

Article III --- Shoreland Zoning Ordinance

§ 101-III-1. Purposes

The purposes of this Ordinance are to:

- A. Further the maintenance of safe and healthful conditions.
- B. Prevent and control water pollution.
- C. Protect fish spawning grounds, aquatic life, bird and other wildlife habitat.
- D. Protect [buildings](#) and lands from flooding and accelerated erosion.
- E. Protect archaeological and historic resources.
- F. Protect [freshwater wetlands](#)
- G. Control building sites, placement of [structures](#), and land uses.
- H. Conserve shore cover, and visual as well as actual points of access to inland waters.
- I. Conserve natural beauty and open space.
- J. Anticipate and respond to the impacts of development in shoreland areas.

§ 101-III-2. Authority

This Ordinance has been prepared in accordance with the provisions of [Title 38 §435-449 of the Maine Revised Statutes Annotated \(M.R.S.A.\)](#).

§ 101-III-3. Applicability

This Ordinance applies to:

- A. The [Shoreland Zone](#) of the Town of Frye Island, consisting of all land areas within:
 1. Two hundred fifty (250) feet, horizontal distance, of the [normal high-water line](#) of Sebago Lake.
 2. Two hundred fifty (250) feet, horizontal distance, of the [upland edge](#) of a ~~non-forested wetland~~ *freshwater wetland*.
 3. Seventy-five (75) feet, horizontal distance, of the normal high-water line of a [stream](#).
 4. ~~All [non-forested wetlands](#), as defined herein.~~
- B. Any [structure](#) built on, over, or abutting a dock, wharf, pier, or other structure extending beyond the [normal high-water line](#) of Sebago Lake or within a [wetland](#).

§ 101-III-4. Effective Date and Repeal of Formerly Adopted Ordinance

This Ordinance, which was adopted at the Town Meeting of the Town of Frye Island on ~~October 12, 2002~~ *9, 2010* shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of this Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of its receipt, it shall be automatically approved, and Chapter 102 as adopted on ~~February 28, 1998~~ *October 11, 2008* and as amended is hereby repealed.

Any application for a permit submitted to the [Town](#) within the forty-five-day period shall be governed by the terms of this Ordinance, if it is approved by the Commissioner of the Department of Environmental Protection or is automatically approved.

§ 101–III–5. Availability

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

§ 101–III–6. Severability

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

§ 101–III–7. Conflicts with Other Ordinances

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

§ 101–III–8. Amendments

This Ordinance may be amended by majority vote at a Town Meeting and in accordance with the provisions of Article I, Zoning Ordinance. Copies of amendments which affect land use regulation in the [Shoreland Zone](#) in any way, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption at a Town Meeting and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of its receipt, the amendment is automatically approved. Any application for a permit submitted to the [Town](#) within the forty-five-day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner or is automatically approved.

§ 101–III–9. Districts and Zoning Map

A. Official Shoreland Zoning Map

1. The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the [Official Shoreland Zoning Map](#) which is made a part of this Ordinance.
 - a. [Resource Protection District](#)
 - b. [Stream Protection District](#)
 - c. [Shoreland Development Overlay District](#)
2. The [Official Shoreland Zoning Map](#) shall be combined with the existing [Zoning Map of the Town of Frye Island](#).

B. Scale of Map

The [Official Shoreland Zoning Map](#) shall be drawn at a scale of one (1) inch equals one thousand five hundred (1,500) feet. District boundaries shall be clearly delineated, and a legend indicating the symbols for each shall be placed on the map.

C. Certification of Official Shoreland Map

The [Official Shoreland Zoning Map](#) shall be certified by the attested signature of the Municipal Clerk and shall be located in the appropriate Town Office.

D. Changes

If amendments, in accordance with [§ 101–III–8](#) above and [§ 101–I–13](#), are made in the district boundaries or other matter portrayed on the [Official Shoreland Zoning Map](#), such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of Environmental Protection.

§ 101–III–10. Interpretation of District Boundaries

Unless otherwise set forth on the [Official Shoreland Zoning Map](#), district boundary lines are property lines, the centerlines of [streets](#), [roads](#), and rights of way, and the boundaries of the shoreland area as defined herein. Where the [Code Enforcement Officer](#) cannot determine the exact location of any district boundary line, the [Board of Appeals](#) shall be the final authority as to location, pursuant to [§ 101–I–4, ¶ C](#), District Boundaries.

§ 101–III–11. Land Use Requirements

A. Requirement to Conform

Except as specified in this section or other more restrictive sections of this Ordinance, no [building](#), [structure](#) or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered, and no new [lot](#) shall be created within the [Shoreland Zone](#) except in conformity with all of the regulations herein specified for the district in which it is located, unless a [variance](#) is granted.

B. Continuation of Non-conforming Lots, Buildings, Structures, and Land Uses

[Non-conforming lots](#), [buildings](#), [structures](#), and land uses that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this and other sections, unless otherwise specified herein. *Except as otherwise provided in this ordinance, a non-conforming condition shall not be permitted to become more non-conforming.*

§ 101–III–12. Non-Conformance

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

B. General

1. Transfer of ownership

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

2. Repair and Maintenance

This Ordinance allows the normal upkeep and maintenance of [non-conforming uses](#) and [structures](#), including repairs or renovations which 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, provided that a building permit is first obtained from the [Code Enforcement Officer](#), as required by [§ 101-I-11, ¶ D.](#) and [§ 101-I-11, ¶ E.](#)

C. Non-conforming Structures

1. Expansions

a. If non-conformity is not increased

A [non-conforming structure](#) in the [Shoreland Zone](#) may be added to or expanded after obtaining a permit from the same permitting authority as that for a new [structure](#), if such addition or [expansion](#) does not [increase the non-conformity of the structure](#) and does not exceed the further limitations of ¶ C.1.b. immediately below. [§ 101-I-7, ¶ A.3.](#) shall not apply to expansions of non-conforming structures in the Shoreland Zone.

b. Further limitations

- i. After January 1, 1989 if any portion of a [structure](#) is less than the required [shore setback](#) from the [normal high-water line](#) of Sebago Lake or [upland edge](#) of a [wetland](#), that portion of the structure shall not be expanded in [floor area](#) or [volume](#) by 30% or more during the lifetime of the structure.
- ii. Construction or enlargement of a [foundation](#) beneath the existing [structure](#) shall not be considered an expansion of the structure provided that all of the following conditions are met:
 - [1.] The structure and new [foundation](#) are placed such that the [shore setback](#) requirement is met to the greatest practical extent as determined by the [Planning Board](#), basing its decision on the criteria specified in ¶ C.2, Relocation, below.
 - [2.] The completed foundation does not extend beyond the exterior dimensions of the structure.
 - [3.] The foundation does not cause the structure to be elevated by more than three (3) additional feet as *measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill).*
- iii. No [structure](#) which is less than the required [shore setback](#) from the [normal high-water line](#) of Sebago Lake, [tributary stream](#), or [upland edge](#) of a [wetland](#) shall be expanded toward the Lake, [tributary stream](#), or wetland. An expansion towards Sebago

Lake or wetland is an expansion that decreases the shortest existing non-conforming setback distance from the shore. This distance shall not take into account the reduction in setback resulting from stairways.

2. Relocation

- a. A [non-conforming structure](#) may be relocated within the boundaries of the parcel on which the [structure](#) is located provided that the following conditions are met:
 - i. The site of relocation conforms to all [shore setback](#) requirements to the greatest practical extent as determined by the [Planning Board](#).
 - ii. The applicant demonstrates that the present [subsurface sewage disposal system](#) meets the requirements of State law and the [State of Maine Subsurface Wastewater Disposal Rules](#) (“rules”), or that a new system can be installed in compliance with the law and said rules.

In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

b. In determining whether the [building](#) relocation meets the [shore setback](#) to the greatest practical extent, the [Code Enforcement Officer](#) shall consider the size of the [lot](#), the slope of the land, the potential for soil erosion, the location of other [structures](#) on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of [vegetation](#) to be removed to accomplish the relocation. *When it is necessary.*

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

(a) Trees removed in order to relocate a structure must be replanted with at least one native

tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted.

Replaced trees must be planted no further from the water or wetland than the trees that were removed.

