**Warrant Article #\_\_\_\_\_\_\_\_**

**Shall an Ordinance entitled, “An Ordinance Amending the Shoreland Zoning of the Town of Newry, Maine,” be enacted?**

[Note: Because the text of the proposed Ordinance exceeds ten pages in length, a certified copy of the full text of this Ordinance has been posted together with this warrant, and copies are available from the office of the Town Clerk and will be available at the town meeting.]

*[These changes align the town’s ordinance with the required changes MDEP made to Shoreland Zoning in 2015 and comply with the Maine Forest Service’s requirements so that Newry can utilize their assistance with enforcement of timber harvesting.]*

**An Ordinance Amending the Shoreland Zoning Ordinance of the Town of Newry, Maine.**

**Amend Section 4. (Effective Date) as follows:**

**~~A.~~** Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on August 27, 1996, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Upon approval of this Ordinance all previously adopted Shoreland Zoning Ordinance are repealed.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

**~~B. Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. Until that date that timber harvesting standards contained in Section 15.O are in effect. On the date established under 38 M.R.S.A section 438-A(5), the following provisions of this Ordinance are repealed:~~**

**~~• Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);~~**

**~~• Section 15(O) in its entirety; and~~**

**~~• Section 17. Definitions, the definitions of “forest management activities” and “residual basal area”.~~**

**Amend Section 12. C (1) (Non-conforming Structures) as follows:**

C. Non-conforming Structures

(1) Expansions. **All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1).** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

(a) **Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.**

(b) **Notwithstanding paragraph (a), above, if a legally existing** **~~After January 1, 1989 if any portion of a~~** **principal** structure is **entirely located** less than **~~the required setback~~** **25 feet** from the normal high-water line of a water body, **~~or~~** tributary stream, or **~~the~~** upland edge of a wetland, that **~~portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure.~~**

**~~If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date~~** **structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).**

**(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.**

**(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.**

**(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.**

**(ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.**

**(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.**

**(d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.**

**(2) Foundations.~~(b)~~** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(**3~~2~~**) Relocation, below. **~~If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and 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), it shall not be considered to be an expansion of the structure.~~**

**Amend Section 12 C. (2) to renumber subsection (2) and to add to the second sentence of the second paragraph to read:**

(**3~~2~~**) 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 accordance with Section 15(S).** In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

**Amend Section 12 C. (3) to renumber subsection (3) and to add to the second sentence of the second paragraph to read:**

(**4~~3~~**) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, 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 eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee 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~~** **footprint** of the reconstructed or replaced structure at its new location. If the total **~~amount of floor area and volume~~** **footprint** of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for 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~~3**) above.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(**~~2~~3**) above, the physical condition and type of foundation present, if any.

**Amend Section 12 C. (2) to renumber subsection (4) as follows:**

(**~~4~~5**) Change of Use of a Non-conforming Structure.

**Amend Section 12. D. (1) and (3) (Non-conforming Uses) as follows:**

D. Non-conforming Uses

(1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1**~~)(a~~**) above.

(3) Change of Use. 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, including water dependent uses, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(**~~4~~5**) above.

**Amend Section 13. A. (Establishment of Districts) (1) and (6) as follows:**

A. Resource Protection District

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands **~~and wetlands associated with rivers,~~** 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). **These areas are generally** **~~that are~~** depicted on a Geographic Information System (GIS) data layer. **~~maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph “wetlands associated with rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a river, and have a surface elevation at or below the water level of the river during the period of normal high water. “Wetlands associated with rivers” are considered to be part of that river.~~**

