

SHORELAND ZONING ORDINANCE

Town of Naples

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amended December 16, 1991
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amended December 29, 2003
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Attested: *Judy Whynot*
Judy Whynot, Town Clerk

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Section 1. Purposes

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

Section 2. Authority

This Ordinance is enacted in accordance with the provisions of Title 38 Sections 435 – 449 of the Maine Revised Statutes Annotated (M.R.S.A.), and pursuant to the Town’s home rule authority and the authority to regulate moorings in Great Ponds delegated to the Town by Title 38 M.R.S.A., Section 3.

Section 3. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of normal high-water line of any great pond or river; upland edge of a freshwater wetland, and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure, including moorings, extending or located below the normal high-water line of a water body or within a wetland.

Section 4. Effective Date

A Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on December 16, 1991, 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 of the Department of Environmental Protection for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of its receipt of the Ordinance, or Ordinance Amendment, it shall be deemed approved.

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.

Section 5. Availability

A certified copy of this Ordinance shall be filed with the Municipal 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.

Section 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 the Ordinance.

Section 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 administered by the municipality, the more restrictive provision shall control.

Section 8. Amendments

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of

Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. If the Commissioner fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

Section 9. Districts and Zoning Map

A. Official Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Zoning Map, which is made a part of this Ordinance:

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. Stream Protection

B. Scale of Map

The Official Zoning Map has been drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries are delineated and a legend indicating the symbols for each district has been placed on the map.

C. Certification of Official Zoning Map

The Official Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

D. Changes to the Official Zoning Map

If amendments, in accordance with Section 8 are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map within thirty (30) days after the amendments has been approved by the Board of Environmental Protection.

Section 10. Interpretation of District Boundaries

Unless otherwise set forth on the Official Zoning Map, district boundaries shown within the lines of roads, streams and transportation right-of-ways shall be deemed to follow the center lines. The abandonment of roads shall not affect the location of district boundaries. When the Code Enforcement Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the zoning map, or by the fact that the district boundary does not clearly coincide with a property line, he shall refuse action, and the Planning Board shall interpret the location of the district boundary with reference to the scale of the zoning map, the actual field conditions, and the purposes set forth in all relevant provisions of this by-law. Where uncertainty still exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

The depiction of the Shoreland Overlay Districts on the zoning map for the Town of Naples are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement on the ground of the distance indicated on the maps from the normal high-water mark of the water body or the upland edge of wetland, regardless of the location of the boundary shown on the map.

Section 11. Land Use Requirements

Except as hereinafter specified, no building, structure 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 except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance or conditional use appeal is granted.

Section 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 or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

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

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 approved by the Code Enforcement Officer. 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) through (d) 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 nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of land use adopted by the municipality 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 standards of land use adopted by the municipality 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) A plan approved by the Code Enforcement Officer for an expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds in the Cumberland County Registry of Deeds, within 90 days of approval. Plans must include, at a minimum:

- (i) The method of expansion (whether the applicant utilized the thirty (30) percent or the footprint expansion option);
- (ii) The existing and proposed footprint of the structure, in addition to the footprint of other nonconforming structures on the parcel;
- (iii) The existing and proposed structure height;
- (iv) A scaled drawing showing the location of the structure and other structures on the lot, in relation to the water body, tributary stream or wetland.

(2) **Foundations.** 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 Code Enforcement Officer or its designee, basing its decision on the criteria specified in Section 12(C)(3) 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) 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.

(3) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in

compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer or its designee 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 Code Enforcement Officer 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.

- (4) **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 Code Enforcement Officer 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 footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for 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)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

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

- (5) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Code Enforcement Officer, after receiving a written application, determines that the

new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Code Enforcement Officer shall require written documentation from the applicant, regarding the probable effects 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, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

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 Code Enforcement Officer, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (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.** 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 in the CFMA district, 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 Section 12(C)(5) above.

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 that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the 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 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the 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:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if 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; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

DEFINITION OF FOOTPRINT:

Footprint- “Footprint” means the entire area of ground covered by the structures on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Section 13. Establishment of Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed, and areas which meet the criteria for the Limited Commercial need not be included within the Resource Protection District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and 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) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.
2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement.

B. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, or the General Development District.

C. Limited Commercial District

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. 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 fifty (250) feet, horizontal distance, of the normal high-water line of a great pond or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area is located within two hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

Section 14. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official 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 approval by the Planning Board and permit issued by the CEO where appropriate.