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

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

3. Reconstruction or replacement

a. Any [non-conforming structure](#) which is located less than the required [shore setback](#) from the [normal high-water line](#) of Sebago Lake, [tributary stream](#), or [upland edge](#) of a [wetland](#) and which is removed, or damaged, or destroyed by more than 50% of the [market value](#) of the [structure](#) before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within ~~one (1) year~~ *18 months* of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the [Planning Board](#) in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. *If the reconstructed or replacement structure is less than the required setback it shall*

not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion

of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to

replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

- b. Any [non-conforming structure](#) which is damaged or destroyed by fifty percent (50%) or less of the [market value](#) of the [structure](#), excluding normal maintenance and repair, may be reconstructed in place with a permit from the [Code Enforcement Officer](#).
- c. In determining whether the [building](#) reconstruction or replacement meets the [shore setback](#) to the greatest practical extent, the [Code Enforcement Officer](#) shall consider in addition to the criteria in [¶ C.2.](#) above, the physical condition and type of [foundation](#) present, if any.

4. Change of use of a non-conforming structure

- a. The use of a [non-conforming structure](#) may not be changed to another use, except for a conforming use, unless the [Code Enforcement Officer](#) after receiving a written application determines that the new use will have no greater adverse impact on Sebago Lake or [wetland](#), or on the subject or adjacent properties and resources, than the existing use.
- b. [§ 101-I-7, ¶ A.5.](#) shall not apply to changes in the use of [non-conforming structures](#) located wholly within the [Shoreland Zone](#). For changes in the use of non-conforming structures located partially within the Shoreland Zone, [§ 101-I-7, ¶ A.5](#) shall apply only to that portion of the [structure](#) which is located outside the Shoreland Zone and is non-conforming with respect to the Articles I and II zoning standards.

- c. In determining that no greater adverse impact will occur, the [Planning Board](#) shall require written documentation from the applicant regarding the probable effects of the proposed change of use on: public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and [functionally water-dependent uses](#).

D. Non-conforming Uses

1. Expansions

- a. [Expansions](#) of [non-conforming uses](#) are prohibited, except that non-conforming residential uses may, after obtaining a permit from the [Code Enforcement Officer](#), be expanded within existing residential [structures](#) or within expansions of such as permitted in [¶ C.1.b.](#) above.
- b. [§ 101-I-7, ¶ A.3](#) and [§ 101-I-7, ¶ A.4](#) shall not apply to [expansions of non-conforming uses](#) located wholly within the [Shoreland Zone](#). *For expansions of non-conforming uses located partially within the Shoreland Zone, § 101-I-7, ¶ A.3 and § 101-I-7, ¶ A.4 shall only apply to those portions of expansions of non-conforming uses located outside the Shoreland Zone.*

2. Resumption prohibited

A [lot](#), [building](#) or [structure](#) in or on which a [non-conforming use](#) is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the [Code Enforcement Officer](#) may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of use

- a. An existing [non-conforming use](#) may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the [Code Enforcement Officer](#). The determination of no greater adverse impact shall be made according to criteria listed in [§ 101-III-12, ¶ C.4.](#) above.
- b. [§ 101-I-7, ¶ A.5](#) shall not apply to changes from one [non-conforming use](#) to another when the uses in question are located wholly within the [Shoreland Zone](#). *For changes from one non-conforming use to another when one or both uses are located partially within the shoreland zone, § 101-I-7, ¶ A.5 shall apply only to those portions of either or both uses which are located outside the [Shoreland Zone](#) and are non-conforming with respect to the Article I zoning standards.*

E. Non-conforming Lots

1. Non-conforming lots

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

2. Contiguous built lots

- a. If two (2) or more contiguous [lots](#) or parcels are in a single or joint ownership of record at the time of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a [principal use](#) or [structure](#) exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the [State Minimum Lot Size Law \(12 M.R.S.A. sections 4807-A through 4807D\)](#) and [Subsurface Wastewater Disposal Rules](#) are complied with..
- b. 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 as 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. Contiguous lots vacant or partially built

- a. Two (2) or more contiguous [lots](#) or parcels shall be combined to the extent necessary to meet the dimensional requirements if all of the following conditions apply:
 - i. They are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance.
 - ii. Any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments.
 - iii. One (1) or more of the lots are vacant or contain no [principal structure](#).
- b. This provision shall not apply to two (2) or more contiguous [lots](#), at least one (1) of which is non-conforming, owned by the same [person](#) or persons on the effective date of this Ordinance and recorded in the Cumberland County Registry of Deeds, if both of the following conditions can be met:

- i. The lot is served by a public sewer or can accommodate a [subsurface sewage disposal system](#) in conformance with the State of Maine Subsurface Wastewater Disposal Rules.
- ii. One or the other of the following two conditions is met:
 - [1.] Each lot contains at least one hundred (100) feet of [shore frontage](#) and at least twenty thousand (20,000) square feet of [lot area](#).
 - [2.] Any of the lots not meeting the frontage and lot size requirements of subparagraph [1.], immediately above are re-configured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

§ 101–III–13. Establishment Of Districts

Throughout the [Shoreland Zone](#), all existing zoning regulations, including but not limited to permitted uses, [special exception](#) uses, space standards and performance standards, in the underlying, existing Article I zoning district shall be in effect, unless such regulations are less restrictive than the applicable regulations of this Ordinance, in which case the more restrictive standards of this Ordinance shall apply.

In shoreland areas adjacent to Sebago Lake and adjacent to [streams](#) flowing to it, neither the underlying zoning nor the provisions of this Ordinance shall be amended to establish new areas or expand existing areas in which [industrial](#) uses are permitted, either as permitted uses or [special exception](#) uses. In such areas, in all cases, the provisions of [Section § 101–III–15, ¶ E, Prohibited Uses](#), of this Ordinance shall apply.

A. Resource Protection District

The Resource Protection District includes areas in which development could 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 need not be included within the Resource Protection District.*

1. Areas within two hundred fifty (250) feet, horizontal distance, of the [upland edge](#) of a [non-forested wetland](#), and [wetlands associated with Sebago Lake](#), which are rated “moderate” or “high” value *waterfowl and wading bird habitat, including nesting and feeding areas*, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) *that are depicted on a Geographic Information System (GIS) maintained by either MDIF&W or the Department as of May 1, 2006 according to their 1988 Wildlife Habitat and Fisheries Maps. For the purposes of this paragraph "wetlands associated with Sebago Lake" shall mean areas characterized by non-forested wetland and hydric soils that are contiguous with Sebago Lake, and have a surface elevation at or below the water level of Sebago Lake during the period of normal high water. "Wetlands associated with Sebago Lake" are to be considered part of Sebago Lake.*

2. Areas of two (2) or more contiguous [acres](#) with [sustained slopes](#) of twenty percent (20%) or greater.
3. Areas of two (2) or more contiguous [acres](#) supporting [wetland vegetation](#) and hydric soils located anywhere within the [Shoreland Zone](#) which are not part of a [non-forested wetland](#), as defined, and which are not surficially connected to Sebago Lake during normal spring water.
4. All land areas within [non-forested wetlands](#), as defined herein.

B. Stream Protection District

The Stream Protection District includes all land areas within seventy five (75) feet, horizontal distance, of the [normal high-water line](#) of a [stream](#), exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of Sebago Lake, or within two hundred-fifty (250) feet, horizontal distance, of the [upland edge](#) of a [non-forested wetland](#), or as shown on the [Official Shoreland Zoning Map](#). Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above Lake or [wetlands](#), that land area shall be regulated under the terms of the shoreland district associated with that Lake or wetland.

C. Shoreland Development Overlay District

The Shoreland Development Overlay District includes all land areas in the [Shoreland Zone](#) that are not designated as being in the [Resource Protection District](#) or the [Stream Protection District](#).

§ 101–III–14. Table of Land Uses

All land use activities, as indicated in Table III–14–1. below, Land Uses in the [Shoreland Zone](#), shall conform with all of the applicable land use standards in [§ 101–III–15.](#) of this Ordinance. The district designation for a particular site shall be determined from the [Official Shoreland Zoning Map](#).

Key to Table 1:

Yes- Allowed (no permit required but the use must comply with all applicable land use standards.)

No- Prohibited

PB- Allowed with permit issued by the Planning Board.