(6) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.**~~,~~**

**Amend Table 1. Land Uses in the Shoreland Zone as follows:**

**LAND USES DISTRICT**

SP RP LR LC

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 1. Non-intensive recreational uses not requiring structures such as  hunting, fishing and hiking | yes | yes | yes | yes |
| 2. Motorized vehicular traffic on existing roads and trails | yes | yes | yes | yes |
| **~~3. Forest management activities except for timber harvesting & land~~**  **~~management roads~~** | **~~yes~~** | **~~yes~~** | **~~yes~~** | **~~yes~~** |
| **~~4. Timber harvesting~~** | **~~yes~~** | **~~CEO~~** | **~~yes~~** | **~~yes~~** |
| **3~~5~~**. Clearing or removal of vegetation for activities other than timber harvesting | CEO | CEO1 | yes | yes |
| **4~~6~~**. Fire prevention activities | yes | yes | yes | yes |
| **5~~7~~**. Wildlife management practices | yes | yes | yes | yes |
| **6~~8~~**. Soil and water conservation practices | yes | yes | yes | yes |
| **7~~9~~**. Mineral exploration | no | yes2 | yes2 | yes2 |
| **8~~10~~**. Mineral extraction including sand and gravel extraction | no | PB3 | PB | PB |
| **9~~11~~**. Surveying and resource analysis | yes | yes | yes | yes |
| 1**0~~2~~**. Emergency operations | yes | yes | yes | yes |
| 1**1~~3~~**. Agriculture | yes | PB | yes | yes |
| 1**2~~4~~**. Aquaculture | PB | PB | PB | yes |
| 1**3~~5~~**. Principal structures and uses  A. One and two family residential, including driveways | PB4 | PB9 | CEO | CEO |
| B. Multi-unit residential | no | no | PB | PB |
| C. Commercial | no | no10 | no10 | PB |
| D. Industrial | no | no | no | no |
| E. Governmental and institutional | no | no | PB | PB |
| F.Small non-residential facilities for educational, scientific, or nature  interpretation purposes | PB4 | PB | CEO | CEO |
| 1**4~~6~~**. Structures accessory to allowed uses | PB4 | PB | CEO | CEO |
| 1**5~~7~~**. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland  a. Temporary  b. Permanent | CEO11  PB | CEO11  PB | CEO11  PB | CEO11  PB |
| 1**6~~8~~**. Conversions of seasonal residences to year-round residences | LPI | LPI | LPI | LPI |
| 1**7~~9~~**. Home occupations | PB | PB | PB | CEO |
| **18~~20~~**. Private sewage disposal systems for allowed uses | LPI | LPI | LPI | LPI |
| **19~~21~~**. Essential services | PB6 | PB6 | PB | PB |
| A. Roadside distribution lines (34.5kV and lower) | CEO6 | CEO6 | yes12 | yes12 |
| B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone | PB6 | PB6 | CEO | CEO |
| C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone | PB6 | PB6 | PB | PB |
| D. Other essential services | PB6 | PB6 | PB | PB |
| 2**0~~2~~**. Service drops, as defined, to allowed uses | yes | yes | yes | yes |
| 2**1~~3~~**. Public and private recreational areas involving minimal structural development | PB | PB | PB | CEO |
| 2**2~~4~~**. Individual, private campsites | CEO | CEO | CEO | CEO |
| 2**3~~5~~**. Campgrounds | no | no7 | PB | PB |
| 2**4~~6~~**. Road construction | PB | no8 | PB | PB |
| **~~27. Land management roads~~** | **~~yes~~** | **~~PB~~** | **~~yes~~** | **~~yes~~** |
| 2**5~~8~~**. Parking facilities | no | no7 | PB | PB |
| 2**6~~9~~**. Marinas | PB | no | PB | PB |
| 2**7~~30~~**. Filling and earth moving of <10 cubic yards | CEO | CEO | yes | yes |
| 2**8~~31~~**. Filling and earth moving of >10 cubic yards | PB | PB | CEO | CEO |
| 2**9~~32~~**. Signs | yes | yes | yes | yes |
| 3**0~~3~~**. Uses similar to allowed uses | CEO | CEO | CEO | CEO |
| 3**1~~4~~**. Uses similar to uses requiring a CEO permit | CEO | CEO | CEO | CEO |
| 3**2~~5~~**. Uses similar to uses requiring a PB permit | PB | PB | PB | PB |

**Amend Section 15.B. (Land Use Standards) (3) and (4) as follows:**

B. Principal and Accessory Structures

(3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils**. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.**

(4) **~~The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located~~ Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located** within the shoreland zone.**~~, including land area previously developed.~~ This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.**

**For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.**

**Amend Section 15.C. as follows:**

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, **and Shoreline Stabilization.**

**(1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.**

**(2)** Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(**~~2~~3**) The location shall not interfere with existing developed or natural beach areas.