CEO – Allowed with permit issued by the Code Enforcement Officer.

LPI – Allowed with permit issued by the Local Plumbing Inspector.

Abbreviations:

RP – Resource Protection; LR – Limited Residential;

LC – Limited Commercial; SP – Stream Protection

TABLE 1 - LAND USES IN THE SHORELAND ZONE

LAND USES		DISTRICTS			
		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 needs.	Yes	Yes	Yes	Yes
4.	Timber harvesting.	Yes	Yes	Yes	Yes
5.	Clearing or removal of vegetation for activities	CEO	CEO ¹	CEO	CEO
6.	Fire prevention activities.	Yes	Yes	Yes	Yes
7.	Wildlife management practices	Yes	Yes	Yes	Yes
8.	Soil and water conservation practices.	Yes	Yes	Yes	Yes
9.	Mineral exploration.	No	Yes ²	Yes ²	Yes ²
10.	Mineral extraction including sand and gravel extraction.	No	PB ³	PB	PB

11.	Surveying and resource analysis	Yes	Yes	Yes	Yes
12.	Emergency operations.	Yes	Yes	Yes	Yes
13.	Agriculture	Yes	PB	Yes	Yes
14.	Aquaculture	PB	PB	PB	Yes
15.	Principal structures and uses				
	A. One and two family residential, including driveways	PB ^{4,12}	No ¹²	CEO ¹²	CEO ¹²
	B. Multi-unit residential	No	No	PB	PB
	C. Commercial	No	No ⁹	No ⁹	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	PB ⁴	PB	CEO	CEO
16.	Structures accessory to allowed uses	PB ^{4,12,13}	PB ^{1,12,13}	CEO ^{12,13}	CEO ^{12,13}
17.	Aquatic structures, piers, bridges and uses extending over or below the normal high-water line or within a wetland				
	A. Temporary	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰
	B. Permanent	PB	PB	PB	PB
18.	Moorings	HM	HM	HM	HM
19.	Conversions of seasonal residences to year-round residences	LPI	No	LPI	LPI
20.	Home occupations	CEO	PB	CEO	CEO
21.	Private sewage disposal systems for allowed uses	LPI	No	LPI	LPI
22.	Essential services	PB ⁶	PB ⁶	PB	PB
	A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	Yes ¹¹	Yes ¹¹
	B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO
	C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB
	Other essential services	PB ⁶	PB ⁶	PB	PB
23.	Service drops, as defined, to allowed uses	Yes	Yes	Yes	Yes
24.	Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
25.	Individual, private campsites	CEO	CEO	CEO	CEO
26.	Campgrounds	No	No ⁷	PB	PB
27.	Road construction	PB	No ⁸	PB	PB
28.	Land management roads	Yes	PB	Yes	Yes
29.	Parking facilities	No	No ⁷	PB	PB
30.	Marinas	PB	No	PB	PB
31.	Filling and earthmoving of <10 cubic yards	CEO	CEO	Yes	Yes
32.	Filling and earthmoving of >10 cubic yards	PB	PB	CEO	CEO
33.	Uses similar to allowed uses	CEO	CEO	CEO	CEO
34.	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
35.	Uses similar to uses requiring a PB permit	PB	PB	PB	PB

¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

² Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³ In RP not allowed in areas so designated because of wildlife value.

⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶ See further restrictions in Section 15.M.2⁷ Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.⁸ Except as provided in Section 15.I.4

⁹ Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹⁰ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹¹ Permit not required but must file a written "notice of intent to construct" with CEO.

¹² Accessory apartments are prohibited in the Shoreland Zone.

¹³ Bedrooms are prohibited in accessory structures.

NOTE: 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., Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, 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, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

Section 15. Land Use Standards

All land use activities within the shoreland zone shall conform with the following minimum provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)	Minimum Bldg. Setback from Lot Lines (ft).
Residential (per dwelling unit)	60,000*	200*	20
Governmental, Institutional, Commercial, or Industrial (per principal structure)	60,000	300	20
Public and Private Recreational Facilities	60,000	200	20

* See subsection 6, below, for lots of record as of November 29, 1988.

** See subsection 7, below, for lots of record as of March 10, 1990.

1. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
2. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
3. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
4. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.
5. A lot legally existing as of November 29, 1988, may be built upon for residential use provided the lot area is at least 40,000 square feet and the shore frontage is at least 100 feet, notwithstanding the fact that the lot is contiguous with any other lot in the same ownership, provided that all other requirements of this Ordinance are met.
6. The minimum setback for residential lots as of November 29, 1988, is twenty (20) feet.