CEO- Allowed with permit issued by the Code Enforcement Officer

LPI- Allowed with permit issued by the Local Plumbing Inspector

Abbreviations

RP- Resource Protection

SP- Stream Protection

SDO

Table III-14-1. Land Uses in the Shoreland Zone

Land Use	District		
	SP	RP	SDO
A. Principal Structures and Uses			
1. Agriculture	Yes	PB	CEO
2. Aquaculture	PB	PB	PB
3. Business and professional office	No	No	PB
4. Campsites, individual private	CEO	CEO	CEO
5. Churches	No	No	PB
6. Commercial recreation	No	No	PB
7. Conversion of seasonal residences to year-round residences	LPI	No	LPI
8. Day-care centers /nursery schools	No	No	PB
9. Day-care homes, licensed	No	No	PB
10. Hotels	No	No	PB
11. Manufactured housing units	No	No	CEO
12. Marinas and boat storage	No	No	PB
13. Motels	No	No	PB
14. Private clubs	No	No	PB
15. Recreational areas, both public and private, involving minimal structural development	PB	PB	PB
16. Research facilities	No	No	PB

17. Restaurants	No	No	PB
18. Retail business , 2000 square feet or less	No	No	PB
19. Retail business , more than 2000 square feet	No	No	PB
20. Single-family dwelling [amended July 6, 2002; WA 5]	PB ²	PB ⁵	CEO
21. Small nonresidential facilities for education, scientific or nature interpretation purposes	PB ²	PB	PB
B. Accessory Structures and Uses			
22. Home occupations	PB	No	PB
23. Parking facilities	No	No	PB
24. Piers, docks, wharves, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland – Temporary	CEO	CEO	CEO
25. Piers, docks, wharves, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland – Permanent	PB	PB	PB
26. Private sewage disposal systems for allowed uses	LPI	No	LPI
27. Service drops to allowed uses	Yes	Yes	Yes
28. Structures accessory to allowed uses	PB ²	PB	CEO
29. Tradesman	No	No	PB
C. General Activities Not Necessarily Associated with Specific Lots			
30. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO ¹	Yes
31. Driveway construction	PB	No ⁴	PB
32. Emergency operations	Yes	Yes	Yes

33. Essential services	PB ³	PB ³	PB
34. Filling and earth moving of less than 10 (ten) cubic yards	CEO	CEO	CEO
35. Filling and earth moving of 10 (ten) cubic yards or more	PB	PB	PB
36. Fire prevention activities	Yes	Yes	Yes
37. Forest management activities except for timber harvesting (forestry)	Yes	Yes	Yes
38. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes
39. Recreational uses that are non-intensive and do not require structures , such as hunting, fishing and hiking	Yes	Yes	Yes
40. Road construction	PB	No ⁴	PB
41. Signs	Yes	Yes	Yes
42. Soil and water conservation practices	Yes	Yes	Yes
43. Surveying and resource analyses	Yes	Yes	Yes
44. Uses similar to allowed uses	CEO	CEO	CEO
45. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO
46. Uses similar to uses requiring a PB permit	PB	PB	PB
47. Wildlife management practices	Yes	Yes	Yes

Key to Table Entries:

Yes	Allowed (no permit required but the use must comply with applicable land use standards.)
No	Prohibited
PB	Requires Shoreland Zoning Approval by the Planning Board
CEO	Requires Shoreland Zoning Approval by the Code Enforcement Officer

LPI	Requires permit issued by the Local Plumbing Inspector
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Districts in the Shoreland Zone:

SP	Stream Protection
RP	Resource Protection
SDO	Shoreland Development Overlay

Table Notes:

1.	In Resource Protection District , not permitted within seventy-five (75) feet of the normal high-water line of Sebago Lake, except to remove safety hazards.
2.	Provided that a variance from the shore setback requirement is obtained from the Board of Appeals .
3.	See further restrictions in § 101-III-15, ¶ K.2.
4.	Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case Shoreland Zoning Approval is required from the Planning Board .
5.	A single-family dwelling may be allowed by special exception only according to the provisions of § 101-III-16, ¶ K, Special Exceptions . [adopted July 6, 2002; WA 5]

§ 101-III-15. Land Use Standards

All land use activities within the [Shoreland Zone](#) shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

1. The minimum [lot](#) size in the [Shoreland Development Overlay District](#) shall be the minimum size required in the underlying zoning district of Article I, Zoning Ordinance.
2. The minimum [lot](#) size in the [Stream Protection](#) and [Resource Protection Districts](#) shall be three (3) [acres](#).
3. The minimum [shore frontage](#) in all districts within the [Shoreland Zone](#) shall be as follows:
 - a. For residential uses, two hundred (200) feet per dwelling.

- b. For governmental, institutional, or [commercial](#) uses, three hundred (300) feet per [principal structure](#).
 - c. For public and private [recreational facilities](#), two hundred (200) feet per facility.
4. Land below the [normal high-water line](#) of Sebago Lake 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](#).
5. [Lots](#) located on opposite sides of a public or [private road](#) shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
6. The [minimum width](#) of any portion of any [lot](#) within one hundred (100) feet, horizontal distance, of the [normal high-water line](#) of Sebago Lake or [upland edge](#) of a [wetland](#) shall be equal to or greater than the [shore frontage](#) requirements for a lot with the proposed use.
7. If more than one (1) [residential dwelling unit](#) or more than one (1) principal [commercial structure](#) is constructed on a single parcel, all [dimensional requirements](#) shall be met for each additional [dwelling unit](#) or [principal structure](#).
8. Clustered housing is permitted within the [Shoreland Zone](#), provided that the overall [dimensional requirements](#), including frontage and [lot area](#) per [dwelling unit](#) are met. When determining whether dimensional requirements are met, only land area within the Shoreland Zone shall be considered.

B. Principal and Accessory Structures

1. All new principal and [accessory](#) structures shall have a [shore setback](#) of at least one hundred (100) feet, horizontal distance, from the [normal high-water line](#) of Sebago Lake, and seventy five (75) feet from the normal high-water line of [tributary streams](#) or the [upland edge](#) of a [wetland](#).
 - a. [Shore setbacks](#) from Sebago Lake or [wetland](#) shall not take into account the reductions in shore setback resulting from stairways.
 - b. In addition, the Sebago Lake or wetland [shore setback](#) provision shall apply neither to [structures](#) which require direct access to the water as an operational necessity, such as piers, docks, retaining walls, and dams, nor to other [functionally water-dependent uses](#).
2. Principal or [accessory structures](#) and [expansions](#) of existing [structures](#) which are permitted in the [Resource Protection](#) and [Stream Protection Districts](#), shall not exceed thirty-five (35) feet in [height](#).
3. The first floor elevation or openings of all [buildings](#) and [structures](#), including basements, shall be elevated at least one (1) foot above the elevation of the 100-year flood or the flood of record, or at least as high as required under [Article IV, Floodplain Management Ordinance](#). In the absence of the elevations of the 100-year flood or the flood of record, soil types identified as [recent floodplain soils](#) shall be used to determine flood elevation for the

purposes of this paragraph. See definition of “recent floodplain soils” in [§ 101-III-17](#).

4. The total area of all [structures](#), parking lots, and other non-vegetated surfaces, excluding natural beaches, above the [normal high-water line](#) within the [Shoreland Zone](#) shall not exceed twenty (20%) percent of the [lot](#) or a portion thereof located within the Shoreland Zone, including land area previously developed.
5. Notwithstanding the requirements stated above, stairways or similar [structures](#) may be allowed, with a permit from the [Code Enforcement Officer](#), to provide shoreline access in areas of steep slopes or unstable soils, provided that all of the following conditions apply:
 - a. The structure is limited to a maximum of four (4) feet in width.
 - b. The structure does not extend below or over the [normal high-water line](#) of Sebago Lake or [upland edge](#) of a [wetland](#), unless permitted by the Department of Environmental Protection pursuant to the [Natural Resources Protection Act, Title 38 § 480-C](#).
 - c. The applicant demonstrates that no reasonable access alternative exists on the property.
6. Cluster development permitted under [§ 101-I-4, ¶ E](#), may be permitted in the [Shoreland Zone](#), provided that any reduced [lot](#) dimensions allowed are confined to areas of the development outside the Shoreland Zone. Under no circumstance shall the minimum lot sizes in [§ 101-III-15, ¶ A.1](#) be reduced within the Shoreland Zone.

C. Piers, Docks, Wharves, Bridges, and Other Structures

For [piers, docks, wharves, bridges, and other structures and uses](#) extending over or beyond the [normal high-water line](#) of Sebago Lake or within a [wetland](#), all of the following standards apply:

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry out the activity and be consistent with existing conditions, use, and character of the area.
5. No new [structure](#) shall be built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the [normal high-water line](#) of Sebago Lake or within a [wetland](#) unless the structure requires direct access to the water as an operational necessity.
6. No existing [structures](#) built on, over, or abutting a pier, dock, wharf, or other structure extending beyond the [normal high-water line](#) of Sebago Lake or within a [wetland](#) shall be converted to [residential dwelling units](#) in any district.