(**~~3~~4**) The pier, wharf, or dock shall be located so as to minimize adverse effects on fisheries.

(**~~4~~5**) The pier, wharf, or dock shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet.

(**~~5~~6**) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

(**~~6~~7**) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(**~~7~~8**) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(**~~8~~9**) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

**(10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.**

**(a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.**

**(b) Revegetation must occur in accordance with Section 15(S).**

**Amend Section 15.E. to add a new paragraph (2) and to renumber the following paragraphs as follows:**

E. Individual Private Campsites

**(2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.**

**(3)** Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

(**~~3~~4**)Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

(**~~4~~5**) 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 (1000) square feet.

(**~~5~~6**) 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~~7**) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and 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 served by public sewage facilities.

**Amend Section 15.H. (4), (7.b), and (9) as follows:**

H. Roads and Driveways

(4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(**~~Q~~T**).

(7.b) Drainage dips may be used in place of ditch relief culverts only where the grade is **~~five~~** **ten** (**~~5~~10**) percent or less.

(9) All road and driveway construction shall require **a** soil ero**~~i~~**sion and sedimentation control plan in accord**~~n~~**ance with Section 15.**~~Q~~T**.

**Amend the heading of Section 15. I. as follows:**

I**.** Signs

**Amend Section 15.M. (2) as follows:**

M. Mineral Exploration and Extraction

(2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland. **Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.**

**Amend Section 15.N. (1) and (5) as follows:**

N. Agriculture

(1) All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the **former** Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(5) Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan **that has been filed with the planning board.**

**Amend Section 15.O. (Timber Harvesting) by repealing the Section as follows:**

O. Timber Harvesting

O. Timber Harvesting **– repealed. ~~(This Section is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the shoreland zone.)~~**

**~~(1) Timber harvesting shall conform with the following provisions:~~**

**~~(a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:~~**

**~~(i) Within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.~~**

**~~(ii) At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy.~~**

**~~Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.~~**

**~~(b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(1)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance.~~**

**~~The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.~~**

**~~(c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.~~**

**~~(d) Timber harvesting equipment shall not use stream channels as travel routes.~~**

**~~(e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.~~**

**~~(f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.~~**

**~~(g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.~~**

**Amend Section 15.P. (2), subsections (a), (e), and (f) and (3) as follows:**

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

(2) Except in areas as described in Section P(1), above, **~~and except to allow for the development of permitted uses,~~** within a strip of land extending seventy-five (75) feet, horizontal distance, from any 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 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown.

However, **a single, meandering** footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed **for accessing the shoreline** provided that a cleared line of sight to the water through the buffer strip is not created.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged**~~, diseased, unsafe,~~** **dead** or **hazard ~~dead~~** trees results in the creation of cleared openings, these openings shall be replanted with native tree species **in accordance with Section Q, below,** unless existing new tree growth is present.

**~~Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.~~**

**(f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).**

(3) At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. **This provision applies to the portion of the lot within the shoreland zone including the buffer area.**

**Amend Section 15. by the addition of Subsection Q (Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal) as follows:**

**Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

**(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:**

**(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.**

**(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.**

**(c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.**

**(d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.**

**(e) The Code Enforcement Officer may require more than a one–for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.**