7. The minimum setback requirements set forth in this section apply only to setbacks of structures from lot boundary lines. Notwithstanding these boundary line setback requirements, all structures shall comply with the requirements pertaining to setbacks from water bodies as provided in this Ordinance.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. The following ponds are classified GPA in Naples: Long Lake, Brandy Pond, Sebago Lake, Trickey Pond, Peabody Pond, Cold Rain Pond and Holt Pond.

In addition:

- a. The water body, tributary stream or wetland setback provision shall apply neither to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- b. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- c. Alternative energy structures may be placed within the setback area but only in a legally existing clearing and any additional vegetation removal necessary must conform to the vegetation removal provisions within the ordinance. In addition, the extent of a proposed alternative energy project must be limited by design to the energy needs of the existing use on the property. Sale of energy to the power grid must be limited to incidental excess power generation. Projects designed for commercial generation of power must comply with structure setback requirements.
- d. The waterbody, tributary stream or wetland setback provision shall not apply to Municipally owned structures within the reclaimed areas of Route 302 and the Naples Bay Bridge Project area.

2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
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 percent (20%) of the lot or a portion thereof, located within the shoreland zone, including land area previously developed. The non-vegetated surfaces within the Shoreland zone for Municipally owned/controlled Naples Causeway Project shall not exceed 60% of the lot or a portion thereof, located within the Shoreland zone, including land area previously developed.
5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - a. The site has been previously altered and an effective vegetated buffer does not exist;
 - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - d. The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - iii. Only native species may be used to establish the buffer area;

- iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - v. A footpath not to exceed the standards in Section 15.Q.2.a., may traverse the buffer;
6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreland access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Aquatic Structures, Moorings and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.

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. In the case of an aquatic structure which does not (1) extend from its point of attachment to land a distance of more than fifty (50) feet into or toward the adjacent body of water, and (2) which does not contain a gross floor area in excess of three hundred (300) square feet on a parcel with water frontage of 50' to 200'; four hundred (400) square feet on a parcel with water frontage of 200'+, and in the case of a municipal aquatic structure (as defined in the Definitional Ordinance), a permit must be obtained from the Code Enforcement Officer. Such permit may be granted if the Code Enforcement Officer determines that the structure is consistent with any applicable provisions of the Shoreland Zoning Ordinance, is located on or adjacent to the land it purports to serve, and will not unreasonably interfere with navigation and aquatic access to adjacent lots, insofar as they are currently being used. Such permit shall not expire unless the structure is removed and not replaced for a twenty-four (24) month period.
5. In the case of a non-commercial aquatic structure, which either (1) extends from its point of attachment to adjacent upland a distance of more than fifty (50) feet into or toward the adjacent body of water, or (2) contains a gross floor area in excess of three hundred (300) square feet, a permit must be obtained from the Planning Board. Such permit may be granted if the Planning Board finds that the use or construction of the structure is consistent with any applicable provision of the Shoreland Zoning Ordinance and the Comprehensive Plan, is located on or adjacent to the land it purports to serve, will not unreasonably interfere with navigation and aquatic access to adjacent lots insofar as they are currently being used, and will not significantly contribute to or aggravate existing foreseeable future aquatic congestion. A permit issued under this section shall not expire unless the structure is removed and not replaced for a twenty-four (24) month period, or unless the use of said structure ceases for a twenty-four (24) month period.
6. In the case of a commercial aquatic structure which either (1) extends from its point of attachment to land and a distance of more than fifty (50) feet into or toward the adjacent body of water, or (2) contains a gross floor area in excess of three hundred (300) square feet, or (3)

accommodates one or more boats or vessels which provide access to moored boats or vessels, a permit may be granted by the Planning Board.

Such permit shall be granted if the Planning Board finds that the use or construction of the structure is consistent with any applicable provisions of the Shoreland Zoning Ordinance and the Comprehensive Plan, is located on or adjacent to the land it purports to serve, will not unreasonably interfere with navigation and aquatic access to adjacent lots insofar as they are currently being used, and will not significantly contribute to or aggravate existing or foreseeable future aquatic congestion, and the owner(s) have provided adequate off-street long-term parking on the adjacent upland or within three hundred (300) feet of the adjacent upland. Such permit shall be issued for a period of one (1) year and may be renewed upon terms consistent with this section.