7. Except in the [Shoreland Development Overlay District](#) where the underlying zoning district is the Water-Oriented Commercial District, [structures](#) built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the [normal high-water line](#) of Sebago Lake or within a [wetland](#) shall not exceed twenty (20) feet in [height](#) above the pier, wharf, dock, or other structure.
8. Permanent [structures](#) projecting into or over Sebago Lake shall *not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock or other structure is not feasible, and unless a permit has been obtained* from the Department of Environmental Protection pursuant to the [Natural Resources Protection Act, Title 38 § 480-C](#).

D. Individual Private Campsites

[Individual, private campsites](#) not associated with commercial [campgrounds](#) are permitted provided the following conditions are met:

1. One campsite is permitted per [lot](#) existing on the effective date of this Ordinance or per thirty thousand (30,000) square feet of [lot area](#) within the [Shoreland Zone](#), whichever is less.
2. Campsite placement on any [lot](#), including the area intended for a [recreational vehicle](#) or tent platform, shall be set back one hundred (100) feet from the [normal high-water line](#) of Sebago Lake, and seventy five (75) feet from the normal high-water of [tributary streams](#) or the [upland edge](#) of a [wetland](#).
3. *Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle [Recreational vehicles](#) shall not be located on any type of permanent [foundation](#) except for a gravel pad, and no [structure](#)(s) except canopies shall be attached to the recreational ~~vehicle~~ [vehicles](#).*
4. The clearing of [vegetation](#) for the siting of the [recreational vehicle](#), tent, or similar shelter in a [Resource Protection District](#) shall be limited to one thousand (1,000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a [recreational vehicle](#), tent, or similar shelter is placed on-site for more than one hundred-twenty (120) days per year, all requirements for residential [structures](#) shall be met, including the installation of a [subsurface sewage disposal system](#) in compliance with the State of Maine Subsurface Wastewater Disposal Rules, unless the site is served by public sewage facilities.

E. Prohibited Uses

The following new uses are prohibited within the [Shoreland Zone](#):

1. Airports
2. [Animal husbandry](#)

3. Auto or other vehicle service and/or repair operations, including body shops
4. Auto repair garages
5. Auto service stations
6. Auto washing facilities
7. [Campground](#)
8. [Cemeteries](#)
9. Chemical and bacteriological laboratories
10. Commercial painting, wood preserving, and furniture stripping
11. [Commercial wood processing](#)
12. Dry cleaning establishments
13. Electronic circuit assembly
14. [Funeral homes](#)
15. Golf courses
16. [Junkyards](#)
17. Laundromats, unless connected to a sanitary sewer
18. Metal plating, finishing, or polishing
19. [Mineral extraction](#)
20. [Mobile home parks](#)
21. [Motor vehicle sales](#)
22. Petroleum or petroleum products storage and/or sale except storage on same property as use occurs and except for storage and sales associated with [marinas](#)
23. Photographic [processing](#)
24. Printing
25. Public and private utilities
26. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with use by individual households or farms
27. [Timber harvesting](#)

A use not contained in the above list is, nevertheless, not permitted in a Shoreland district unless it is stated as a permitted use for that district in Table III-14-1, Land Uses in the Shoreland Zone.

F. Parking Areas

1. Parking areas shall meet the shoreline [shore setback](#) requirements for [structures](#) for the district in which such areas are located, with the following exceptions:

- a. In the [Shoreland Development Overlay District](#) when the underlying zoning district is a Water-Oriented Commercial District, parking areas shall be setback at least twenty-five (25) feet from the [normal high-water line](#) or the [upland edge](#) of a [wetland](#).
 - b. In the [Shoreland Development Overlay District](#) when the underlying zoning district is not a Water-Oriented Commercial District, the [shore setback](#) requirement for parking areas serving public [boat launching facilities](#) may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the [Planning Board](#) finds that no other reasonable alternative exists.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into Sebago Lake and, where feasible, to retain all runoff on-site.
 3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. Typical [parking spaces](#): Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b. Internal travel aisles: Approximately twenty-four (24) feet wide.

G. Roadways and Driveways

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

1. [Roads](#) and [driveways](#) shall be set back at least one hundred (100) feet from the [normal high-water line](#) of Sebago Lake, and seventy-five (75) feet from the normal high-water line of [tributary streams](#) or the [upland edge](#) of a [wetland](#) unless no reasonable alternative exists as determined by the [Planning Board](#). If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway [shore setback](#) requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of Sebago Lake. Such techniques may include but are not limited to the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of Sebago Lake, tributary stream, or wetland. On slopes of greater than twenty percent (20%), the road and/or driveway shore setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty percent (20%).
2. Existing public [roads](#) may be expanded within the legal road right-of-way regardless of its [shore setback](#) from Sebago Lake.
3. New [roads](#) and [driveways](#) are prohibited in a [Resource Protection District](#) except to provide access to permitted uses within the district, or as approved by the [Planning Board](#) upon a finding that no reasonable alternative route or location is available outside the district. In such a situation, the road and/or

driveway shall be set back as far as practicable from the [normal high-water line](#) of Sebago Lake, [tributary stream](#), or [upland edge](#) of a [wetland](#).

4. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in [T.O.](#) of this section.
5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
6. In order to prevent road surface drainage from directly entering Sebago Lake, [roads](#) shall be designed, constructed, and maintained to empty onto an unscarified buffer strip with a width of at least (50) feet plus two (2) times the average slope between the outflow point of the ditch or culvert and the [normal high-water line](#) of Sebago Lake, [tributary stream](#), or [upland edge](#) of a [wetland](#). Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the [road](#) or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the [road](#) at intervals no greater than indicated in the following table:

ROAD GRADE (percent)	SPACING (feet)
0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21+	40

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

- d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with [roads](#) and *driveways* shall be maintained on a regular basis to assure effective functioning.

H. Signs

The following provisions shall govern the use of [signs](#) in the [Resource Protection, Stream Protection](#), and [Shoreland Development Overlay Districts](#):

1. [Signs](#) and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.
2. Name [signs](#) shall be permitted, provided that such signs shall not exceed two (2) signs per premises.
3. Residential users may display a [sign](#) not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. [Signs](#) related to trespassing and hunting shall be permitted on one's own property without restriction except as provided under applicable State laws governing the posting of property, provided that no such sign shall exceed two (2) square feet in area.
5. [Signs](#) relating to public safety shall be permitted, consistent with [§ 101-I-4, ¶ O](#).
6. No [sign](#) shall extend higher than twenty (20) feet above the ground.
7. [Signs](#) may be illuminated only by shielded, non-flashing lights.

I. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

J. Septic Waste Disposal

1. All [subsurface sewage disposal systems](#) shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules ("rules") and the following: a) *clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five feet, horizontal distance, from the normal high-water line of a*

water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

2. The minimum [shore setback](#) for new [subsurface sewage disposal systems](#) shall be no less than one hundred (100) horizontal feet from the [normal high-water line](#) of Sebago Lake. The minimum shore setback distances for new subsurface sewage disposal systems shall not be reduced by [variance](#).
3. [Replacement systems](#) shall meet the standards for replacement systems as contained in the rules referenced in ¶ J.1. above.

K. Essential Services

1. Where feasible, the installation of [essential services](#) shall be limited to existing public ways and existing service corridors.
2. The installation of [essential services](#) *other than road-side distribution lines*, is not permitted in a [Resource Protection](#) or [Stream Protection District](#), except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such [structures](#) and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. *Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.*

L. Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* ~~atest revision of the~~ *Maine Guidelines for Manure and Manure Sludge Disposal on Land*, published by the University of Maine *Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A sections 4201-4209)* ~~Soil and Water Conservation Commission in July 1972.~~
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of Sebago Lake or within seventy-five (75) feet horizontal distance, of *other water bodies*, [tributary streams](#) or [wetlands](#). ~~By no later than February 28, 2003, all~~ All manure storage areas within the [Shoreland Zone](#) must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. ~~Existing facilities which do not meet the~~ [shore setback](#) requirement may remain, but must meet the no discharge provision ~~before this date.~~
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal, or storage of manure within the [Shoreland Zone](#) shall require a ~~Soil and Water Conservation~~ Plan to be filed with the [Planning Board](#). Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance. (Note: Assistance in preparing a Soil and Water Conservation Plan may be available through the local Soil and Water Conservation District Office.)