**(2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:**

**(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:**

**(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;**

**(ii) Stumps from the storm-damaged trees may not be removed;**

**(iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and**

**(iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.**

**(b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.**

**R. Exemptions to Clearing and Vegetation Removal Requirements**

**The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:**

**(1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;**

**(2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;**

**(3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;**

**(4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;**

**(5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:**

**(a) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.**

**(6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:**

**(a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;**

**(b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and**

**(c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.**

**(7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.**

**S. Revegetation Requirements**

**When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.**

**(1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.**

**(2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:**

**(3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.**

**(4) Revegetation activities must meet the following requirements for trees and saplings:**

**(a) All trees and saplings removed must be replaced with native noninvasive species;**

**(b) Replacement vegetation must at a minimum consist of saplings;**

**(c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;**

**(d) No one species shall make up 50% or more of the number of trees and saplings planted;**

**(e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and**

**(f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.**

**(5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:**

**(a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;**

**(b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;**

**(c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;**

**(d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and**

**(e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years**

**(6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:**

**(a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;**

**(b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and**

**(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.**

**Amend Section 15 Q., R., S., and T. to assign new subsection lettering as follows:**

**~~Q~~T**. Erosion and Sedimentation Control

**~~R~~U**. Soils

**~~S~~V**. Water Quality

**~~T~~W**. Archeological Site

**Amend Section 16. (Administration)** **., subsections E. (4), H (2)(d), and I., as follows:**

E. Special Exceptions.

(4) The total ~~ground-floor area~~ **footprint**, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

H. Appeals

(2) Variance Appeals. Variances may be granted only under the following conditions:

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, **or the code enforcement officer if authorized in accordance with 30-A MRSA §4353-A**, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. 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 dwelling 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 in the dwelling. The term “structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. **Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.**

I. Enforcement

(2) Code Enforcement Officer

(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, revocation 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 and Water Quality within the Department of Environmental Protection.~~**

**Amend Section 17. (Definitions) as follows:**

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. Agriculture does not include forest management and timber harvesting activities.

Bureau **of Forestry** – State of Maine Department of **Agriculture, Conservation, and Forestry, ~~Conservation’s~~** Bureau of Forestry**.**

**~~DBH – the diameter of a standing tree measured 4.5 feet from ground level.~~**

Expansion of a structure - an increase in the **~~floor area or volume~~** **footprint** of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more **~~floor area~~** **footprint or structure** or ground area devoted to a particular use.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls**~~, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.~~**

**Footprint – the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.**

**~~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.~~**

(1**~~.~~**) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

(2**~~.~~**) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Functionally water-dependent uses - 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 commercial and recreational fishing and boating facilities, **~~excluding recreational boat storage buildings,~~** waterfront dock, **~~or retaining walls~~** **shoreline structures necessary for erosion control purposes** that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters. **Recreational boat storage buildings are not considered to be a functionally water-dependent use.**

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

**~~Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.~~**

**Meandering – following a winding or turning path or course, maintaining no line of sight.**

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, **~~or~~** lot coverage **or footprint**, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.**

**Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.**

Principal structure - a **~~building~~** **structure** other than one which is used for purposes wholly incidental or accessory to the use of another **~~building~~** **structure** or use on the same **~~premises~~** **lot.**

Principal use - a use other than one which is wholly incidental or accessory to another use on the same **~~premises~~** **lot.**

**~~Residual basal area - the average of the basal area of trees remaining on a harvested site.~~**

**Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.**

**Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.**

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

**(**1**~~.~~)** in the case of electric service

**(**a**~~.~~)** 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; and

**(**b**~~.~~)** the total length of the extension is less than one thousand (1,000) feet.

**(**2**~~.~~)** in the case of telephone service

**(**a**~~.~~)** the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

**(**b**~~.~~)** the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**~~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.~~**

**Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.**

Stream - 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~~** ,**highest resolution version** of **~~a~~** **the national hydrography dataset available from the** United States Geological Survey **or the national** **~~7.5~~** **~~minute series topographic~~** map, **~~or if not available, a 15-minute series topographic map,~~** to the point where the **~~body of water~~ stream** becomes a river or **~~flows to~~** **where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland within the shoreland areaand a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.**

Structure - anything **temporarily or permanently located**, built, **constructed or erected** for the support, shelter or enclosure of persons, animals, goods or property of any kind**~~, together with~~** **or** 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.~~** The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. **Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.**

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. **“Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities.** 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 (P), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Tree:- **a w~~W~~**oody **perennial plant with a well-defined trunk(s) at least** **~~vegetation~~** two (2) inches **~~and more~~** in diameter at four and one half (4 ½) feet above **the** ground, **with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity**. **~~level, except as otherwise defined.~~**

**~~Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.~~**

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) **~~foot~~** **feet**) tall or taller.