

# **CITY OF CALAIS**

## **LAND USE CODES**

**EFFECTIVE DATE** July 29, 2017



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# **CHAPTER 1**

## **GENERAL PROVISIONS**



**City of Calais  
Land Use Codes  
General Provisions**

**SECTION 1. AUTHORITY AND PURPOSE**

2.1. Authority:

This Land Use Code is adopted per Article VIII, Part 2, of the Maine Constitution and the Home Rule provisions of Title 30-A MRSA Section 3001. This Land Use Code complies with the requirements of the Maine Revised Statutes Annotated, Title 1, 12, 17, 30-A, 33, and 38.

2.2. Purpose:

The purpose of this Land Use Code, prepared as part of a Comprehensive Plan for the development of the City, is to:

- A. promote the health, safety, and general welfare of the residents of the City;
- B. encourage the most appropriate use of land throughout the City by controlling building sites, placement of structures, and land uses;
- C. promote the coordinated development of unbuilt areas;
- D. prevent overcrowding of real estate;
- E. prevent housing development in unsanitary areas;
- F. promote traffic safety;
- G. to provide safety from fire and other elements;
- H. provide and maintain adequate street system and public services;
- I. provide an allotment of land area in new developments sufficient for all requirements of community life;
- J. conserve natural resources;
- K. prevent and control water pollution;
- L. protect spawning grounds, fish, aquatic life, bird, and other wildlife habitat; and
- M. conserve shore cover, visual as well as actual points of access to inland areas, especially on flood prone areas and shores unsuitable for development.

**SECTION 2. EFFECTIVE DATE**

The effective date of this Land Use Code is \_\_\_\_\_.A certified copy of this Ordinance shall be filed with the City Clerk of the City of Calais.

**SECTION 3. VALIDITY AND SEVERABILITY**

This ordinance supersedes and replaces all previous ordinances. Should any section or provision of this Land Use Code be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Land Use Code. Wherever a conflict may be found to exist between this and any other City ordinance, the more restrictive provision shall apply.

**SECTION 4. AMENDMENTS**

This Land Use Code may be amended in accordance with the provisions of the Calais City Charter. Amendments applying to any Shoreland Zoning District must be submitted by to the State of Maine Department of Environmental Protection and approved by its Commissioner, in accordance with Title 38, MRSA, section 438-A(3).

**SECTION 5. INTERPRETATION OF DISTRICT BOUNDARIES**

Unless otherwise set forth in the City of Calais Zoning Map, district boundary lines are property lines, the centerline of streets, roads, and rights-of-way, and the boundaries of the Shoreland Districts as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

**SECTION 6. BASIC PROVISIONS**

This Land Use Code includes the City of Calais Zoning Ordinance (Chapter 5), the City of Calais Subdivision Ordinance (Chapter 6), the City of Calais Floodplain Management Ordinance (Chapter 7), the City of Calais Shoreland Zoning Ordinance (Chapter 8), the City of Calais Business District Revitalization Ordinance (Chapter 9), the City of Calais Street Opening and Culvert Ordinance (Chapter 10), the City of Calais Building Code (Chapter 11), the City of Calais Wireless Telecommunications Facilities Siting Ordinance (Chapter 12), and the City of Calais Holding Tank Ordinance (Chapter 13) Property Maintenance Ordinance (Chapter 14) respectively which are included herein as Chapters 5, 6, 9, 10, 11, 12, and 14. Chapters 5, 6, 9, and 14 shall be governed by the provisions of Chapter 2 (Definitions), Chapter 3 (Appeals), and Chapter 4 (Enforcement) whereas the definitions of Chapters 7, 8, 12, and 13 within the body of each chapter. Chapter 6 (Subdivision Ordinance) and Chapter 11 (Building Code) shall be governed by the provisions of Chapter 5 (Zoning).



# **CHAPTER 2**

## **DEFINITIONS**



**City of Calais  
Land Use Codes  
Definitions**

"City" or "Municipality": The City of Calais. Words used in the present tense include the future tense; words in the singular include the plural; and words in the plural include the singular. The word "shall" is always mandatory. The word "person" includes a firm association, organization, partnership, trust, company, or corporation as well as an individual. The word "lot" includes the word "plot" or "parcel." The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Except as specifically defined herein all words in this Ordinance shall carry their customary dictionary meanings. For the purpose of this Ordinance certain words or terms used herein are to be construed or defined as follows:

**Accessory Use or Building**: A use or structure which is customarily incidental and subordinate to the principal use or building on the same lot. The term "incidental" in this context shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. The term shall not include a residential dwelling unit. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Addition**: An alteration to a structure which would increase any horizontal dimension, height (exclusive of chimneys, antennae, etc.) or land area covered. An addition must form an integral part of the original structure and not merely be connected by railings, steps, or walkways, any connecting elements being architecturally or structurally homogeneous with it.

**Aggrieved Party**: A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, a person whose land abuts land for which a permit or variance has been granted, or a group of five or more citizens of the City who represent an interest adverse to the grant or denial of such permit or variance.

**Agriculture**: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

**Alteration**: Any change or modification in construction, or change in the structural members of a building, or in the use of a building.

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

**Aquifer**: A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation.

**Authorized Agent**: An individual or a firm having written authorization to act on behalf of a property

owner. The authorization shall be signed by the property owner(s).

**Automobile Junk Yard:** A place occupied by two or more unregistered, unserviceable, discarded, or junked automotive vehicles, or bodies, engines, or other parts thereof sufficient in bulk to equal two vehicles or bodies, also referred to as a motor junk yard.

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

**Bed and Breakfast:** Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation. This dwelling must also be the full-time, permanent residence of its owner; otherwise, it must be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

**Best Management Practices:** Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine Departments of Agriculture, Forestry, Transportation and Development pursuant to 38 M.R.S.A. Section 410-J.

**Board:** Refers to the City of Calais Planning Board.

**Boarding, Lodging Facility:** Any residential structure where 4 or more lodging rooms with or without meals are provided for compensation and where a family acting as owner or operator resides in the building. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

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

**Building:** Any three-dimensional enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including swimming pools, foundations or pilings in the ground, and all parts of any kind of structure above ground including decks, railings, dormers, and stairs. Sidewalks, fences, driveways, parking lots, retaining walls, electrical transmission poles and lines, signs and flagpoles and exterior storage facilities, including but not limited to storage tanks not intended for human occupancy are not construed as buildings.

**Buildable Land:** Land normally suitable for the construction of buildings, but excluding wetlands, unstable slopes of greater than 30 percent, and areas in subdivisions reserved for common rights-of-way.

**Building Height:** The vertical distance between the rooftop of a building, or otherwise its highest point, and the highest point of the ground on which it is built.

**Bureau:** State of Maine Department of Conservation's Bureau of Forestry.

**Business and Professional Offices:** The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales nor activities utilizing trucks as part of the business operation.

**Campground**: Land upon which one or more tents are erected or trailers are parked for temporary recreational use on sites arranged specifically for that purpose. The words "camp grounds" shall include the words "tenting grounds" and "trailer parks."

**Camper**: A travel trailer or recreational vehicle equipped with sleeping accommodations.

**Certificate of Compliance**: A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Chemical Bulk Storage**: Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

**Church**: A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services, excluding school.

**Club**: Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only and not the general public; and not engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

**Cluster Development**: A development consisting exclusively of residential dwelling units, planned and carried out as a whole or as a programmed series of developments, controlled by one developer on a tract of 5 or more lots, which contemplates an innovative, more compact group of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural character of the land.

**Code Enforcement Officer**: Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

**Commercial Building**: Any building or other structure, except a single or two-family dwelling, intended for commercial use, or which houses goods or equipment for that purpose. Buildings which are primarily dwellings or accessories to dwellings used for a home business are not considered commercial.

**Commercial Fishing Operations**: Any activity or usage of land whose primary purpose involves the catching, harvesting, growing, handling, processing, retailing, wholesaling, packaging and shipping of fish, shellfish and other products of the ocean, including but not limited to: seafood and their byproducts; bait sales and processing; fabrication, storage and repair of fishing equipment; vessel berthing; ice-making services; facilities for marine pollution control; oil spill servicing and marine sanitation; parking accessory to on-site water dependent use; marine office; and cold storage facilities.

**Commercial Use**: Any activity or usage of land whose primary purpose is profit or financial gain. This definition does not apply to small businesses carried on in the home which meet the criteria for a home business (see Home Occupation).

**Community Center**: A building which provides a meeting place for local, non-profit community

organizations on a regular basis. The Center shall not be engaged in activities customarily carried on by a business.

**Conforming:** A building, structure or land use, or portion thereof, which complies with the provisions of this Ordinance.

**Congregate Housing:** Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly occupants who are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities.

**Constructed:** Built, erected, altered, reconstructed, or moved upon, including the physical operations on the premises which are required for construction. Excavation, filling, drainage, and blasting, shall be considered a part of construction.

**Construction and Commercial Equipment & Vehicle Storage:** Storage of construction equipment or other commercial vehicles in excess of thirty (30) consecutive days in which the equipment is not used.

**Construction/Demolition:** Construction or demolition of facilities, buildings, etc. associated with the land uses or activities.

**Density:** The number of dwelling units per lot of land.

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

**Dimensional Requirements:** Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability:** Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**District:** A specified portion of the City of Calais, delineated on the land use map, within which certain regulations and requirements apply, as distinct from those that apply to other districts.

**Drinking Water Standards, Primary and Secondary:** Standards for drinking water as stated in the State of Maine Rules Relating to Drinking Water, Maine Department of Human Services.

**Driveway:** A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**Dwelling:** Any permanent structure which provides cooking and dining facilities, sanitary facilities, sleeping accommodations and other necessities for extended occupancy. Cabins, camps, efficiency units, hotel or motel rooms, intended for short term occupancy by transients, shall not be considered dwellings,

but rather commercial buildings. Rooms in private residences rented by the owner to overnight guests (e.g. so-called "bed and breakfast") shall be considered a home occupation.