4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the [normal high-water line](#) of Sebago Lake; *within seventy-five (75) feet, horizontal distance, from other water bodies*; nor within twenty-five (25) feet, horizontal distance, of [tributary streams](#) and [wetlands](#). Operations in existence on *the effective date of this Ordinance* ~~February 28, 1998~~ and not in conformance with this provision may be maintained.
5. ~~After February 28, 1998, newly~~ *Newly* established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the [normal high-water line](#) of Sebago Lake; *within seventy-five (75) feet, horizontal distance, of other water bodies*; nor within twenty-five (25) feet, horizontal distance, of [tributary streams](#) and [wetlands](#). Livestock grazing associated with ongoing farm activities, *and which are not in conformance with the above setback provisions* may continue, provided that such grazing is conducted in accordance with a ~~Soil and Water~~ Conservation Plan.

M. Timber Harvesting

[The provisions of this paragraph are deleted, since timber harvesting is not allowed anywhere in the Shoreland Zone, as stated in [¶ E.](#) above.]

N. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting Development

1. Within a shoreland area zoned for Resource Protection abutting Sebago Lake, there shall be no cutting of [vegetation](#) within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the [normal high-water line](#), except to remove safety hazards. Elsewhere, in any [Resource Protection District](#) the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
2. Except in areas as described in [¶ N.1.](#) above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the [normal high-water line](#) of Sebago Lake and seventy-five (75) feet, horizontal distance, from any *other water body*, [tributary stream](#) or the [upland edge](#) of a [wetland](#), a buffer strip of [vegetation](#) shall be preserved as follows:
 - a. There shall be no cleared opening greater than two-hundred-fifty (250) square feet in the forest canopy (*or other existing woody vegetation if a forest canopy is not present*) as measured from the outer limits of the tree *or shrub* crown. However, a footpath not to exceed ~~six (6) ten (10)~~ feet in width as measured between tree trunks *and/or shrub stems* is ~~allowed permitted~~ provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to Sebago Lake or a [stream](#) flowing to it, the width of the foot path shall be limited to six (6) feet.
 - b. Cutting of trees.
 - i. Selective cutting of trees within the buffer strip is permitted, provided that a well-distributed stand of trees and other

[vegetation](#) is maintained. For the purposes of this section, a “well-distributed stand of trees and other vegetation” adjacent to Sebago Lake or a [stream](#) flowing to it shall be defined as maintaining a rating score of ~~twenty-four (12)~~ or more in each 25-foot by 50-foot rectangle (1250 square feet) ~~a twenty-five by twenty-five foot square area [six hundred twenty-five (625) square feet]~~ as determined by the following rating system:

Tree at 4 1/2 Feet Above Ground Level (inches)	Points
2 - <4 2 through 4	1
4 - <8	2
8 - <12	4
greater than 4 through 12	
greater than 12	84

Note: As an example, adjacent to Sebago Lake, if a 25-foot x 50-foot ~~twenty-five by twenty-five foot~~ plot contains ~~four (4) three (3) trees between from two (2) and through four (4) inches in diameter, two (2) three (3) trees between between greater than four (4) and eight (8) up through twelve (12) inches in diameter, and three (3) trees between 8 and 12 inches in diameter, and two three trees greater than twelve (12) inches in diameter,~~ the rating score is: ~~(3x1) + (3x2) + (3x4) = 21 points. (4x1) + (2x2) + 3x4) + (2x8) = 36 points.~~ Thus, the ~~twenty-five by 50-foot~~ ~~twenty-five by twenty-five foot~~ plot contains trees worth 36 ~~twenty-one (21)~~ points. Trees totaling 12 ~~nine (9)~~ points (36-24=12 ~~21 - 12 = 9~~) may be removed from the plot, provided that no cleared openings are created.

- ii. Adjacent to [tributary streams](#) and [wetlands](#), a “well-distributed stand of trees and other [vegetation](#)” is defined as maintaining a minimum rating score of ~~16 eight (8)~~ per 25-foot by 50-foot rectangular ~~twenty-five foot square~~ area.
 - iii. Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at four and one-half feet above ground, may be removed in any ten-year period.
- c. In order to protect water quality and wildlife habitat, adjacent to Sebago Lake, and [streams](#) which flow to it, existing [vegetation](#) under three (3) feet in height and other ground cover shall not be *cut, covered or*

removed, except to provide for a footpath or other permitted uses as described in [§ N.2.](#) above.

- d. Pruning of trees branches on the bottom 1/3 of the tree is permitted.
 - e. In order to maintain a buffer strip of [vegetation](#), when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
 - f. The provisions contained in [§ N.2.](#) above shall not apply to those portions of public [recreational facilities](#) adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.
3. At distances greater than one hundred (100) feet, horizontal distance, from Sebago Lake and seventy-five (75) feet, horizontal distance, from the [normal high-water line](#) of any [tributary stream](#), or the [upland edge](#) of a [wetland](#), except to allow for the development of permitted uses, there shall be *allowed* ~~permitted~~ on any [lot](#), in any ten-year period, selective cutting of not more than forty percent (40%) of the volume of trees four (4) inches or more in diameter, measured four and one-half (4 1/2) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for *any purpose development*, including but not limited to principal and [accessory structures](#), [driveways](#), *lawns* and sewage disposal areas, exceed in the aggregate twenty-five per cent (25%) of the [lot area](#) *within the shoreland zone* or ten thousand (10,000) square feet, whichever is greater, including land previously *cleared developed*. This provision shall not apply to the [Shoreland Development Overlay District](#) where it overlies the Water-Oriented Commercial District.

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
5. Fields *and other cleared openings* which have reverted to *primarily* primary shrubs, trees, or other woody [vegetation](#) shall be regulated under the provisions of this section.

O. Erosion and Sedimentation Control

1. All activities which involve filling, grading, *excavation* or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.

- b. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
 - c. Permanent stabilization [structures](#), such as retaining walls or [riprap](#).
 2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time the work is started by use of [riprap](#), sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of [vegetation](#) is established.
 - b. Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with [vegetation](#) or lined with rip-rap.
 6. For all soil-disturbing activities referred to in [¶ O.1](#) above, except [agriculture](#), erosion and sedimentation control plans shall be consistent with the standards of this subparagraph and, except where the standards of the subparagraph are more restrictive, the erosion and sedimentation control strategies contained in each erosion and sedimentation control plan shall be selected from the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. This publication shall be available for public inspection at the Town Office.

P. Soils

All land uses shall be located on soils in or upon which the proposed uses or [structures](#) can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and

water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or [industrial](#) development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by State certified professionals. 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 analyses of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

Q. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body under [38 M.R.S.A.](#)

R. Archaeological Sites

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

S. Home Occupations

A [home occupation](#), as defined in § 101–III–17, Definitions, and as permitted in districts of the [Shoreland Zone](#) according to [Table III–14–1, Land Uses in the Shoreland Zone](#), must comply with the following conditions:

1. It must be an occupation or profession which is accessory to a residential use and customarily carried on in a [dwelling unit](#), is carried on by a member of a [family](#) residing in the dwelling unit, is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and which conforms to the following conditions:
 - a. The occupation or profession shall be carried on wholly within the [principal building](#).
 - b. Not more than two (2) people outside the [family](#) shall be employed in the “home occupation.”
 - c. There shall be no exterior display, no exterior [sign](#) (except as expressly permitted by the district regulations of [§ 101–I–5, ¶ A](#), Home Occupation Levels), no exterior storage of material, nor other exterior indication of the home occupation nor variation from the residential character of the [principal building](#).

- d. No [nuisance](#), offensive noise, vibration, smoke, dust, odors, heat, glare or electrical disturbance shall be generated.
 - e. The home occupation shall not utilize more than twenty percent (20%) of the total [floor area](#) of the [dwelling unit](#).
2. A home occupation shall include but not be limited to the following: art studio, dressmaking shop, hairdressing shop, teaching or tutoring facilities, [office](#) of a physician, dentist optometrist, lawyer, engineer, architect, or accountant, office of a real estate broker or agent, and office of an insurance agent or broker. A “home occupation” shall not be interpreted to include the following: facilities for repair of motor vehicles and [day-care center](#) or babysitting service for more than six (6) children at any one (1) time.
 3. A home occupation not specifically permitted nor specifically prohibited by ¶s A. and B. above shall require a use permit from the [Board of Appeals](#).