In addition, with respect to renewal of annual permits, the Board shall also be required to find that the aquatic structure has been maintained in a safe condition having regard to the nature of its use.

7. In the case of all commercial aquatic structures (as defined in this ordinance) except for watercraft parking facilities the maximum number of motorized watercraft docked or moored or otherwise accommodated there in shall not exceed a total density of one (1) motorized watercraft for every twenty-five (25) feet of shore frontage, measured in a straight line between the; points of intersection of the side lot line with the shoreline at normal high-water elevation.
8. In the case of all aquatic structures (as defined in this ordinance), the “temporary adjacent upland access structure” is not included in the dimensional restriction of this ordinance. However, the “temporary adjacent upland access structure” shall be the minimum size required to provide access to the aquatic structure as determined by the reviewing authority.
9. In the case of a watercraft parking facility (as defined in this ordinance), a permit shall be granted if the Planning Board finds that all applicable provisions of the Shoreland Zoning Ordinance, except for Section 15, Subsection C-7, are fully complied with and that the following conditions are satisfied.
 - a. The facility shall not provide fuel, water, sanitary or other services to persons using the facility.
 - b. The facility shall not permit any vessel to remain docked at the facility between the hours of 2:00 a.m. and 7:00 a.m. any day; and
 - c. The owner of the facility shall staff, maintain, police and assume all liability for the facility.
10. Existing Structures: Existing aquatic structures, other than commercial aquatic structures, may continue to be used, repaired and maintained to the same extent as they existed or were used as of the effective date of this ordinance. Those structures which have been seasonally removed from the water may be seasonally returned to the water provided they have been in use within the twenty-four (24) months preceding the effective date of this ordinance. Existing structures may not be enlarged without a permit required by Section 15.B.5. Existing commercial aquatic structures which do not conform to the requirements of the ordinance may continue to be used, repaired, maintained and annually licensed (if maintained in a safe condition) to the same extent as they existed on or within twenty-four (24) months prior to the effective date of this ordinance. Marinas, state licensed campground, the three (3) commercial

docks and the one (1) municipal dock abutting the Causeway, existing as of the effective date of this ordinance shall not be required to obtain an annual date of this ordinance shall not be required to obtain an annual license. Provided, nevertheless, that such aquatic structures, other than marinas, state licensed campgrounds and the three (3) commercial docks and the one (1) municipal dock abutting the Causeway, existing as of the effective date of this ordinance, shall either be rendered conforming or be removed within ten (10) years following the effective date of this ordinance.

Within one hundred eighty (180) days after enactment of this ordinance, the Planning Board, with the advice of the Code Enforcement Officer, shall compile a list of existing commercial aquatic structures, which do not conform to the requirements of the ordinance. The list shall be transmitted to the municipal officers. Thereafter, the municipal officers shall give notice to the owners of such structures, or if the owners are unknown, to the owners of the adjacent upland, identifying the non-conformity and describing what steps, if any, short of removal, must be accomplished, or if removal must be undertaken, within the periods of times set forth herein.

11. 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 as an operational necessity.
12. New permanent piers and docks on non-tidal waters 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 Protections, pursuant to the Natural Resources Protection Act.
13. 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.
14. 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.
15. Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.
16. Moorings
 - a. Mooring placement shall be the responsibility of the property owner, provided that the mooring(s) shall be placed in the location specified by the Harbor Master. Leasing, subleasing or rental of moorings shall be prohibited.
 - b. Mooring placement shall be the responsibility of the property owner. The owner of said mooring(s) and property shall be limited to one (1) mooring per fifty feet of shore frontage. However, no mooring shall be placed outside the area of the water safety zone, specifically two hundred (200) feet from any shore or one-third (1/3) the distance to the opposite shore, whichever is less, or in areas that will create a hazard to navigation to all watercraft. All moorings are prohibited in bodies of water commonly

known as the Songo River and Crooked River. All moorings not located in the correct location shall be moved by the owner at his/her own expense in accordance with the instructions of the Harbor Master. In the event of the failure of the owner to comply with these instructions, the Harbor Master shall move or cause to have removed by a commercial operator the improperly located mooring at the expense of the assigned owner. Failure to more or remove a mooring at the order of the Harbor Master is a violation of the Mooring Regulations.