**Dwelling Unit:** A dwelling or portion thereof providing living quarters for one or more persons living as a single housekeeping unit.

1. **Single Family Dwelling:** Any structure designed to contain one dwelling unit, with one kitchen, and with all rooms generally being internally accessible to one another.
2. **Multi-Family Dwelling:** A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families and kitchens not exceeding the number of dwelling units.
3. **Two-family Dwelling:** A building designed to contain two separate dwelling units, with two kitchens, and the rooms of one unit not generally internally accessible to the other.
4. **Residential Dwelling:** A room or group of rooms designed and equipped exclusively for use as a permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes.

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

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

**Expansion of a Structure:** An increase in the size (volume or floor area) of a structure or number of structures connected with an activity for the purpose of increasing the magnitude or scope of that activity, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of Use:** The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

**Family:** One or more persons occupying a dwelling unit premises and living as a single housekeeping unit as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

**Fill:** Soil material from another natural or man-made source.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Firefighting:** Activities associated with both prevention of fires and emergency dowsing of fires.

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

**Floor Drain:** An opening in the floor that drains into the ground. Work sinks which lead to such drains are included.

**Forestry:** The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

**Forest Management Activities:** Timber cruising and other forest resources evaluation activities, , pesticide or fertilizer application, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not exclusive of timber harvesting and the construction or , creation or maintenance of roads.

**Foundation:** The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls or other base consisting of concrete, block, brick or similar material.

**Frontage:** On a road, the horizontal, straight line distance between the intersections of the side lot lines with the road right-of-way. On the shore, the straight line horizontal distance between the intersection of the lot lines with the normal high water mark.

**Fuel Oil Distributor, Fuel Oil Storage:** The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, and not in tanks directly connected to burners.

**Functionally Water-Dependent Use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes but is not limited to Commercial Fishing Operations and recreational fishing and boating facilities, (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, LNG Facility and other industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters, but does not include long-term storage or related manufacturing facilities.

**Garage:** An accessory building, or part of a principal building, including a car port, used primarily for the housing of motor vehicles as an accessory use.

**Gas Station, Service Station:** Any place of business at which gasoline, other motor fuels or motor oil are utilized, transported, sorted or distributed to the public for use in a motor vehicle, regardless of any other business on the premises.

**Groundwater:** The water contained within the interconnected pores, cracks or fractures located below the



water table of a confined or unconfined aquifer.

**Hardship:** See Undue Hardship.

**Hazardous Material:** Any gaseous, liquid or solid materials, either in pure form or mixed with other substances, designated as hazardous by the Maine Department of Environmental Protection.

**Hazardous Waste:** Any substance identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto. Also any radioactive waste material which means any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations.

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

**Home Occupation:** An occupation or profession which is customarily conducted on or in a residential structure or property and which is (1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and (2) which employs no more than two (2) persons other than family members residing in the home. By way of illustration and not of limitation, the term home occupation shall include foods such as breads, cookies or preserves, rugs, birdhouses, fishing flies, and quilts). The term "home occupation" shall include both professional and personal services, within the limits on number of employees established in other sections of this Ordinance.

**Hotel/Motel:** A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include a restaurant where food is prepared and served to guests and other customers.

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

**Individual Private Campsite:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent

platform.

**Industrial**: Any activity which includes the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, production, sale and distribution of electricity, gas, steam or other form of energy or the extraction of minerals.

**Industrial Structure**: Any building or structure, except a single or two-family dwelling, intended for the making of goods and articles by hand or machinery including assembly, fabrication, finishing, packaging and processing or other industrial activity. The term shall include any building or structure which houses goods or equipment for that purpose.

**Industrial Use**: The making of goods and articles by hand or machinery including assembly, fabrication, finishing, packaging and processing.

**Industrial Waste**: Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

**Inert Fill**: Material placed on or into the ground as fill that will not react chemically with soil, geologic material, or groundwater.

**Institutional**: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital or municipally-owned or operated building, structure or land used for public purposes.

**Intensive Open Space Uses**: Uses of open space, which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity. Examples of intensive open space uses include: automobile or all-terrain vehicle race tracks or ranges.

**Junk Yard**: An area where waste, junked, used, or second hand materials are brought, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, wood, rags, or bottles.

**Landfill**: An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

**Liquefied Natural Gas (LNG)**: A natural gas that has been converted to a liquid form for ease of storage or transport.

**LNG Facility**: An area of land and the buildings, structures and accessory structures and improvements located thereon, intended for the unloading, offloading, regasification, storage, and distribution of LNG and natural gasses derived from LNG. An LNG Facility is an Industrial use, Industrial Structure, a Marine Service, and is a functionally Water-Dependent Use.

**Lot**: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Washington County Registry of Deeds. A lot is a parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this

Ordinance, and having frontage upon a public street or a street in a subdivision which has been approved by the Planning Board or have vehicular access to abutting public or private roads. Where access is to be by easement, the owner shall have it protected by permanent easement. A lot has a "front lot line" on any street or water body which it abuts, a "side lot line" abutting adjacent lots of common frontage and a "rear lot line" abutting lots not in common frontage. A lot having frontage on both streets and water bodies has a "front lot line" on the street, and a "rear lot line" on the water body.

**Lot Area:** The total horizontal area within the lot lines. Minimum lot area is the smallest such area allowed under the law for a particular use in a particular district. Lot area does not include land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than 2 lots.

**Lot, Coverage:** The percentage of a lot covered by all buildings or for shoreland areas it shall include buildings and all other non-vegetated surfaces.

**Lot Lines:** The lines bounding a lot as follows:

1. Front Lot Line: the boundary line on any street or water body it abuts.
2. Rear Lot Line: The lot line opposite the front lot line abutting adjacent lots not in common frontage. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines, not less than ten feet long, lying at the farthest possible distance from the front lot line and parallel to it.
3. Side Lot Line: Any boundary line abutting adjacent lots of common frontage.

**Lot of Record:** A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the Washington County Register of Deeds.

**Lot, Shorefront:** Any lot abutting a body of water regulated by the Shoreland Zoning Ordinance.

**Lot, Through:** Any interior lot having frontages on two more or less parallel roads or between a road and a body of water, or between two bodies of water. In a corner lot, these two boundaries intersect.

**Lot Width:** The distance between the two side lot lines measured at the front setback line.

**Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Manufactured Housing:** A structural unit designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its chassis, or placed on an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in

the interim. For the purpose of this Ordinance two types of manufactured housing are included.

1. **New mobile homes:** Units constructed after June 15, 1976 which the manufacturer certifies are in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permit chassis and are designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which that the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code Title Section 5401, et. seq.;
2. **Modular Homes:** Units which the manufacturer certifies are constructed in compliance with the State's Manufactured Housing Act and Regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis, and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained therein.

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

**Marine Fuel Storage:** Storing and dispensing of marine fuels provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited to twenty thousand (20,000) gallons of storage capacity within the General Development zone.

**Marine Services:** Marine vessel berthing, repair, service, sales, rentals; shipbuilding; tugboat, fireboat, pilot boat and similar services; marina, marine office, supply and chandlery; and marine construction and salvage, and pollution control facilities.

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

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

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

**Minimum Lot Width:** The closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Mining or Mineral Extraction:** The removal of geologic materials such as soil, topsoil, loam, sand, gravel, clay, metallic, ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site.

**Mobile Home - Older:** A manufactured housing unit which does not meet the definition of a newer mobile home or modular home or which was constructed prior to June 15, 1976.

**Mobile Home Park:** A contiguous parcel of land under unified ownership designed and approved for the location of three (3) or more mobile homes, in which the individual sites are rented or leased and which is licensed as a mobile home park by the Maine Department of Business Regulation.

**Mobile Home Space:** An area within a mobile home park designed to accommodate one mobile home stand and its related yards and other open spaces.

**Mobile Home Stand:** An area within a mobile home space on which a mobile home is to be stationed.

**Multi-Unit Residential:** A residential structure containing three (3) or more residential dwelling units.

**Municipal Officers:** Municipal Officers shall mean the Calais City Council.

**Native:** Indigenous to the local forests.

**Net Residential Acreage:** The acreage available for development, excluding the areas for streets, required private rights-of-way or access, utility easements, and the areas which are unsuitable for development, including intertidal areas, areas covered with standing water for all or most of the year, Class 1 or Class 2 wetlands as defined by the Maine DEP, areas of special flood hazard, and areas with slopes greater than 30%.

**Net Residential Density:** The number of dwelling units per net residential acre.

**New Construction:** Structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**Non-Conforming:** A building, structure, use of land, or portion thereof, legally existing at the effective date of adoption of this Ordinance or an amendment to it, which thereafter fails to conform to all applicable provisions of this Ordinance.

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

**Non-Conforming Structure:** A structure that does not meet all dimensional requirements, setbacks, height, and lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Nursing Home:** Any dwelling in which three or more aged, chronically ill or incurable persons are

housed and furnished with meals and nursing care for compensation.

**Open Space:** Land that is free of buildings and other permanent structures.

**Operational Necessity:** A requirement or condition necessary to fulfill efficiently, safely and economically the function or purpose for which a structure or land use was intended.

**Parks and Recreation:** Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

**Permit:** A document formally sanctioning an activity not prohibited by the law, but which may be regulated or have conditions attached by the law.

**Permitted Use:** Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

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

**Pesticide, Herbicide Bulk Storage:** Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included.

**Piers, Docks, Wharves, Bridges and other Structures and Uses Extending Over or Below the Normal High-water Line or within a wetland:**

1. Temporary: Structures which remain in or over the water for less than seven months in any period of twelve consecutive months.
2. Permanent: Structures which remain in or over the water for seven months or more in any period of twelve consecutive months.