§ 101–III–16. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer

A [Code Enforcement Officer](#)(s) shall be appointed or reappointed annually by July 1.

2. Board of Appeals

A [Board of Appeals](#) shall be created in accordance with the provisions of [Title 30-A §2691](#).

3. Planning Board

A [Planning Board](#) shall be created in accordance with the provisions of State Law.

B. Shoreland Zoning Approvals and Permits Required

1. Approvals and permits required before proceeding

After the effective date of this Ordinance, any [person](#) shall first obtain a Shoreland Zoning Approval from the [Code Enforcement Officer](#) or [Planning Board](#) (if required in [Table III–4–1](#)) and a [building](#), occupancy and/or plumbing permit prior to:

- a. Engaging in any activity or use of land or [structure](#) requiring a permit in the district in which such activity or use would occur, including but not limited to [road](#) or [driveway](#) construction or repair.
- b. Expanding, changing, or replacing an existing use or structure.
- c. Renewing a discontinued [non-conforming use](#).

2. Exceptions for the replacement of culverts

Shoreland zoning approval and a building permit are not required for the replacement of an existing culvert as long as the following conditions are met:

- a. The replacement culvert is not more than one (1) standard culvert size wider than the culvert being replaced.
- b. The replacement culvert is not more than twenty-five percent (25%) longer than the culvert being replaced.
- c. The replacement culvert is not longer than seventy-five (75) feet.
- d. Adequate erosion control measures are taken to prevent sedimentation of the water.
- e. The crossing does not block fish passage in the watercourse.

3. Activities requiring a permit from the Department of Environmental Protection

A [person](#) performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to [38 M.R.S.A. § 480-C](#), if the activity occurs in, on, over, or adjacent to Sebago Lake or any [freshwater wetland](#), [stream](#) or brook and operates in such a manner that material or soil may be washed into them.

- a. Dredging, bulldozing, removing, or displacing soil, sand, [vegetation](#), or other materials.
- b. Draining or otherwise dewatering.
- c. Filling.
- d. Any construction or alteration of any permanent [structure](#).

C. Shoreland Zoning Approval Applications

1. Every applicant for a permit requiring Shoreland Zoning Approval shall submit a written application, including a scaled site plan, on a form provided by the [Town](#), to the appropriate official as indicated in [Table III-14-1](#), Land Uses in the Shoreland Zone.
2. Applications requiring both Articles I or II zoning approval and Article III Shoreland Zoning Approval from the [Code Enforcement Officer](#) or [Planning Board](#) can be combined, as long as all of the information required by all relevant Ordinances is provided.
3. All applications shall be signed by the owner or owners of the property or other [person](#) authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
4. All applications shall be dated, and the [Code Enforcement Officer](#) or [Planning Board](#), as appropriate, shall note upon each application the date and time of its receipt.
5. If the property is not served by a public sewer, a valid septic system permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature

of the proposed [structure](#) or use would require the installation of a [subsurface sewage disposal system](#).

6. All applications for Shoreland Zoning Approval shall be subject to an application fee, as specified in the Town of Frye Island Fee Schedule.

D. Procedure for Administering *Permits Applications for Shoreland Zoning Approval*

1. Within thirty-five (35) days of the date of receiving a written application, the [Planning Board](#) or [Code Enforcement Officer](#), as indicated in [Table III-14-1](#), Land Uses in the Shoreland Zone, 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.
2. Where a written application requests both [Site Plan Review](#) approval under Articles I or II and Shoreland Zoning Approval under Article III from the [Planning Board](#), the two requests can be heard and decided together so long as the standards and requirements for both are addressed.
3. The Planning Board or the [Code Enforcement Officer](#), shall approve, approve with conditions, or deny all permit applications, in writing.
 - a. A decision by the [Code Enforcement Officer](#) shall be made within thirty-five (35) days of receiving a completed application.
 - b. A decision by the [Planning Board](#) shall be made within thirty-five (35) days of its next regularly scheduled meeting following receipt of the completed application. (Note that [§ 101-I-12, ¶ B](#), Planning Board Meetings, requires that such meetings be scheduled at approximately monthly intervals.)
 - c. If the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held.
 - d. Shoreland zoning approval shall be granted if the proposed use or [structure](#) is found to be in conformance with the purposes and provisions of this Ordinance.
4. 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.
5. After the submission of a complete application to the [Planning Board](#), the Planning Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
 - a. Will maintain safe and healthful conditions.
 - b. Will not result in water pollution, erosion, or sedimentation to surface waters.

- c. Will adequately provide for the disposal of all wastewater.
 - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat.
 - e. Will conserve shore cover and visual, as well as actual, points of access to inland waters.
 - f. Will protect archaeological and historic resources as designated in the [Comprehensive Plan](#).
 - g. Will avoid problems associated with flood plain development and use.
 - h. Will not alone, or in conjunction with existing activities, adversely affect the quantity or quality of ground water or the quantity of subsurface water.
 - i. Is in conformance with the provisions of [§ 101-III-15](#).
6. If Shoreland Zoning Approval 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 any State law which the [Town](#) is responsible for enforcing.
7. [§ 101-I-11, ¶ F](#), which concerns certificates of occupancy, shall apply in the [Shoreland Zone](#).

E. Applications for Building, Plumbing, or Occupancy Permits

Applications for building, plumbing, or occupancy permits shall be made and administered according to the procedures established in [§ 101-I-11](#) but with the following additional requirements:

1. If Shoreland Zoning Approval is required by [§ 101-III-14](#), such approval must be obtained prior to the granting of such building, plumbing, or occupancy permits.
2. Such applications must also satisfy the requirements of ¶s F, G, and H. of this section.

F. Deadline for Permit Applications Following Shoreland Zoning Approval

1. Following issuance of Shoreland Zoning Approval by the [Code Enforcement Officer](#) or the [Planning Board](#), the owner shall apply for the necessary permits to start the approved project. If these applications are not made within one hundred eighty (180) calendar days of the date of the approval, the Shoreland Zoning Approval shall lapse and become void, unless it applies to a new [subdivision](#).
2. When a Shoreland Zoning Approval has lapsed pursuant to [¶ F.1.](#) above and the applicant wishes to construct the [improvements](#) or occupy the premises for which the original Shoreland Zoning Approval was granted, he or she shall submit a new application for Shoreland Zoning Approval together with the fee applicable at the time of the new application.

3. If the Shoreland Zoning Approval applies to a [subdivision](#) located entirely or partially within the [Shoreland Zone](#) and the approved subdivision includes proposed public or [private roads](#), storm water management facilities, or other [improvements](#) which are subject to a performance guaranty under [§ 101-III-3, ¶ B](#), permits necessary for the construction of these improvements shall be applied for within one hundred eighty (180) calendar days of the date of Shoreland Zoning Approval.
4. The deadline in ¶ F.3. above shall not apply to permits necessary for the construction of [improvements](#) which are part of a [subdivision](#) and which are not listed in that subparagraph, including building, plumbing, and occupancy permits.

G. Expiration of Building, Plumbing, or Occupancy Permit

1. Following the issuance of a permit, if no [substantial start](#), as defined in [§ 101-III-17](#), is made in construction or in the use of the property within one (1) year of the date of the permit, the permit shall lapse and become void.
2. When a building or occupancy permit has lapsed pursuant to ¶ G.1. above and the applicant wishes to construct the [improvements](#) or occupy the premises for which the original permit was granted, he or she shall submit a new application together with the fee applicable at the time of the new application.
3. Where a [substantial start](#) has been achieved within one (1) year of the date of the permit and construction is not complete within one (1) year of the date of the building permit, the provisions of [§ 101-I-11, ¶ D](#), shall apply to renewal of the permit.

H. Installation of Public Utility Service

No [public utility](#), water district, sanitary district, or any utility company of any kind may install services to any new [structure](#) located in the [Shoreland Zone](#), unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

I. Appeals

1. Powers and duties of the Board of Appeals

a. Administrative appeals

To hear and decide appeals, where it is alleged that there is an error in any order, requirement, decision, or determination made by or failure to act by the [Code Enforcement Officer](#) or [Planning Board](#) in the administration of this Ordinance.

b. Variance appeals

To authorize [variances](#) upon appeal, within the limitations set forth in this Ordinance.

c. Board of Appeals meetings

The [Board of Appeals](#) shall schedule meetings approximately once a month between April 30 and Columbus Day, and the Board shall not be required to hold a meeting or hearing otherwise. The Board shall not be required to hold a meeting if no appeals are pending.