- c. Moorings must conform to all the specifications and permits required by this regulation and the State of Maine. This regulation shall not preclude those individuals who wish to “anchor” a boat temporarily for a period of time not to exceed twenty-four (24) hours without permission of the Harbor Master. Locating a temporary mooring outside the area designated by the Harbor Master is prohibited unless a permit is received from the Harbor Master prior to placement of the mooring. Any mooring located for longer than twenty-four (24) hours will constitute a mooring, which requires a permit from the Harbor Master in accordance with the procedure for registering mooring set forth in this regulation.
- d. Mooring Specifications:
 - i. All anchors shall be of stone, granite or cured, reinforced concrete or mushroom anchor without dangerous protrusions, or others as approved by the Harbor Master.
 - ii. The anchor line between anchor and buoy shall be chain of a size to fit boat, exposure and water depth. All moorings shall be white in color with a blue strip, as commercially available, on the upper white portion of the buoy as required by State Law.
 - iii. All moorings placed after the effective date of this ordinance must comply with the above specifications and applicable paragraphs of this regulation.
- e. Designated Mooring Area:

The Harbor Master may create a designated mooring field in any area where one or more residential property owners (the “owner” or “owners”) have deeded rights to a common area or right of way. All moorings (the physical anchor) in a designated mooring field must be located in front of the common land or right of way. The only exception is if a neighboring property owner gives permission in writing to allow for moorings in front of their waterfront as part of the designated mooring field, then moorings may be placed in that location. When considering the establishment of a designated mooring field, the Harbor Master shall make sure that it will not interfere with navigation or unduly burden the rights of other property owners, and subject to the following criteria:

 - 1. The owners shall submit a plan with the following criteria:
 - a. plan shall indicate the capacity of the field, respecting the water safety zone, which is 200 feet from any shore, or one third (1/3) the distance to the opposite shore, whichever is less;
 - b. plan shall indicate the number of boats, and the maximum length boat allowed on each mooring;
 - c. plan shall be to scale
 - d. failure to provide a plan that meets the requirements of the standards as listed, may lead to rejection of the plan by the Harbor Master, who may

require a plan designed by a competent consultant to be paid for by the owners.

2. The owners shall designate one representative with decision-making authority who shall be the contact person with the Harbor Master regarding the mooring field, and the owners' representative shall provide annually a list of those eligible for a mooring in the mooring field. This list, including management of any waiting list, shall be the responsibility of the owners.

The list shall comply with plan laid out in Section 1 and include the total number of moorings and the following information:

- a. listing of each mooring number
 - b. person assigned to each mooring;
 - c. length of the boat owned by the person assigned to the mooring.
3. Owners are responsible for managing mooring field during changing water levels and mooring field will be designed to prevent boat damage. Any damage in mooring fields is responsibility of owners.
 4. An owner is not eligible for a mooring in the field if the owner can place a mooring off the owner's own frontage and if the field is or will be at capacity from eligible owners with no frontage.

In the event of the failure of the owners to comply with these instructions, the Harbor Master shall move or cause to have removed by a commercial operator the improperly located mooring(s) at the expense of the assigned owner. Failure to move or remove a mooring(s) at the order of the Harbor Master is a violation of the Mooring Regulations.

- f. **Abandoned Boats, Vessels, Wrecks, Etc:**
Abandonment Prohibited. No person shall cause to be abandoned any watercraft or related equipment or appurtenances on the shores within Naples or on the waters of Naples, whether on a mooring or at anchor. Nor shall any person abandon or cause to be abandoned any boat, vessel, hull, or any raft at any wharves, docks or permanent floats within Naples waterways. No person shall abandon any boat, vessel, hull or watercraft upon unimproved shoreline, dock, float, mooring or at anchor except with the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master.
 1. **Presumption.** Any boat, vessel, hull or raft left within the confines of Naples waterways and which has been unattended for a period of seven (7) days without the express consent and approval of the owner of the dock, float, mooring, shoreline or in the case of anchored watercraft, the consent and approval of the Harbor Master; shall be declared abandoned.
 2. **Disposal.** Property deemed to be abandoned under this section shall be handled by the Town according to the procedures established in Title 25, Sections 3501 et seq. or title 33, Sections 1951 et seq. of the Maine Revised Statutes Annotated.