**Planning Board:** The Planning Board of the City of Calais.

**Portable Sign:** Any sign which is not physically mounted to the ground or building

**Principal Structure:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

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

**Public Utility:** Any person, firm, corporation, or municipal department, board or commission authorized

to furnish gas, electricity, water, communication services, or transportation to the public.

**Reasonable Return:** Means that the extent to which a property fulfills the purpose for which it was purchased is commensurate to what could reasonably be expected in similar properties in the neighborhood, given a similar investment.

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

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

**Replacement system:** A system intended to replace:

1. an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. any existing overboard wastewater discharge.

**Residential:** Pertaining to a building or a land use whose primary purpose is to provide dwellings for people, with accessory structures for the convenience and comfort of the occupants.

**Residential Activities:** Activities associated with the home, including septic wastes, use of gasoline or fuel oil, automotive or similar shop work, lawn or garden care with fertilizers and pesticides, and use and disposal of chemicals from home occupations such as photographic studies, beauty salons, car washing activities, etc.

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

**Retail Business:** A business establishment engaged in the sale or rental of goods or services to the ultimate consumer for direct use or consumption and not for resale.

**Right-of-Way:** Land reserved for State highways, City roads. Private roads, public access, and utility access.

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

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

as defined.

**Rubbish:** Any discarded, worn-out, abandoned, or non-functioning article or articles or materials including but not limited to tin cans, bottles, used wood products, junk appliances, junk automobiles, or parts thereof, old clothing, or household goods. The word "rubbish" shall include the words "trash, waste materials, and refuse."

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

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

1. in the case of electric service
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback Line:** Line parallel to the front property line at the point which the building is nearest to that property.

**Shoreland Zone:** The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred fifty (250) feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

**Sign:** Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from a public way. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified they shall include frames.

**Sludge:** Residual material produced by water or sewer treatment processes, industrial processes, or



domestic septic tanks.

**Sludge Utilization:** The spreading of sludge on the ground or other use of sludge, which might expose surface or groundwater to the sludge.

**Snow Dump:** A location to which snow is transported and dumped by commercial, municipal, or State snowplowing operations.

**Solid Waste:** Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, and inert fill materials and landscape refuse.

**SPCC Plan:** Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations.

**Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Stormwater Drainage:** A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste.

**Stormwater Impoundment:** Any structure designed and constructed to contain stormwater runoff.

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

**Structure:** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes.

1. **Principal Structure:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises.

2. Accessory Structure: A structure of a nature customarily incidental or subordinate to that of the principal structure or the primary use to which the premises are devoted.

**Subdivision**: The division of a tract or parcel of land as defined in Title 30-A MRSA Section 4401 et. seq.

**Subdivision, Cluster**: A residential subdivision wherein principal building does not occupy a lot meeting the minimum dimensional requirements of this Ordinance for the district in which it is located, but where the overall density (number of dwellings per acre) does not exceed that implied by such minimum lot size requirements.

**Subdivision Street, Approved**: Any right of way approved in conjunction with a subdivision plan by the Planning Board. (The approved subdivision street may be a private way).

**Substantial Damage**: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement**: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

Any alteration of a historic structure, provided that the alteration will not preclude the structures's continued designation as a historic structure.

**Subsurface Sewage Disposal System**: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping or any other fixture, mechanism or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Subsurface Wastewater Disposal System**: A collection of treatment tank(s), disposal area(s), holding tank(s), pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA section 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer, sewerage system, or wastewater treatment plant.

**Substantial Start**: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

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

**Tidal Waters:** All waters affected by tidal action during the highest annual tide.

**Timber Harvesting:** The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to [Section 15 Subsection P](#) of the Shoreland Zoning Ordinance, Clearing or Removal of Vegetation for Activities Other than Timber Harvesting.

**Timber Harvesting and Related Activities:** Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Transfer Station:** Recycling Facility: Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing.

**Travel Trailer:** A vehicle designed to be moved on wheels and intended as a temporary dwelling for travel, recreation and vacation use and lacking plumbing facilities. (To be distinguished from a "mobile home.")

**Undue Hardship:** The words "undue hardship" shall mean all of the following:

1. That the land in question cannot yield a reasonable return unless a variance is granted; and
2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
3. That the granting of a variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or a prior owner.

**Use:** The manner in which land or a structure is arranged, designed or intended, or is occupied.

**Utility Corridor:** Right-of-way, easement, or other corridor for transmission wires, pipes, poles, conduits, towers, anchors, footings, valves, traps, accessways, and manholes or other facilities, for transmission, conveyance or distribution of energy, gas, communication signals, fuel, water, wastewater, etc.

**Underground Storage Tank:** As defined by State of Maine regulations, Chapter 691, published by the Maine Department of Environmental Protection.

**Variance:** A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the Ordinance would result in undue hardship for the property owner. Variances can be granted for measurements only, such as setbacks, heights, lot size, frontage limits, areas, etc. Variances are not granted for the establishment or expansion of uses in districts where they are prohibited.

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

**Violation:** The failure of a structure or development to comply with a community's floodplain management regulations.

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

**Wastewater:** Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present.

**Wastewater Treatment Plant:** Any arrangement of devices and structures used for treating wastewater.

**Wellhead:** The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

**Wellhead Protection Area:** A zone, consisting of 2 districts, created to protect the public water supply for the City of Calais. The outer Wellhead Protection Zone (Zone 2) is the primary recharge area for the 2 wells. The inner zone (Zone 1) includes the area immediately recharging the water supply wells.

**Well, Abandoned:** A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for the extraction or monitoring of groundwater that has not been used for a period of two consecutive years.

**Well, Existing or New:** A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of groundwater.

**Yard:** On the same lot with a principal building, a space which is open to the sky and unoccupied by any structure other than a fence up to six (6) feet in height above the ground.

**Yard, Front:** The area of land between the front lot line and the nearest part of the building.

**Yard, Rear:** The area of land between the rear lot line and the nearest part of the building.

**Yard, Side:** The area of land between the side lot line and the nearest part of the building.

**Zone of Contribution:** The area from which groundwater flows to a pumping well.

# **CHAPTER 3**

## **APPEALS**



**City Of Calais  
Land Use Codes  
Appeals**

**SECTION 1. ESTABLISHMENT AND ORGANIZATION**

There shall be a Board of Appeals of five members and one associate member appointed by the municipal officers as provided in Title 30-A of the Maine Revised Statutes as amended. Members of the Board of Appeals shall be residents of the City of Calais. The term of the members shall be such that the term of one member will expire each year. The term of the associate member shall be three years. The associate member shall act on the Board in place of any member who may be unable to act due to personal involvement, absence, or physical incapacity.

**SECTION 2. POWERS AND DUTIES**

2.1 Administrative Appeals (Zoning Ordinance, Floodplain Management Ordinance, Shoreland Zoning Ordinance, Business District Revitalization Ordinance):

The Board of Appeals may, upon application of an aggrieved party, after a hearing, affirm, modify, or set aside a decision, order, rule or failure to act by the Code Enforcement Officer, Building Inspector, Plumbing Inspector, or the Planning Board in the administration of Chapter 5 (Zoning Ordinance), Chapter 7 (Floodplain Management Ordinance), Chapter 8 (Shoreland Zoning Ordinance), and Chapter 9 (Business District Revitalization Ordinance) of this Land Use Code. This section shall not apply to Chapter 6 (Subdivision Ordinance) or Chapter 11 (Building Code).

- A. All enforcement actions taken by the Code Enforcement Officer pursuant to Chapter 4, Enforcement, including stop orders and consent agreements, may be appealed by an aggrieved party only to the Superior Court pursuant to Rule 80.B of the Maine Rules of Civil Procedure.
- B. All site plan review applications approved or denied by the Planning Board pursuant to [Chapter 5, Zoning, Section 5](#) may be appealed by an aggrieved party only to the Superior Court pursuant to Rule 80.B of the Maine Rules of Civil Procedure.

2.2 Variance Appeals: (Zoning Ordinance, Floodplain Management Ordinance, Shoreland Zoning Ordinance, Business District Revitalization Ordinance):

The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of Chapter 5 (Zoning), Chapter 7 (Floodplain Management), Chapter 8 (Shoreland Zoning), and Chapter 9 (Business District Revitalization) of this Land Use code but not Chapter 6 (Subdivision Ordinance) or Chapter 11 (Building Code), subject to the following:

- A. Variances may be granted only from dimensional requirements including frontage, lot area, lot width, height, percent of lot coverage, and setback requirements. Variances shall not be granted for sign dimensional requirements.
- B. Variances shall not be granted for establishment of any uses otherwise prohibited by Federal,

State, or Local Statute.

- C. The Board shall not grant a variance unless it finds that:
1. The proposed structure or use would meet the performance standards of this Land Use Code except for the specific provision which has created the non-conformity and from which relief is sought; and
  2. The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean all of the following:

- 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 the general conditions in 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.

A variance is not justified unless all the above elements (a-b) are present.

- D. The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5 MRSA, section 4553 and the term "structures necessary for access to or egress from the property" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- E. 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 Land Use Code to the greatest extent possible, and may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- F. If a variance is granted under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local registry of deeds within 90 days of the final approval of the variance or the variance is void.

The variance is not valid until recorded as provided in this provision. Proof of recording shall be submitted by the applicant to the Code Enforcement Officer prior to issuance of the building



permit.

- G. In areas subject to the Mandatory Shoreland Zoning Act, a copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision. This provision shall not be considered to be a condition of the validity of the variance.
- H. Variances from the provisions of Chapter 7, Floodplain Management Ordinance, shall also be subject to additional limitations set forth in [Chapter 7, Section 10 \(Appeals and Variances\)](#).