2. Variance appeals

a. Restrictions on granting variances

[Variances](#) may be permitted only under the following conditions:

- i.. [Variances](#) may be granted only from [dimensional requirements](#), including but not limited to [lot width](#), [structure height](#), percent of lot [coverage](#), and [shore setback](#) requirements.
- ii. [Variances](#) shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- iii. The Board shall not grant a [variance](#) unless it finds that all of the criteria listed below are met:
 - [1.]. The proposed [structure](#) or use would meet the provisions of [§ 101-III-15](#), except for the specific provision which has created the nonconformity and from which such relief is sought.
 - [2.]. The strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship” shall require that all of the conditions listed below are met:
 - [a.]. The land in question cannot yield a reasonable return unless a [variance](#) is granted.
 - [b.]. The need for a [variance](#) is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
 - [c.]. The granting of a [variance](#) will not alter the essential character of the locality.
 - [d.]. The hardship is not the result of action taken by the applicant or prior owner.
 - [3.]. Granting a [variance](#) shall be consistent with the requirements of [§ 101-I-14, ¶ C.2.](#)
- iv. In addition, the Board shall comply with the requirements of [§ 101-I-14, ¶ E](#), Criteria to be Considered in Hearing Appeals.
- v. The [Board of Appeals](#) shall limit any [variances](#) granted as strictly as possible, in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible. In doing so, the Board may impose such conditions to

a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

b. Disability variances

The [Board of Appeals](#) may grant a [variance](#) to a property owner for the purpose of making that property accessible to a person with a [disability](#) who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of [structures](#) necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. The term “structure necessary for access to or egress from the property” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

c. Submittal to the Department of Environmental Protection

A copy of all Shoreland Zoning [variances](#) granted by the [Board of Appeals](#) shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

3. Appeals procedure

a. Making an appeal

- i. An administrative or [variance](#) appeal may be taken to the [Board of Appeals](#) by an aggrieved party from any decision of the [Code Enforcement Officer](#) or the [Planning Board](#). Such appeal shall be taken within thirty (30) days of the date of the decision appealed from and not otherwise, except that the Board, upon showing of good cause, may waive the thirty-day requirement.
- ii. Such appeal shall be made by filing with the [Board of Appeals](#) a written notice which includes:
 - [1.] A concise written statement indicating what relief is requested and why it should be granted.
 - [2.] A sketch drawn to scale showing [lot](#) lines, location of existing [buildings](#) and [structures](#) and other physical features of the lot pertinent to the relief sought.
- iii. Upon being notified of an appeal, the [Code Enforcement Officer](#) or [Planning Board](#), as appropriate, shall transmit to the [Board of Appeals](#) all of the papers constituting the record of the decision appealed from.
- iv. The [Board of Appeals](#) shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

- i. A majority of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- ii. The concurring vote of a majority of the members of the [Board of Appeals](#) present and voting shall be necessary to carry out any of the following actions:
 - [1.] Reverse an order, requirement, decision, or determination of the [Code Enforcement Officer](#) or [Planning Board](#).
 - [2.] Decide in favor of the applicant on any matter on which it is required to decide under this Ordinance.
 - [3.] Affect any variation in the application of this Ordinance from its stated terms.

The Board of Appeals may reverse the decision or failure to act of the [Code Enforcement Officer](#) or [Planning Board](#) only upon a finding that the decision or failure to act was clearly contrary to specific provisions of this Ordinance.

4. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the [Board of Appeals](#) may take an appeal to Superior Court in accordance with state laws within forty-five (45) days from the date of any decision of the Board of Appeals

5. Reconsideration

In accordance with 30-A, M.S. R.A. Section 2691(3) (F), the Board of Appeals may reconsider any decision reached under this section within 45 days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest including abutters and those who testified at the original hearing(s). The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

Appeal of reconsideration to the Superior Court must be made within fifteen (15) days after the decision on reconsideration. [section was amended at [10/6/07 Town Meeting](#)]

J. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a [nuisance](#).

2. Code Enforcement Officer

- a. It shall be the duty of the [Code Enforcement Officer](#) to enforce the provisions of this Ordinance. If the [Code Enforcement Officer](#) shall find that any provisions of this Ordinance is being violated, he or she shall notify in writing the [person](#) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, [buildings](#), or [structures](#), or work being done, removal of illegal buildings or structures, and abatement of [nuisance](#) conditions. A copy of such notices shall be maintained as a permanent record.
- b. The [Code Enforcement Officer](#) shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c. The [Code Enforcement Officer](#) shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, [variances](#) granted or denied, revocations actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions

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

4. Fines

- a. Any [person](#), including but not limited to a landowner, a landowner's agent, or a contractor, who orders or conducts any activity in [violation](#) of this Ordinance shall be penalized in accordance with [Title 30-A M.R.S.A. §4452](#).
- b. [§ 101-I-11, ¶ 1](#), notwithstanding, failure to obtain a valid building permit prior to the start of construction shall be considered a [violation](#) of this Ordinance and shall also be penalized in accordance with [Title 30-A M.R.S.A. §4452](#). (Note: Current penalties include fines of not less than \$100.00 nor more than \$2,500.00 per violation for each day that the violation continues.)

K. Special Exceptions [adopted [July 6, 2002; WA 5](#)]

The [Planning Board](#) may approve a permit for a [single-family dwelling](#) in a [Resource Protection District](#) provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the [Resource Protection District](#), where the [structure](#) can be built.
2. The lot on which the [structure](#) is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the [Resource Protection District](#).
3. The proposed location of all [buildings](#), sewage disposal systems and other [improvements](#) are:
 - a. Located on natural ground slopes of less than twenty percent (20%); and
 - b. All [buildings](#), including basements, are elevated at least one (1) foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance (see Article IV of this Ordinance).
4. The total ground-floor area of all [principal](#) and [accessory structures](#) is limited to a maximum of fifteen hundred (1,500) square feet.
5. All [structures](#), except those dedicated to [functionally water-dependent uses](#), are set back from the [normal high-water line](#) or [upland edge](#) of a [wetland](#) to the greatest practical extent, but not less than one hundred (100) feet. In determining the greatest practical extent, the [Planning Board](#) shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value [wetlands](#).

§ 101-III-17. Definitions

This section contains definitions of terms used in this Ordinance. For those terms which are defined in both this Ordinance and in [§ 101-I-3](#), the definition listed below shall apply within the [Shoreland Zone](#), as delineated in [§ 101-III-3](#). Definitions of terms which are not

listed or defined in this section, but which are listed and defined in [§ 101-I-3](#), shall continue to apply in the underlying zoning districts of the [Shoreland Development Overlay District](#).

Accessory Structures or Use: A use or [structure](#) which is incidental and subordinate to the [principal use](#) or structure. Accessory uses when aggregated shall not subordinate the principal use of the [lot](#). A deck or similar extension of the [principal structure](#) or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or [variance](#) under this Ordinance; a [person](#) whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture: The production, keeping, or maintenance for sale or lease of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits, and vegetables; and ornamental and green house products.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area: *The area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.*

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

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and [parking spaces](#) for vehicles and trailers.

Campground: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including but not limited to tents and recreation vehicles.

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

Commercial Use: The use of lands, [buildings](#), or [structures](#), other than a [home occupation](#) (defined below in this section), the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or [dwelling units](#).

A [single-family dwelling](#) or [accessory structure](#) in which a [home occupation](#) or enterprise is carried on by a person residing in the dwelling unit, shall not be deemed to be a “commercial structure,” as used in this Ordinance, provided that:

- A. Such home occupation or enterprise is incidental and secondary to the use of the dwelling unit for residential purposes.
- B. Such home occupation conforms to the requirements of [§ 101-III-15](#).

DBH *The diameter of a standing tree measured 4.5 feet from ground level.*

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

Dimensional Requirements: Numerical standards relating to spatial relationships, including but not limited to [setback](#), [lot area](#), [shore frontage](#), and [height](#).

Disability: Any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by a bodily injury, accident, disease, birth defect,

environmental condition, or illness. This definition also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation, or related services.

Driveway: A vehicular accessway less than five hundred (500) feet in length serving two [lots](#) or less.