3. Penalty. A violation of this Ordinance may be prosecuted, and relief, fees, fines and penalties assessed, pursuant to the provisions of Title 30-a, Section 4452. Each day the violation is permitted to exist beyond the limits above described shall be considered a separate offense.
 4. Impounding. If an abandoned watercraft is deemed to be a nuisance, a threat to navigation or a safety hazard, the Harbor Master may impound the watercraft at a site designated for this purpose. Impounding shall continue until such time as all procedures pursuant to Title 25, Section 3501 et seq. of the Maine Revised Statutes Annotated have been completed or the owner of the watercraft has paid all costs involved with the impounding as well as any fines, which have been assessed.
- g. Mooring; Penalty for Neglecting to Remove or Replace:
In case of the neglect or refusal of the master or owner of any boat or vessel to remove his mooring or to replace it by one of different character, when so directed by the Harbor Master, the Harbor Master shall cause the mooring to be removed, or shall make such change in the character thereof as required, and shall collect from the master or owner of such boat or vessel the sum of one hundred dollars (\$100) for either of such services rendered. In addition, the owner of the mooring tackle shall be liable for all expenses incurred to comply with the Harbor Master Order.
- h. Mooring Registration Fee:
Registration fee to be twenty dollars (\$20.00); Renewal fee to be ten dollars (\$10.00); Late fee to be ten dollars (\$10.00). Renewals shall be applied for prior to July 15th or the late fee shall apply. All subsequent fees to be set and altered by the Board of Selectpersons.

17. Marinas

To enhance the safety of the residents of and visitors to the Town on Naples in the Town and its surrounding waters, the mooring of watercraft in or adjacent to marinas is prohibited. A marina shall provide docks, permanent or temporary, for the docking of watercraft only. New and existing docks shall be permitted in an area measured along the frontage of the marina parcel and extending into the water a distance not to exceed on hundred fifty (150) feet from any shore or 1/3 distance to the opposite shore, whichever is less, not to be placed outside the safety zone. Existing docks extending into the water for a distance greater than two hundred (200) feet but not more than three hundred (300) feet may continue in place and normal maintenance shall be allowed, provided the marina possesses and is in compliance with all required State permits or leases, but such docks may not be enlarged. Docks shall be attached to the adjacent upland. Notwithstanding any limitations on the number of watercraft imposed by the Aquatic Structures Ordinance, the number and types of watercraft which may be present at the marina's dock or docks at any one time shall be limited to those that can be accommodated safely, as determined by the marina operator, subject to review by the Harbor Master and reviewed and approved by the Planning Board. Any required Shoreland Zoning or Department of Environmental Protection permit, or submerged lands lease required shall be obtained prior to construction of any dock. Marinas may choose to retain existing moorings; however, the number of moorings may not exceed the number in use during the 1996 boating season and no additional dock space is permitted.

18. Enforcement

The Harbor Master shall be responsible for enforcing the Mooring Section. A violation of the Mooring Section may be prosecuted, and relief, fees, fines and penalties granted and assessed pursuant to the provisions of Title 30-A, Section 4452. The failure to obey the lawful order of a harbor Master shall be punished as a Class E crime pursuant to Title 12, Section 7803(3).

The Harbor Master may deny privileges to any person who fails to pay any fee, charge for services, forfeiture or penalty, including but not limited to any costs assessed to the owner of a mooring if the Harbor Master moves or causes to be moved an improperly located mooring pursuant to Section A.2 of this regulation.

D. Watercraft

For any residential lot abutting a lake, pond, river or stream, in no case shall the maximum number of motorized watercraft docked, moored, or otherwise accommodated therein exceed a total density of one (1) motorized watercraft for every twenty-five (25) feet of shoreline frontage measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high-water elevation. This limit shall not apply to motorized watercraft of transient visitors, which remain for less than twenty-four (24) hours.

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

State licensed campgrounds located in Naples as of November 18, 1988 (Licensed by the Division of health Engineering, Department of Human Services):

CAMPGROUNDS	LOCATION	SITES
Bay of Naples Family Camping	Route 11/114	150
Brandy Pond Camps	Songo School Rd	28
Brandy Pond Park	Route 302	77
Colonial Mast Campground	Kansas Road	79
Four Seasons Camping Area	Route 302	115
Loon's Haven Campground	Route 11/114	125
The Quinby's	Thompson's Point	20

1. Campgrounds shall contain a minimum of five thousand (5000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

F. Individual Private Campsites: Individual, private campsites not associated with campgrounds are allowed provided that the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or one campsite per thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
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, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles 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. 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.
 - b. 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 landowner is required.
 - c. 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.