### **SECTION 3. APPEAL PROCEDURE**

- 3.1. Time Limit: An administrative or variance appeal may be taken to the Board of Appeals within thirty (30) days of the date of the decision appealed from.
- 3.2. Written Notice: Such appeal 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 it 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 requested.
  - C. An appeal for a variance shall be advertised in a local newspaper at least seven (7) days before the deliberation of the Board or before any public hearing held by the Board respecting said appeal. All abutters to the property in question shall also be notified at the same time by certified mail (return receipt requested). A fee determined by the City Manager shall accompany the appeal to cover the cost of advertising and notification.
- 3.3. Record of Case:  
Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- 3.4. Public Hearing:  
The Board of Appeals shall fix a reasonable time (not to exceed 30 days) for the hearing of the appeal or other matter referred to it, and file public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person or by agent or by attorney.
- 3.5. Decision by Board of Appeals:  
In deciding any appeal the Board of Appeals may interpret the provisions of the Land Use Code and related state statutes. The provisions of 30-A MRSA Section 2691(3) shall govern the procedures of the Board of Appeals with respect to its meetings, hearings, deliberations, and decisions.
  - A. Quorum: A majority of the board shall constitute a quorum. A member who abstains shall not be counted in determining whether a quorum exists.

- B. Majority Vote: The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to decide on any matter which it is required to decide.
  - C. Burden of Proof: The person filing the appeal shall have the burden of proof.
  - D. Action on Appeal: Following the public hearing on an appeal, the board may affirm, affirm with conditions, or reverse the decision of the Code Enforcement Officer, Building Inspector, Plumbing Inspector or Planning Board. The board may reverse the decision, or failure to act, of the Code Enforcement Officer, Building Inspector, Plumbing Inspector or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Land Use Code. When errors of administrative procedures or interpretations are found, the case shall be remanded back to the Code Enforcement Officer, Building Inspector, Plumbing Inspector or Planning Board for correction. A majority vote of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Code Enforcement Officer, or to decide in favor of the applicant of any matter on which it is required to pass under this Land Use Code, or to affect any variation in the application of this Land Use Code.
  - E. Time Frame: The Board shall decide all appeals after the close of the hearing, and shall issue a written decision on all appeals within seven (7) days of its decision.
  - F. Findings: All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.
- 3.6. Appeal to Superior Court: Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to Superior Court in accordance with State laws.
- 3.7. Reconsideration: The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.
- 3.8. Stay of Proceedings: An appeal stays all legal proceedings in furtherance of the action appealed from, unless the official from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such cases, proceedings shall not be stayed otherwise than by a court of record on application, on notice to the official from whom the appeal is taken and on due cause show.
- 3.9. Issuance of Permit: The Code Enforcement Officer shall not issue a building permit for any variance that was granted in violation of Federal, State, or Local Statutes.

# **CHAPTER 4**

# **ENFORCEMENT**



**City of Calais  
Land Use Codes  
Enforcement**

**SECTION 1. CODE ENFORCEMENT OFFICER**

- 1.1. The Code Enforcement Officer shall be appointed in accordance with the provisions of the City Charter.
- 1.2. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Land Use Code. The Code Enforcement Officer shall have the following powers and duties:
  - A. Enforce the provisions of this Ordinance;
  - B. Act upon building, construction and use applications, refer permits requiring site plan approval to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals;
  - C. Deny any application that the Planning Board must deny in accordance with Federal, State, or Local Statute;
  - D. Enter any property at reasonable hours with the consent of the owner, occupant or agent to inspect the property or building for compliance with this Ordinance;
  - E. Investigate complaints and reported violations;
  - F. Issue violation notices;
  - G. Participate in appeals procedures;
  - H. Appear in court when necessary; and
  - I. Revoke a permit after notice and hearing if it was issued in error or if it was based on erroneous information.
- 1.3. If the Code Enforcement Officer shall find that any provision is being violated, he/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.
- 1.4. The Code Enforcement Officer shall not issue a building permit for any site plan approval or variance granted in violation of Federal, State, or Local Statutes.

## **SECTION 2. LEGAL ACTIONS**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, are hereby directed to institute any and all actions and proceedings, that may be appropriate or necessary to enforce the provisions of this Land Use Code.

## **SECTION 3. FINES**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Land Use Code shall be penalized in accordance with Title 30-A MRSA Section 4452.

## **SECTION 4. CONSENT AGREEMENT**

Upon recommendation of the City Solicitor as to form and compliance with this Land Use Code, certain violations of this Land Use Code may be resolved by a Consent Agreement executed by the violator and the City Council. A Consent Agreement shall require, unless the City Council expressly finds that the violation was the direct result of erroneous advice or approval by City Officials based on facts fully and accurately presented, that:

- 4.1. The violator admits to the violation;
- 4.2. The violation be corrected in all respects; and
- 4.3. The violator pays an appropriate monetary penalty of not less than \$100 and the City's legal costs.

# **CHAPTER 5**

# **ZONING ORDINANCE**





**City of Calais  
Land Use Codes  
Zoning Ordinance**

**SECTION 1. GENERAL**

1.1. Title:

This ordinance and the accompanying official zoning maps shall be known as, and may be cited as, the "Calais Zoning Ordinance", and will be referred throughout this document as "this Ordinance".

1.2. Authority:

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A, MRSA Section 3001, and the Comprehensive Planning and Land Use Regulation Act, Title 30-A, MRSA, Sections 4312, et seq. (as amended).

1.3. Purpose:

The purpose of this ordinance is to:

- A. encourage the most appropriate use of land throughout the municipality by controlling building sites, placement of structures, and land uses;
- B. to promote the coordinated development of unbuilt areas;
- C. to prevent over-crowding of real estate;
- D. to promote traffic safety;
- E. to provide safety from fire and other elements;
- F. to provide adequate light and air;
- G. to prevent housing development in unsanitary areas;
- H. to provide an allotment of land area in new developments sufficient for all the requirements of community life;
- I. to conserve natural resources; and
- J. to prevent and control water pollution.

1.4. Jurisdiction:

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the City of Calais.

Except as hereinafter specified, no structure or land shall be used or occupied and no structure or part thereof shall be erected, constructed, reconstructed, moved or altered unless in conformity with all regulations herein specified, for the zone in which it is located.

1.5. Conflicts with Other Ordinances:

This ordinance supersedes and replaces the Calais Zoning Ordinance which became effective June 24, 1996 amended. Where the provisions of this ordinance conflict, or conflict with any other law, or ordinance, the stricter provision shall prevail.

1.6. Validity and Severability:

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

1.7. Effective Date: June 24, 1996

1.8. Amendments:

All amendments to this ordinance shall be conducted in accordance with the provisions of the City Charter.

## **SECTION 2. ADMINISTRATION, ENFORCEMENT AND PENALTIES**

2.1. Administering Bodies and Agents:

- A. The Code Enforcement Officer shall be appointed in accordance with the provisions of the City Charter.
- B. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Land Use Code. The Code Enforcement Officer shall have the following powers and duties:
  - 1. Enforce the provisions of this Ordinance;
  - 2. Act upon building, construction and use applications, refer permits requiring site plan approval to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals;
  - 3. Enter any property at reasonable hours with the consent of the owner, occupant or agent to inspect the property or building for compliance with this Ordinance;
  - 4. Investigate complaints and reported violations;
  - 5. Issue violation notices;
  - 6. Participate in appeals procedures;
  - 7. Appear in court when necessary; and
  - 8. Revoke a permit after notice and hearing if it was issued in error or if it was based on

erroneous information.

- C. If the Code Enforcement Officer shall find that any provision is being violated, he/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.
- D. The Planning Board shall be responsible for reviewing and acting upon applications for site plan review approval. Following site plan review approval, applicants shall return to the Code Enforcement Officer for a building permit.
- E. The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of Chapter 3 of this Land Use Code.
- F. The Code Enforcement Officer shall not issue a building permit for any site plan approval granted in violation of Federal, State, or Local Statutes.

## 2.2. 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 zone in which such activity or use would occur (see [Table of Land Uses, Section 3](#)); or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. **Any person starting construction before submitting application and paying applicable fees shall pay double the applicable fee.**

- A. Building Permit: A building permit shall be obtained from the Code Enforcement Officer for uses which are listed as permitted uses in [Section 3](#) of this Ordinance.
- B. Site Plan Review: Site plan review approval shall be obtained from the Planning Board for all uses which are listed as uses requiring site plan approval in [Section 3](#) of this Ordinance using the criteria outlined in [Section 5](#).

## 2.3. Building Permit Application:

- A. Application Form: Every application for a building permit shall be in writing signed by the applicant. The application shall include such information as lawfully may be required by the Code Enforcement Officer and shall include a site plan at a suitable scale showing:
  1. The shape, size, and location of the lot to be built upon;
  2. The shape, size, height, and location of the buildings to be erected, altered, or removed;
  3. Any buildings already on the lot;
  4. Setback lines of the buildings on adjoining lots; and
  5. Any other information needed by the Code Enforcement Officer, Planning Board, or the Board of Appeals to determine whether the provisions of this Ordinance are being observed.

- B. Authorization: All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
- C. Date: All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.
- D. Plumbing Permit: 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 would require the installation of a subsurface sewage disposal system.
- E. Application Fee:
  - 1. Before a building permit may be issued, the applicant must pay a minimum fee of fifty (50) dollars PLUS thirty (30) dollars per 1,000 square feet of gross floor area or fraction thereof. This fee shall apply to residential, commercial, industrial and institutional structures except that the fee shall be \$25 for accessory structures to residential structures with a footprint of up to 800 square feet and additions with a footprint of up to 800 square feet. In addition, the applicant shall pay for any necessary advertising required by the application process. There shall be no fee for repairs and maintenance or a fence under six (6) feet in height.
  - 2. The minimum fee shall be charged for moving a building from one map block and lot to another map block and lot.
  - 3. All building permit fees will be waived for:
    - a. construction or alteration of any City owned building; and
    - b. the demolition of any building.