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

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

Expansions of a Structure: An increase in the [floor area](#) or [volume of a structure](#), including all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

Expansion of Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more [floor area](#) or ground area devoted to a particular use.

Family: One or more persons occupying a premise and living as a single housekeeping unit.

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

Floor Area: The sum of all horizontal areas of the floor(s) of a [structure](#) enclosed by exterior ~~outside~~ walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Management Activities: Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand [improvement](#), pruning, regeneration of forest stands, and other similar or associated activities, exclusive of [timber harvesting](#) and the construction, creation or maintenance of [roads](#).

Forested Wetland: A [freshwater wetland](#) dominated by woody [vegetation](#) that is six (6) meters tall or taller.

Foundation: the supporting substructure of a [building](#) or other [structure](#), including but not limited to [basements](#), slabs, sills, posts, or frost walls.

Freshwater Wetland:

- A. Freshwater swamps, marshes, bogs, and similar areas which satisfy the following conditions:

1. Have an area of ten (10) or more contiguous [acres](#); or of less than ten (10) contiguous acres if adjacent to Sebago Lake.
 2. Are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of [wetland vegetation](#) typically adapted for life in saturated soils.
- B. [Freshwater wetlands](#) may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally Water-dependent Uses: Those uses that require, for their primary purpose, location of submerged lands or that require direct access to, or location in, waters and which cannot be located away from these waters. *Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to recreational and commercial fishing and boating facilities, excluding recreational boat storage buildings, waterfront dock facilities, marinas, navigation aids, basins and channels, retaining walls, and uses that primarily provide general public access to inland waters.*

Great Pond : Any inland body of water which in a natural state has a surface area in excess of ten (10) [acres](#), and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) [acres](#) except, for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. Sebago Lake is the only great pond associated with Frye Island.

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

Height of a Structure: The vertical distance between the mean original (*prior to construction*) grade at the downhill side of the [structure](#) and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no [floor area](#).

Home Occupation: An occupation or profession which is customarily conducted on or in a residential [structure](#) or property and which:

- A. Is clearly incidental to and compatible with the residential use of the property and surrounding residential uses.
- B. Employs no more than two (2) persons other than [family](#) members in the home.

Increase in Nonconformity of a Structure: *Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a*

structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual Private Campsite: An area of land not associated with a [campground](#), but which:

- A. Is developed for repeated camping by only one group not to exceed ten (10) individuals.
- B. Involves site [improvements](#) which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

Industrial: The assembling, fabrication, [manufacturing](#), packaging, or [processing](#) of goods, or the [extraction of minerals](#).

Lot Area: The area of land enclosed within the boundary lines of a [lot](#), minus land below the [normal high-water line](#) of Sebago Lake or an [upland edge](#) of a [wetland](#) and minus areas beneath [roads](#) serving more than two lots.

Marina: A business establishment having frontage on navigable water and, as its [principal use](#), providing for-hire ~~water craft~~, offshore moorings, or docking facilities for water craft, and which may also provide accessory services such as ~~boat water craft~~ and related sales, ~~boat water craft~~ repair and construction, indoor and outdoor storage of water craft and marine equipment, ~~bait water craft~~ and tackle shops, and marine fuel service facilities.

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

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

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

Minimum Lot Width: The closest distance between the side [lot](#) lines of a lot. *When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.*

Multi-unit Residential: A residential [structure](#) containing three (3) or more [residential dwelling units](#).

Native: *indigenous to the local forests.*

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

Non-conforming Lot: A single [lot](#) of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming Structure: A [structure](#) which does not meet any one or more of the following dimensional requirements: [setback](#), [height](#), or lot [coverage](#), but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming Use: Use of [buildings](#), [structures](#), premises, land, or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

Non-forested Wetland: A [freshwater wetland](#) that is not a [forested wetland](#).

Normal High-water Line: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in [vegetation](#), and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of [wetlands](#) adjacent to ponds and Sebago Lake, the normal high-water line is the [upland edge](#) of the wetland, and not the edge of the open water.

Person: An individual, corporation, governmental agency, [municipality](#), trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, Docks, Wharves, Bridges and Other Structures and Uses extending over or beyond the [normal high-water line](#) or within a [wetland](#):

- A. **Temporary:** [Structures](#) which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
- B. **Permanent:** [Structures](#) which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure: A [building](#) other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use: A use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility: Any facility, including, but not limited to, [buildings](#), property, recreation areas, and [roads](#), which are owned, leased, or otherwise operated or funded by a governmental body or public entity.

Recent Floodplain Soils: The following soil series as described and identified by the National Cooperative Soil Survey: Alluvial, Cornish, Charles, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, and Winoski.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

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

Replacement System: A system intended to replace an existing system which is either malfunctioning or being upgraded, with no significant change of: design flow, use of the [structure](#), or any existing overboard wastewater discharge.

Residential Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) [family at a time](#), and containing *cooking, sleeping and toilet facilities*. The term shall include [mobile homes](#) and rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. *Recreational vehicles are not residential dwelling units.*

Residual Basal Area: *The average of the basal area of trees remaining on a harvested site.*

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

River: A free-flowing body of water, including its associated flood plain [wetlands](#), downstream to its mouth from that point at which it provides drainage for a watershed of twenty five (25) square miles *to its mouth*. There are no rivers on Frye Island.

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

Service Drop: Any utility line extension which does not cross or run beneath any portion of Sebago Lake, provided that:

- A. In the case of electric service, where both of the following conditions apply:
 1. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way.
 2. The total length of the extension is less than one thousand (1,000) feet.
- B. In the case of telephone service, where one or the other of the following conditions applies:
 1. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles.
 2. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

Shore Frontage: The length of a [lot](#) bordering on a water body or wetland Sebago Lake measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

Shore Setback: The nearest horizontal distance from the [normal high-water line](#) to the nearest part of a [structure](#), [road](#), [parking space](#), or other regulated object or area.

Shoreland Zone: The land area located within two hundred fifty (250) feet, horizontal distance, of the [normal high-water line](#) of Sebago Lake or [upland edge](#) of a [non-forested wetland](#); within seventy-five (75) feet of the normal high-water line of a [stream](#), and within all [non-forested wetlands](#).

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

Single-family Dwelling: A building that is a single [residential dwelling unit](#).

Skid Trail: *A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.*

Slash: *The residue, e.g., treetops and branches, left on the ground after a timber harvest.*

Stream: A free-flowing body of water from the outlet of a [great pond](#) or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water it flows to another water body or wetland within the shoreland area. ~~into a great pond or becomes a river~~

Structure: Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, *exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors.* ~~Fences and structures such as dog houses, tree houses designed for children's use, and bus stop shelters shall not be considered as structures.~~ The term includes structures temporarily or permanently located, such as decks, *patios*, and satellite dishes.

Substantial Start: Completion of thirty percent (30%) or more of a permitted [structure](#) or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: *Any system designed to dispose of waster or waste water on or beneath the surface of the earth; includes but it not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A sectuib 414m any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system. A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under [Title 38 M.R.S.A. § 413, ¶ 1-B](#), any surface wastewater disposal system licensed under [Title 38](#)*

~~M.R.S.A. § 413, §1-A~~ or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in [Title 38, M.R.S.A. § 1303-C](#).

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber Harvesting: *The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (N), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting. The commercial cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of [roads](#). Timber harvesting does not include the clearing of land for approved construction.*

Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of *terrestrial* upland [vegetation](#) or by the presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material, or bedrock, and which *is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human* flows to Sebago Lake or a [wetland](#) as defined. This definition does not include the term "[stream](#)" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the [Shoreland Zone](#) of Sebago Lake or the wetland.

Upland Edge of a Wetland: The boundary between upland and [wetland](#). *For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation, or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.*

Vegetation: All live trees, shrubs, ground cover, and other plants *including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.*

Volume of a Structure: The volume of all portions of a [structure](#) enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water Body: Any [great pond](#), [river](#), or [stream](#). Sebago Lake is the only water body associated with Frye Island.

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

Wetland: A freshwater or coastal wetland. (see [freshwater wetland](#))

Wetlands Associated with Sebago Lake: [Wetlands](#) contiguous with or adjacent to Sebago Lake, and which during normal high water are connected by surface water to it.

Also included are wetlands which are separated from Sebago Lake by a berm, causeway, or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high water line of Sebago Lake. Wetlands associated with Sebago Lake are considered to be part of it.

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