G. Commercial and Industrial Uses: The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

1. Auto washing facilities
2. Auto or other vehicle service and/or repair operations, including body shops
3. Chemical and bacteriological laboratories
4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
5. Commercial painting, wood preserving, and furniture stripping
6. Dry cleaning establishments
7. Electronic circuit assembly
8. Laundromats, unless connected to a sanitary sewer
9. Metal plating, finishing or polishing
10. Petroleum or petroleum product storage and/or sale except for storage on same property as use occurs and except for storage and sales associated with marinas
11. Photographic processing
12. Printing

H. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas

serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - i. Typical parking space: 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.
 - ii. Internal travel aisles: Approximately twenty (20) feet wide.

I. Roads 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, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, 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 road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of or transport of phosphorus to the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty percent (20%) the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above twenty percent (20%).

Section 15.I.1. does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses.

Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15.H.1 except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource

Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

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.R.
5. Road and driveway grades shall be no greater than ten percent (10%) except for segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. 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), drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent (10%) or less.
- c. On sections having slopes greater than ten percent (10%), ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.
- 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.

J. 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.

K. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal 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 (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and
 - b. The minimum setback for new subsurface sewage disposal systems shall be no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance. A holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

The installation of essential services, other than road-side distribution lines, is not allowed 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 allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

- M. Mineral Exploration and Extraction: Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. Such plan shall describe in detail the procedures to be undertaken to fulfill the requirements of Section 15.N.4 below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other 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.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

The State of Maine Solid Waste Laws, 38, M.R.S.A., Section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.
 - b. The final graded slope shall be two and one-half to one (2 1/2:1 slope or flatter).
 - c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary, to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands.

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.

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a 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.

Assistance in preparing a 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 a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other 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.

O. Timber Harvesting: State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone.

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

1. In a Resource Protection District abutting a great pond, 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 mark, except to remove safety hazards.

Elsewhere, in any Resource Protection District, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Section Q.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 a great pond classified GPA or a river flowing to a great pond classified GPA, 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 forested canopy is not present) as measured from the outer limits of the tree crown or shrub. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or

shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

- b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15.Q.2.b., a “well-distributed stand of trees” adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system:

Diameter of Tree at 4 ½ Feet Above Ground Level (inches)	Points
2 – <4 inches	1
4 – <8 inches	2
8 - <12 inches	4
12 inches or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees” is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

Note: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two (2) trees between 4 and 8 inches in diameter, three (3) trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 – 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but not overlap a previous plot;
- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter

For the purposes of Section 15.Q.2.b. “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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 4 ½ feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15.Q paragraphs 2 and 2.a above.
- d. Pruning of tree branches on the bottom ⅓ of the tree is allowed.
- 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.

Section 15.Q.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.

- 3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other 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 percent (40%) of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) 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 shall not apply to the General Development District.

- 4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- 5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15.Q.

Q. Erosion and Sedimentation Control

- 1. All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require Planning Board approval shall also require a written soil erosion and sedimentation control plan. The plan 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. All activities described above in subsection 1 that require Planning Board approval shall require that the Erosion and Sedimentation Control Plan be reviewed and approved by the Cumberland County Soil and Water Conservation District.
3. 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.
4. 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.
5. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, 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 twin 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.
6. 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 riprap.

R. 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 analysis 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.

- S. 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, tributary stream or wetland.
- T. 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, 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.
- U. Residential and Campground Common Area Frontage and Campground Density
1. The shorefront common area shall have a minimum of fifty (50) feet of shoreline frontage for each residential dwelling unit, which has access to the shorefront. No rights of use shall be granted to persons other than owners of residential dwelling units.
 2. The shorefront common area of a campground shall have a minimum shoreline frontage of twelve and one half (12.5) feet per campsite, with a minimum of nine hundred (900) feet total. The campground shall contain a minimum of five thousand (5,000) square feet for each campsite, excluding roads, driveways, wetlands and land below the normal high-water line.

Section 16. Administration

- A. Administering Bodies and Agents
1. Code Enforcement Officer: A code Enforcement Officer shall be appointed in accordance with the provisions of State Law.
 2. Planning Board: A Planning Board shall be created in accordance with the provisions of State Law.
 3. Board of Appeals: A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A., section 2691.
- B. Permits Required
After the effective date of this Ordinance no person shall without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.
1. A permit is not required for the replacement of an existing road culvert as long as:
 - a. The replacement culvert is not more than 25% longer than the culvert being replaced;
 - b. The replacement culvert is no longer than 75 feet; and
 - c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct. .
3. 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.
4. If the property is not served by a public sewer, a valid plumbing 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.