F. Inspection Fee:

An inspection fee of twenty-five (25) dollars per permit will be charged for building and plumbing permits to defray the cost of these inspections.

2.4. Procedure for Administering Permits:

A. Determination of Complete Application:

Within 30 days of the date of receiving a written application, the Code Enforcement Officer shall refer all applications for Site Plan approval to the Planning Board. For applications requiring a building permit, including applications which have received site plan approval from the Planning Board, the Code Enforcement Officer shall notify the applicant in writing either that the application has been accepted as a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

B. Review of Complete Application:

Upon receipt of a completed application the Code Enforcement Officer shall review it to assure that the applicant and the proposed project will comply with all provisions of the Zoning Ordinance. The Code Enforcement Officer shall advise the applicant whether a variance, or other permits or approvals are required.

- a. Variance: No building permit shall be issued unless any variance that may be required has been granted by the Board of Appeals.
- b. Planning Board Approvals: No building permit shall be issued unless any approval that may be required by the Planning Board, including subdivision approval and site review plan approval has been granted and is evidenced in writing.
- c. Plumbing Permit: No building permit shall be issued unless a plumbing permit has been obtained and all provisions of State law relating to plumbing and sewage disposal have been complied with.
- d. Municipal Utilities: For structures requiring municipal water and sewage services, no building permit shall be issued until the application has been reviewed by Public Works and Water Department Directors to assure that the development will not adversely impact municipal water and sewage systems.

C. Timing of Actions: The Code Enforcement Officer shall approve, approve with conditions, or deny all building permit applications in writing within 30 days of the date of acceptance of the application. The Code Enforcement Officer shall deny any application that the Planning Board must deny in accordance with Federal, State, or Local statute.

D. Burden of Proof: The applicant shall have the burden of proving that a proposed land use activity is in conformity with this Ordinance.

2.5. Expiration of Permit:

Except as otherwise provided in [Section 7](#) with respect to projects that are subject to review and approval by the Planning Board, if no significant progress of construction has been made within six (6) months beginning with the date the permit is issued, the permit shall expire.

2.6. Occupancy Permit:

Prior to the sale, lease, or occupancy of any new building or buildings, the builder or developer (person who received a valid building permit) will secure any occupancy permit from the Code Enforcement Officer stating that such new structure is in conformity with the codes and ordinances of the City of Calais. Prior to issuance of the permit, the Code Enforcement Officer will check to see that all requirements under this Ordinance and other City ordinances have been met and the following signed statements are submitted:

- A. Electrical: For all new buildings, the builder will provide the Code Enforcement Officer with a form provided by the City of Calais signed by a Certified Maine Master Electrician which insures that the new building or addition is in compliance with all State Electrical Codes and those portions of the City's Building Code which pertain to electrical installation.

- B. Plumbing: For all new buildings, the builder will provide the Code Enforcement Officer with a form provided by the City of Calais signed by a State of Maine Licensed Master Plumber which insures that the new building or addition is in compliance with all State Plumbing Codes and those portions of the City's Building Code which pertain to plumbing installation.

Any person who sells, leases, or occupies a new building in the City of Calais prior to the issuance of any occupancy permit by the Code Enforcement Officer is in violation of this Ordinance and is subject to its penalties.

### **SECTION 3. REQUIREMENTS OF LAND USE ZONES**

#### **3.1. Establishment of Zones:**

A. Zones: For the purpose of this Ordinance, the City is hereby divided into the following zones:

1. Urban Residence - "R-1" Zones
2. Urban Residence - "R-2" Zones
3. Rural Residence - "R-3" Zones
4. Rural Residence and Farming - "R-4" Zones
5. Commercial and Institutional - "C-1" Zones
6. Retail and Service - "C-2" Zones
7. Highway Oriented Commercial - "C-3" Zones
8. Industrial - "I-1" Zones
9. Light Industry, Wholesale and Transportation -
10. "I-2" Zones
11. Marine Industrial – "I-3" Zones
12. Resource Protection - "R-P" Zones
13. Urban Residence & Professional Office – "R-1-P" Zones

B. Boundaries: The boundaries of these zones are shown upon the Official Zoning Map which together with all notations and explanatory material thereon is hereby adopted by reference and made a part of this Ordinance, said map being entitled "Zoning Map, City of Calais."

#### **3.2. Rules Governing Zones Boundaries:**

Where uncertainty exists as to the boundary lines of zones as shown on the Official Zoning Map, the following rules shall apply:

- A. Where boundaries are shown as approximately following the center lines of streets or railroad rights-of-way they shall be construed to follow such center lines.
- B. Boundaries shown as approximately following plotted lot lines or town boundary lines shall be construed as following such lines.
- C. Boundaries shown as following shore lines or other center lines of streams, rivers, or water bodies shall be construed to follow such lines.
- D. Boundaries shown as parallel to or extension of the features listed in Sections B.1-3 above shall be so construed and distances not specifically indicated shall be determined by the scale of the map.

- E. Where physical or cultural features existing on the ground differ from those shown on the Official Zoning Map, or uncertainty exists with respect to the location of a boundary, the Board of Appeals shall interpret said map.

3.3. Description and Purpose:

- A. Urban Residence - "R-1" Zones: The R-1 zone is established as a zone primarily for single-family dwellings and low-density multi-family residential uses. Other uses permitted in the district are those which are harmonious with the traditional pattern of development in residential neighborhoods.
- B. Urban Residence - "R-2" Zones: The R-2 zone is established as a wholly residential district allowing for a greater variety of housing types than other residential zones.
- C. Rural Residence - "R-3" Zones: The R-3 zones are intended to allow rural housing in the most appropriate areas of the City lacking urban services.
- D. Rural Residence and Farming - "R-4" Zones: Encompassing most of the area outside the urban center, the R-4 zones are intended for the kinds of uses which have traditionally predominated in rural New England; forestry and farming, farm residence, and a scattering of varied uses not inconsistent with a generally open, non-intensive pattern of land use. The minimum lot size requirement is high in order to prevent over-development where public sewers are not feasible and where a full range of urban services cannot be provided economically.
- E. Commercial and Institutional - "C-1" Zones: The C-1 zones are intended primarily for commercial uses to which the public requires easy and frequent access. Centrally located and easily accessible, the C-1 zones are intended to encourage the concentration of commercial development and professional services and public services to the mutual advantage of customers and merchants.
- F. Retail and Service - "C-2" Zones: The purpose of the C-2 zones is to provide appropriate locations for commercial uses which require a large amount of land area and immediate access to the area highway system such as shopping centers, drive-in facilities and auto sales and services.
- G. Highway Oriented Commercial - "C-3" Zones: The purpose of C-3 zones is to promote sound new commercial development in primarily undeveloped areas for uses which require highway access and large lots of land.
- H. Industrial - "I-1" Zones: The purpose of the I-1 zone is to provide land which is conveniently located with respect to transportation and municipal services and where other conditions are favorable to the development of industry and which at the same time is so located as to prevent undesirable conflict with residences and businesses.
- I. Light Industry, Wholesale and Transportation - "I-2" Zones: The purpose of the I-2 zones is to provide land which is conveniently located to transportation facilities for business activities which require extensive land area, but do not require close proximity to the residential and commercial areas of the community and which do not require urban services, while at the same time locating such activity so as to prevent undesirable conflict with residential and other types of business uses and to reduce traffic congestion in those areas.

- J. Marine Industrial – “I-3”: The purpose of the I-3 zone is to provide land which is conveniently located to navigable waters, transportation facilities or port facilities. The I-3 Zone also includes land where other conditions are favorable to the development of industrial, commercial and business activities and which at the same time is located so as to **minimize** conflict with residences and businesses.
- K. Resource Protection - "R-P" Zones: The Resource Protection zones include shorefront areas subject to flooding and other areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values.
- L. Urban Residence & Professional Office – “R-1-P”: The purpose of the R-1-P zone is to allow professional offices designed to exist in harmony with single family and low density multi-family residential uses. These offices are designed to have minimal impact on the traditional residential uses.



3.4. **Permitted Land Uses:**

Land uses permitted in the City's Land Use Zones, in conformance with the Standards of this Ordinance, are shown in the following table:

**KEY:**

P = Yes, permitted; requires only a building permit for a structure.

S = Permitted, but subject to Site Plan Review and the issuance of a building permit.

Blank = Not permitted.

Numbers refer to notes at the end of the table.

**TABLE OF LAND USES**

<b><u>RESIDENTIAL USES:</u></b>	<b>R-1</b>	<b>R-1-P</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>I-3</b>	<b>RP</b>
Accessory use or structure	P	P	P	P	P	S	S	S	S	S	S	S
Cluster subdivision	S	S	S	S	S							
Congregate Care Facility				S	S			S	S			
Home occupation	S	S	S	P	P				P			
Manufactured housing	P	P	P	P	P							
Mobile home park			S	S	S				S			
Multi-family dwelling	S	S	S	S	S	S <sup>9</sup>	S <sup>9</sup>	S <sup>9</sup>				
Single-family dwelling	P	P	P	P	P							
Two-family dwelling	P	P	P	P	P							
<b><u>COMMERCIAL USES:</u></b>												
Accessory use or structure						S	S	S	S	S	S	S
Antique sales			P	P	P	S		S	s			
Apartments on upper floor of building						P		P	P			
Art gallery, pottery barn, ceramic studio					S	S		S	S			
Automobile sales						S	S	S		P		

