure of the applicant to respond to requests for additional information, appear at Board meetings or hearings, or otherwise maintain the application in an active state for a period of four (4) months or more.

(2) Regulation of Activities While Application is Pending

- a. While an application is pending, the following activities are prohibited and the Code Enforcement Officer shall not issue permits for demolition, excavation, filling, grading, removal of topsoil, and clearing of vegetation on any portion of the subject property. Failure of the applicant to comply with these activity prohibitions, as determined by the Code Enforcement Officer, may cause the application to be denied. If an application is denied pursuant to this Subsection 5.2.9.F(2), the application process shall be terminated. If the applicant chooses to reapply for the same proposal or submit a new application for a different