D. Procedure for Administering Permits

Within forty-five (45) days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that the specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within forty-five (45) days of receiving a completed application. However, 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 forty-five (45) days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

After the submission of a complete application to the Planning Board, the 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:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;

4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with flood plain development and use;
8. Is in conformance with the provisions of Section 15, Land Use Standards, and is not inconsistent with the policies set forth in the Town's Comprehensive Plan.

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

Expiration of Notice of Decision Notice of Decisions shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire. One-year extensions may be granted by the Planning Board, in its sole discretion, only upon written application by the owner of the property.

E. 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 the installation has been completed.

F. Appeals

1. Powers and Duties of the Board of Appeals:

- a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board or Harbor Master in the administration of this ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
- b. Variance Appeals: To authorize variances upon appeal, within the limitation set forth in this Ordinance.
- c. Setback Reduction Appeals: To grant reductions from the requirements set forth in Section 15.A of this Ordinance for minimum setbacks of structures from lot boundary lines. Setback Reduction appeals shall not be used, and are not available, to reduce the minimum setbacks of structures from water bodies as provided in this Ordinance.

2. Variance Appeals: Variances may be granted only under the following conditions:
 - a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 - b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - c. The Board shall not grant a variance unless it finds that:
 - i. The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - ii. The strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship” shall mean:
 - a) That the land in question cannot yield a reasonable return unless a variance is granted;
 - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
 - c) That the granting of a variance will not alter the essential character of the locality; and
 - d) That the hardship is not the result of action taken by the applicant or a prior owner.
 - e) Notwithstanding Section 16.G.2.c.ii. above, the Board of Appeals 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. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
 - f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity

the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Setback Reduction Appeals

The Board of Appeals may grant reductions from the minimum setback requirements set forth in Section 15(A) of this Ordinance according to all of the following criteria:

- a. Setback reduction appeals are only available to reduce the minimum requirements for setbacks of structures from Lot boundary lines. Setback reduction appeals shall not be used, and are not available, to reduce required minimum setbacks of structures from bodies of water as provided in this ordinance.
- b. Setback reduction appeals may only be granted and are only available for:
 - 1) lots in existence as of the effective date of this ordinance; and
 - 2) lots with a residential dwelling as the principal structure.
- c. The Board of Appeals shall grant a setback reduction appeal if the Board finds that granting the setback reduction will not result in unreasonable interference with the privacy interests of the abutting landowners.
- d. In granting a setback reduction the Board of Appeals may attach reasonable conditions which it may deem necessary to serve the purposes of this ordinance.
- e. A setback reduction appeal shall not be granted to enable construction or renovation that will create additional dwelling units.
- f. A setback reduction appeal shall not be granted to enable construction or renovation that will result in more than one garage on the lot that is the subject of the appeal.
- g. No setback reduction appeal may be granted that will result in an impervious surface lot coverage of greater than thirty percent (30%).
- h. Setback reduction appeals may only be granted the minimum extent necessary to accomplish the purpose of the appeal. Setbacks may not be reduced by appeal to less than the following absolute minimum setbacks:

Side Yard	10 feet
Front Yard	15 feet
Rear Yard	15 feet

5. Appeal 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, except for enforcement-related matters as described in Section 16.G.1.a

above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Appeals Board, upon showing of good cause, may waive the thirty (30) day requirement.

Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

- a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
- b) 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.
- c) Upon receiving an application for an administrative appeal, or a variance 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.
- d) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision by Board of Appeals

- i. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - 1.
 - ii. The person filing the appeal shall have the burden of proof.
 - iii. The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the of the hearing and shall issue a written decision on all appeals.
 - iv. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decision of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

6. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. section 2691.3.F, 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.

7. Reconsideration

In accordance with 30-A M.R.S.A. section 2691.3.F, the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the board to reconsider must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (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 hearings(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

G. 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 provision 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 submitted to the municipal officers and be maintained as a permanent record.
 - b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable 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, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, beginning in 1991, a summary of this record must be submitted by March 1 to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
3. Legal Actions

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 municipality. 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. Such agreements shall not allow an illegal structure or use to continue unless 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, or unless 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

Any person, including but not limited to a landowner, a landowner's agent or contractor, builder or developer who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A., section 4452.

NOTE: **For definitions please reference the Definitional Ordinance, adopted June 11, 2002.**