<b><u>COMMERCIAL USES:</u></b>	<b>R-1</b>	<b>R-1-P</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>I-3</b>	<b>RP</b>
Automotive storage and repair						S	S	S		S <sup>6</sup>	S	
Bed and breakfast	S	S	S	S	S	S Amended 2003	S Amended 2003	S Amended 2003				
Boarding House					S							
Building materials, retail					S <sup>3</sup>	S	S	S <sup>3</sup>		P		
Firewood processing			S	P	P							
Gasoline service station						S	S	S				
Greenhouses				P	P	S	S	S		P	S	
Grocery store					S <sup>4</sup>	S	S	S <sup>4</sup>				
Hotel/motel/inn					S	S	S	S				
Kennels - Commercial				P	P	S	S	S		P		
Off-street parking, loading						S	S	S	S	S	S	
Offices; professional		S	P	P	P	S	S	S		P		
Parking lot						S	S	S	S	S	S	
Poolroom/ Arcade							S					
Radio, television, communications tower				S	S	S	S	S	S	S	S	S
Restaurant					S	S	S	S				
Sale of monuments and memorial stones	S	S	S			S	S	S				
Stables, commercial				P	P	S	S	S		S		
Stables, kennels, private	S	S	S	P	P	S	S	S		S		
Undertaking establishment						S	S	S				
Veterinary hospitals				P	P	S	S <sup>7</sup>	S		S		
Wholesale business						S	S	S	S	S	S	
Change from one business to another within existing building	P		P	P	P	P	P	P	P	P	S	
Other commercial uses						S	S	S				

<b><u>INDUSTRIAL USES</u></b>	<b>R-1</b>	<b>R-1-P</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>I-3</b>	<b>RP</b>
Accessory use or structure								P	P	P	S	
Airport					S <sup>2</sup>			S <sup>2</sup>				
Assembly and packing						S	S	S	S	S <sup>5</sup>	S	
Automobile junkyard								S		S		
Cargo handling facilities											S	
Commercial fishing operations											S	
Demolition, waste disposal								S		S		
Fuel facility									S	S	S	
Industrial or business research laboratory									S	S	S	
LNG Facility											S	
Manufacturing						S	S	S	S	S	S	
*Marijuana Grow Operations					S	S	S	S	S	S	S	
Marine Service											S	
Recycling facility						S	S	S	S	S		
Industrial Piers, docks, wharves, bridges and other structures extending over or below the mean high water mark											S	
Sawmill					S			S		S	S	
Seafood distribution, warehousing and processing											S	
Storage and processing of agricultural products				P	P			S		S	S	
Truck terminal									S	S	S	
Utility Corridors	S <sup>1</sup>	S <sup>4</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S	S <sup>1</sup>	S <sup>1</sup>
Warehousing, storage						S	S	S	S	S	S	
Similar use or structure									S		S	
Retail use consistent with industrial use									S		S	
Preparation of Land for Development	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>	S <sup>8</sup>

\*Amended October 28, 2017.

<b><u>INSTITUTIONAL AND GOVERNMENT USES</u></b>	<b>R-1</b>	<b>R-1- P</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>I-3</b>	<b>R P</b>
Accessory use or structure	P	P	P	P	P	S	S	S				
Church, religious facility	S	S	S			S	S	S				
Clinic		S				S	S	S				
Drug Rehabilitation Clinic						S	S	S				
Club						S	S	S				
Cultural facility						S	S	S				
Day care			S	S	S	S	S	S	S	S		
Group home			S	S	S							
Hospitals, nursing home medical center, hospice			S		S	S	S	S				
Library						S	S	S				
Municipal facility			S		S	S	S	S	S	S	S	
Public facilities and grounds				P	P	P	P	P		P	S	
Public utility or communication facilities					S	S		S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	S <sup>1</sup>	
Research laboratory not involving manufacturing						S	S	S	S	S	S	S
Schools, public and private	S	S	S	S	S	S	S	S	S	P		
Transportation facility							S	S	S	S	S	

<b><u>OPEN SPACE USES</u></b>	<b>R-1</b>	<b>R-1-P</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>I-3</b>	<b>RP</b>
Accessory use or structure	P	P	P	P	P	S	S	S		P		S
Agriculture not including the raising of livestock poultry	P	P	P	P	P							
Agriculture, including animal breeding or care				P	P			P		P		S
Campground					S			S				
Cemetery				S	S			S				
Extractive Industry				S	S			S				
Farm Stand				P	P			P		P		
Parks and recreation, public and semi-public, grounds and buildings	S	S	S	S	S	S	S	S	S	S	S	S
Private parks and recreation	S	S	S	S	S	S	S	S	S	S	S	S
Roads	S	S	S	S	S	S	S	S	S	S	S	S
Timber harvesting	P	P	P	P	P	P	P	P	P	P	P	S
<b><u>OTHER</u></b>												
Airport					S			S				
Piers and docks	S	S	S	S	S	S	S	S	S	S	S	S
Signs	P	P	P	P	P	S	S	S	P	P	P	S

## **NOTES TO TABLE**

<sup>1</sup> Public utility and communications facilities and Utility Corridors shall not include a) high tension transmission lines in excess of 100,000 volts, or b) radio, television or communications towers. Public utility and communications facilities exclusive of those located in Utility Corridors shall be subject to the following: structures exclusive of poles shall be placed a minimum of 50 feet from any property line; vehicles shall not be stored on the lot; the lot shall be suitably landscaped.

<sup>2</sup> Shall not be closer than 500 feet from any dwelling and shall not create any nuisance in the immediate neighborhood.

<sup>3</sup> All structures shall be a minimum of 300 feet from any residential dwelling and shall be set back a minimum of 50 feet from any right-of-way line.

<sup>4</sup> Shall be owner-operated and designed to serve primarily the residents of surrounding rural properties.

<sup>5</sup> Excluding primary and secondary processing of raw materials, upon findings that said activity creates no unusual noise and/or waste or air pollutants to the area.

<sup>6</sup> Provided that junked autos or machinery are not stored in the open and that where such uses abut other zones, provision is made for screening them from view by planting or fencing.

<sup>7</sup> Outside kennel runs shall be prohibited.

<sup>8</sup> Must comply with the same criteria as [Section 4.13](#).

<sup>9</sup>Not Allowed in the Business District. Please see Chapter 9 for more information on the Business District.

## TABLE OF DIMENSIONAL REQUIREMENTS

Lots and Buildings in the City of Calais shall meet or exceed the following minimum requirements (the lot sizes shown are net acreages), unless a greater requirement is specified by other provisions of this Ordinance, in which case the greater requirement shall apply.

	<b>R-1 &amp; R-1-P</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1<sup>7</sup></b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>I-2</b>	<b>I-3</b>
Minimum lot size in square feet/unit	10,000 <sup>1</sup> 5,000 <sup>11</sup>	10,000 <sup>1</sup> 5,000 <sup>11</sup>	20,000	40,000	0	0	40,000	40,000	40,000	40,000
-Square feet for additional unit	2,500 <sup>1</sup>	2,500	--	--	--	--	--	--	--	--
-Other uses	12,000	12,000	--	--	--	--	--	--	--	--
Minimum lot width at setback line in feet	100	100	150	150	0	0	150	150	150	150
-Additional lot width for each additional dwelling in feet	10	10	--	--	--	--	--	--	--	--
Minimum yard depths <sup>(6)(7)</sup>										--
A. Front yard <sup>4</sup>	20	20	30	30	10	30	100 <sup>3</sup>	30	30	30
B. Side yard	10	10	15	15	10	10 <sup>2</sup>	20	20	20	20
C. Rear yard	10 <sup>10</sup>	10 <sup>10</sup>	30	30	10	10	30	25	25	25
Maximum height of <sup>9</sup> buildings in feet	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>5</sup>	35 <sup>9</sup>
Maximum lot coverage <sup>8</sup>	30%	30%	25%	25%	40%	30%	30%	40%	40%	40%
Density in cluster subdivisions in number of dwelling units	4	4	2	2	--	--	2	--	--	--
Density in multi-family dwelling - number of dwelling units/acre	8	8	2	2	--	--	2	--	--	--

The lot sizes shown in the above table shall be based on the net acreage calculation requirements contained in Section 4.26.

### NOTES TO TABLE

<sup>1</sup> 20,000 square feet if not on public sewer.

<sup>2</sup> Zero if commercial.

<sup>3</sup> 50 feet if residential.

<sup>4</sup> The front yard setback requirements of this Ordinance for dwellings shall not apply to any lot where the average setback on developed lots located wholly or in part within 100 feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum setback required. In such cases the front yard setback on such lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots.

<sup>5</sup> The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, transmission towers, chimneys, conveyors, derricks, radio and television towers, and similar structures not intended for human occupancy.

<sup>6</sup> The minimum yard requirements shall not apply to fences six (6) feet in height or less as measured from the surface of the ground.

<sup>7</sup> The minimum yard requirements shall not apply in the Business Redevelopment District.

<sup>8</sup> The Planning Board may permit an increase in lot coverage in the Business Redevelopment District provided that all other requirements can be met.

<sup>9</sup> The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, transmission towers, chimneys, conveyors, derricks, radio and television towers, and similar structures not intended for human occupancy. Facilities for bulk storage of materials delivered to a site by means of water-borne transportation, moveable elements such as cranes and gantries, connection devices such as conveyors or bridges, and floating vessels shall not be subject to the height limits, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to air traffic.

<sup>10</sup> The rear yard setback distances were changed from 20' to 10'. See the Calais City Council Minutes for April 12, 2007 for amendment.

<sup>11</sup> Minimum lot size 5,000 sqft/unit on existing lots.

## SECTION 4. PERFORMANCE STANDARDS

The following standards shall govern all land use activities in the City of Calais:

### 4.1. Access:

- A. Property Access: Each property shall have vehicular access to abutting public or private ways or roads. Where access is to be by easement, the applicant shall demonstrate, prior to approval, that the access is adequate for the intended purpose and is protected by permanent easement.
- B. Shore Access: Shoreland residential subdivisions shall provide at least a 12 foot wide access to abutting water bodies by reserving shoreland areas and access thereto, to be used in common by all residents and owners within said subdivision.

### 4.2. Accessory Buildings/Structures, Parking Lots:

- A. No garage or other accessory building, including satellite dish, shall be located within the front yard. The Planning Board may waive this requirement where the unique circumstances of the property make it impractical to meet this requirement, where there would be no adverse visual impact, and where the character of the surrounding area would be preserved.
- B. Accessory structures such as parking lots may be allowed within the required setbacks provided there is sufficient screening to obstruct view from abutting properties; and, that drainage provisions are developed to control off-site draining and preclude drainage onto abutting properties beyond pre-development levels.

### 4.3. Amusement Centers:

- A. In addition to the automobile parking spaces required by this Ordinance, all amusement centers shall provide facilities for the parking of bicycles. Bicycle racks shall be located off the sidewalk or other pedestrian way, and away from automobile traffic lanes. A minimum of one bicycle space for every two amusement devices shall be provided.
- B. Restroom facilities for the patrons shall be provided on the premises, of the type and number required by applicable local, state and federal codes and regulations.

### 4.4. Historic Sites:

Any proposed land use activity involving structural development or soil disturbance on sites listed on the National Register of Historic Places shall be subject to conditions of approval imposed by the Planning Board to ensure the preservation of the site or structures to the greatest extent possible.

### 4.5. Automobile Graveyards, Junk Yards:

- A. License: No automobile graveyard or junk yard shall be established, operated, or maintained without first obtaining a nontransferable license to do so from the municipal officers, which permit shall be valid until April 1 of the year following.
- B. Site Plan Review: A license for the establishment of an automobile graveyard or junk yard shall not be issued by the municipal officers until first approved under the site plan review procedures of this Ordinance by the Planning Board, and unless the application for such license is



accompanied by a certificate from the Board stating its approval of such location and setting forth such special requirements for fencing, screening, setback, etc., as the Board may deem necessary as a condition of its approval in order to adequately serve the public health and welfare, and to protect the appearance of the area.

- C. Location: No motor vehicles or material shall be located on a sand and gravel aquifer or within the 100 year flood plain as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the U.S. Department of Agriculture.
- D. Buffer: A visual buffer, capable of completely screening from view all portions of the automobile graveyard or junkyard, shall be established and maintained along all property lines. Any area to be occupied by junk automobiles or parts thereof shall be kept entirely screened to view from highways and streets, residences, and from any place of public assembly or recreation. Site plan approval and the issuance of a license may be made conditional upon the applicant's promise that he will provide fencing or screening as specified. Failure to do so within six months from the date of issuance of the license shall constitute a violation of this ordinance. All other pertinent provisions of the State Law on automobile junk yards, Title 30-A Section 3751, Maine Revised Statutes annotated shall be observed.
- E. Operational Considerations: Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.

#### 4.6. Bed and Breakfast:

The following minimum requirements shall apply to any bed and breakfast:

- 1. Must be owner-occupied;
- 2. One bathroom provided/three rooms, in addition to the bathroom for the dwelling unit; and
- 3. Each room must not be less than ten by twelve feet or more than five (5) rental rooms.

#### 4.7. Boarding, Lodging Facility:

A boarding or lodging facility shall meet all of the requirements for a bed and breakfast except that the facility may be occupied by a family acting as either the owner or operator, and the facility shall have four (4) or more rental rooms.

#### 4.8. Boat, Recreation Vehicle and Other Storage:

No vessel, vehicle or structure exceeding twenty-four (24) feet in length or six (6) feet in height as measured from the ground shall not be stored or parked on any residential property unless the vessel, vehicle or structure is stored or parked so as not to violate the minimum front and side setbacks for structures and is not less than ten (10) feet from the rear lot line.

#### 4.9. Buffer Strips (Non-residential Uses):

- A. No new non-residential structure may be erected or use permitted adjacent to a residential structure unless a buffer strip at least fifteen (15) feet wide is provided and maintained by the

applicant between the non-residential structure (including all related facilities and parking lots) and any adjoining residential property, public road or street.

- B. In all areas, the side and rear yards abutting residential properties shall be maintained in their natural states to provide a buffer of at least the setback distance. Subject to Section 7(G) if applicable, when natural features are insufficient to provide a buffer, the developer shall provide a landscaped area at least 15 feet wide, to obstruct the view of the proposed development from abutting properties.

4.10. Campgrounds and Tenting Grounds:

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rules shall apply):

General:

1. A campground shall be constructed on at least 10 contiguous acres of land, and all camping units or structures shall be located at least the state minimum distance from any residence (except residences belonging to the campground owners).
2. Campsites shall be screened or buffered to the maximum extent possible from public roads, navigable rivers, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard, when campsites would otherwise be visible from the locations described above.
3. The campground management shall be responsible for operating their premises in accordance with all Federal, State and Local Statutes.
4. No older mobile home shall be permitted within any camper park, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park. No trailer in a campground may be used for offices, or other commercial use.
5. Tent sites and sites for recreational vehicles (RV's) shall be laid out so that the density on each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads):

**Non-Shoreland    Shoreland Area**

Tent sites	14 per acre	8 per acre
RV sites	11 per acre	7 per acre

6. Minimum frontage along any shoreline shall be 100 feet. Minimum setback from the normal high water mark shall be 100 feet for all recreational vehicles, tents, or other vehicles and bath houses, picnic shelters, and similar structures.
7. Each recreational vehicle or tent site shall contain a minimum of three thousand (3,000) square feet, not including roads and driveways, except it shall be five thousand (5,000) square feet when within two hundred and fifty (250) feet of normal high water mark of any

stream, pond, or tidal water.

4.10. Cluster Development:

A. General: A cluster subdivision may be constructed provided that:

1. Uses shall be limited to those permitted within the district in which it is located;
2. Density and height requirements of the district are met;
3. The distance of every building from the nearest property line shall meet all setback and yard requirements of the district in which the project is located;
4. The location and layout of the development is approved by the Planning Board in conformity with the requirements of the Calais Subdivision Regulations.

The Planning Board may modify dimensional requirements up to 50 percent to permit innovative approaches to housing and environmental design in accordance with the following standards, provided that the overall density of the development does not exceed the density requirements of this Ordinance. Land which is in the Resource Protection District may be used to meet up to 50% of the density requirements of a cluster development provided that the applicant can demonstrate by submitting the results of a high intensity soil survey that all of the land in the Resource Protection District so included would be suitable for development and does not contain any wetland as defined in this Ordinance. No sewage disposal system or structure may be located in a Resource Protection District.

B. Cluster Application Procedure: Where a developer elects or is required by the Planning Board to cluster, a written application shall be submitted to the Planning Board.

1. Basic Requirements:

- a. Cluster developments shall be a minimum of 5 lots, shall be situated on a minimum of 5 acres, have 300 feet of road frontage, and shall meet all requirements for a subdivision, and all other applicable City ordinances.
- b. The developer shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking.
- c. Open space within the development shall be in a common area and be a minimum of 25% of the total development, and shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.
- d. Distance between buildings shall not be less than 20 feet.
- e. In no case shall shore frontage and setback be reduced below the minimums normally required by Shoreland Zoning requirements.
- f. The location of subsurface sewage disposal systems shall be shown on the plan. The report of a licensed Site Evaluator, produced at the developer's expense, shall accompany the plan.

2. Siting Standards: Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes (where possible) and natural drainage areas, in accordance with an overall plan for site development and landscaping.
3. Preservation and Maintenance of Open Space:
  - a. There shall be no further subdivision of open space within a cluster subdivision. Open space shall be used only for non-commercial recreation, forestry or conservation. However, easements for public utilities, but no structures, may be permitted in the open space area.
  - b. The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that: the open space shall not be used for future building lots; and a part or all of the open space may be dedicated for acceptance by the City of Calais or a suitable land trust.
  - c. Open space land may be sold or leased to a third party for recreation or forestry purposes, provided that development rights are held by the City, a conservation organization, or other public or semi-public entity. The legal instruments for conveying such land and retaining development rights shall first be submitted to and approved by the Planning Board and City Attorney, with attorney fees and other fees associated with the transaction paid for by the developer.

#### 4.11. Congregate Housing:

All congregate housing facilities shall be serviced by public sewer and water systems. There shall be a minimum of 40,000 square feet of land area for the congregate care facility plus an additional 2,000 square feet for each private room or apartment.

#### 4.12. Erosion Control:

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following "best management" practices as specified by the Soil Conservation Service:

- A. Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such way as to minimize erosion;
- B. The duration of exposure of the disturbed area shall be kept to a practical minimum;
- C. Temporary vegetation and/or mulching shall be used to protect exposed areas during development;
- D. Permanent (final) vegetation and mechanical erosion control measures, as determined by the Code Enforcement, shall be installed as soon as possible after construction ends;
- E. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Code Enforcement Officer;
- F. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an

adjoining property, unless otherwise specified in this Ordinance or specified by the Planning Board, the Zoning Board of Appeals, or Code Enforcement Officer, but in no instance shall said cut or fill exceed a 3 to 1 slope;

- G. During grading operations, methods of dust control shall be employed as directed by the Code Enforcement Officer; and
- H. On slopes greater than 25% there shall be no grading or filling within 100 feet of a salt water wetland except to protect the shoreline and prevent erosion.

4.13. Extraction Activities (Sand, Gravel, Earth Materials):

- A. Top soil, rock, sand, gravel, and similar earth materials may be excavated for commercial purposes from zones where permitted under the terms of this ordinance only after a site plan review permit for such operations has been issued by the Planning Board.
- B. No part of any extraction operation shall be permitted within one hundred (100) feet of any property or street line, except for drainage ways to reduce run-off into or from the extraction area. Natural vegetation shall be left and maintained on the undisturbed land.
- C. If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out.
- D. No working slopes steeper than three (3) feet horizontal to one (1) foot vertical shall be permitted at any extraction site unless a fence at least five (5) feet high is erected to limit access to such locations.
- E. The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.
- F. Loaded vehicles shall be limited to 200 per day and such vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all proposed trucking routes and methods shall be subject to approval by the Planning Board. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.
- G. All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from such public ways.
- H. All areas used for excavation, processing, storage of materials or equipment or operations on the site shall be screened from view from public streets and from abutting property which is used for residential or institutional uses. The screening shall consist of landscaping, earth berms, fencing or a combination thereof.
- I. The site shall be secured to prevent entry during times when the facility is not operating.
- J. No equipment debris, junk or other waste material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed following completion of active extraction operations.

- K. Within six (6) months of the completion of extraction operations at the site, or for any portion of the site if approved as a phased operation, the site shall be reclaimed in accordance with an approved closing plan.
- L. The extraction activity shall not adversely impact the quality or quantity of groundwater available to neighboring properties.

#### 4.14. Gasoline Service Stations:

The following provisions shall apply to new gasoline service stations as well as convenience stores which sell gasoline:

- A. All structures, including underground storage tanks, shall be no less than fifty (50) feet from any property line, and five-hundred (500) feet from any school property, day care facility, or residential property.
- B. No gasoline, kerosene, or other fuel tanks, other than tanks holding fuel to meet the heating needs of the building, shall be permitted above ground unless approved by the Fire Chief.
- C. Points of ingress and egress shall be located not less than fifty feet from the nearest intersecting street center lines, measured along the street center line.

#### 4.15. Home Occupation:

- A. The Home Occupation shall be carried on wholly within the dwelling or accessory structure.
- B. The Home Occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit. Not more than two persons who are not family members residing in the dwelling unit shall be employed.
- C. There shall be no exterior display, no exterior sign more than four square feet, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- D. Objectionable conditions such as noise vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted.
- E. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours.
- F. In addition to remedies otherwise specified in this ordinance, the Planning Board may, acting on its own motion or on complaint of the Code Enforcement Officer, and after notice and hearing, order the revocation of a Site Plan Review approval previously granted for the purpose of operating a home occupation. Such revocation must be based on specific finding of one or more violations of provisions relating to Site Plan approval, including conditions specifically relating to a Site Plan approval. A minimum of seven (7) days written notice shall be given and the notice shall specify the alleged violations. The Planning Board shall render a written decision within ten (10) days of the hearing.

#### 4.16. Hotels/Motels, and Inns:

##### Design Requirements:

1. Minimum lot size: 40,000 square feet.
2. Minimum room size: two hundred fifty (250) square feet of habitable floor area exclusive of baths. Each rental unit shall include private bathroom facilities.
3. On each hotel lot, one apartment may be provided for a resident owner, manager, or other responsible staff persons, provided that it shall meet the standards for a single-family dwelling.
4. Hotel building/construction plans shall be reviewed and approved by the State Fire Marshall's Office at the expense of the developer.
5. Each motel structure shall contain not less than five, nor more than ten individual motel rental units, unless each section of ten units is separated from any additional sections by a fire wall. Each motel structure may be connected with other similar structures by a covered walkway, if the walkway is constructed of fire-resistant materials. Whether or not so connected, the nearest parts of the walls or corners of such structure shall be separated by an open, undeveloped land area, of not less than thirty feet, and in which there shall be no automobile parking or loading.

#### 4.17. Hotels, Motels, Inns, Boarding Houses, Restaurants, Nursing Homes, and Hospitals in Residential Zones:

In residential zones, any restriction shall be met as to architectural style, positioning of buildings on the site, advertising or identification sign, landscaping by buffering, or other requirement deemed necessary by the Planning Board to protect the aesthetic qualities of the neighborhood pursuant to the purposes of this Ordinance.

#### 4.18. Kennels and Veterinary Hospitals:

- A. Structures or pens shall be located not less than two hundred (200) feet from the nearest residence other than the owner's;
- B. All pens, runs, or kennels and other facilities shall be designed, constructed, and located on the site to minimize the adverse effects upon the surrounding properties;
- C. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide breeding places for insects, vermin or rodents;

If outdoor dog "runs" are created, they shall be completely fenced in; and

- D. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of five hundred (500) feet from nearest residence other than the applicant's.

#### 4.19. Manufacturing: Subject to [Section 6.7](#) if applicable:

- A. Processing, manufacture, or other industrial uses shall not be injurious or noxious by reason of noise, smoke, vibration, gas, fumes, odor, dust, fire or explosion hazard.
- B. All business, service, repair incidental to the manufacturing process, manufacturing, storage, processing, or display on property abutting or facing a residential use or property shall be conducted wholly within an enclosed building unless screened from the residential area.
- C. Doors and windows (other than office doors and windows), loading docks, and other openings in structures shall be prohibited on sides of the structure adjacent or across a street from a residential use or property.
- D. All other yards abutting or across a street from a residential use or property shall be continuously maintained in lawn or other landscaping unless screened from the residential use.
- E. Access points from a public road to industrial operations shall be so located to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
- F. All materials including wastes shall be stored, and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

#### 4.20. Mobile Home Parks:

The following provisions shall apply to all development proposals for new construction of mobile home parks and to any expansion of existing mobile home parks:

- A. Plan: An approved mobile home park plan shall be necessary under the terms of this Ordinance, prior to the establishment or expansion of a mobile home park, and shall consist of a site plan, including all attachments, signed by the Planning Board, and may include any conditions attached by the Planning Board.

An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state, or federal requirements. A mobile home park shall be considered a subdivision, and shall be subject to the requirements of the Subdivision Regulations of the City of Calais, except as otherwise provided by the provisions of this Section.

- B. Access: No mobile home park shall be developed unless adequate access for mobile homes and attached vehicles, emergency vehicles, fuel delivery, refuse collection and other vehicles is provided.
- C. Placement of Units on Lots: All manufactured housing units shall be placed upon mobile home park lots. The bounds of each lot shall be clearly marked with permanent corner pins for each lot, and the lot shall be well surfaced or seeded to provide adequate drainage beneath and adjacent to any manufactured housing units parked thereon. Each space shall provide for:
  1. continuing and potable supply of safe and sanitary water;
  2. connection to an adequate sewage disposal system;
  3. adequate electric power service;



4. compliance with local, State and Federal laws pertaining to manufactured housing;
5. A concrete pad, 4 inches thick or a minimum 12” gravel pad for placement of the manufactured housing unit. Occupied lots which are in existence as of the effective date of this Ordinance shall not be required to meet this standard until such time as such lot is vacated. Thereafter, it shall be a violation of this Ordinance to occupy such lot without a concrete pad with a minimum thickness of 4 inches; or a minimum 12 inch gravel pad.
6. Each lot and unit shall be numbered with a sign that is visible day and night and legible from the road, and shall be easily accessible to emergency vehicles (permitting emergency vehicles to approach within 50 feet of the unit); and
7. Every lot used in a mobile home park shall be properly graded and drained for disposal of surface and storm water.

D. Lot Requirements: Notwithstanding other requirements of this Ordinance or other City ordinances, lots shall meet the following requirements:

	<b>Minimum Lot Size- Sq.ft</b>	<b>Minimum Lot Width - Feet</b>
Lots served by public sewer	6,500	50
Lots served by individual subsurface wastewater disposal systems	20,000	100
Lots served by one (1) or more centralized subsurface waste disposal systems serving two (2) or more dwelling units and approved by the Maine Department of Human Services	12,000	75

Mobile home park lots located within any designated shoreland area shall meet the lot area, lot width, and shore frontage requirements of the district in which it is located.

E. Overall Density:

The overall density of any park served by any on-site wastewater disposal system shall not exceed one (1) dwelling unit for each twenty thousand (20,000) square feet of total park area.

The total area of a mobile home park shall not be less than the sum of the following:

1. the combined area of the mobile home park lots which shall each meet the minimum lot requirements;
2. the area required for road rights-of-way;
3. the area required for buffer strips;
4. for parks served by public sewer, a minimum of open space area equal to ten (10) percent of the combined area of the lots; and
5. the area within the shoreland setback.

- F. Setbacks: Manufactured housing units shall meet the following minimum setbacks:
1. On lots which abut a public way: the setback required for other residential uses.
  2. On lots which are located in a shoreland area: the setback from the high-water mark required in that district.
  3. Garages or accessory structures shall be so located on individual lots so that all parts of the structures are a minimum of 15 feet from all lot lines.
- G. Buffering: If a park is proposed within a residential district at a density which is at least twice the density of existing adjacent development or at least twice the density permitted in the zoning district the park shall be designed with a fifty (50) foot wide buffer strip along all property boundaries. The buffer strip shall be maintained as a landscaped area containing no structures. Roads and utilities may cross the buffer strip to provide access to the park.
- H. Road Standards:
1. The road system shall be designed to provide safe and convenient access to all lots within the park and shall provide for all-season emergency vehicle access to every unit in the park.
  2. Roads which the applicant proposes to dedicate as public ways shall be designed and constructed in accordance with the street standards contained in the Subdivision Regulations of the City of Calais.
  3. Roads which the applicant proposes to remain private ways shall:
    - a. be designed by a professional engineer, registered in the State of Maine, and built according to accepted engineering standards.
    - b. have a minimum right-of-way of 23 feet.
    - c. have a paved travel surface with a minimum width of 20 feet.
  4. No lot within the park shall have direct vehicular access onto an existing public street. On-street parking shall be prohibited.
  5. Any mobile home park with more than 20 mobile home lots shall have at least 2 street connections with existing public streets. Any individual street within a park with more than 20 mobile homes shall have at least two (2) street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
  6. The intersection of any street within a park and an existing public street shall meet the following standards:
    - a. Minimum Angle of Intersection shall be 75°.
    - b. Maximum Grade within 100 feet of the intersection shall be 3 percent.
    - c. Minimum Sight Distance shall be ten times the posted speed limit, measured from the

driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3½ feet above the pavement and the height of object 4¼ feet.

- d. Distance from other intersections shall be no less than 125 feet from the center line of any other street intersecting that public street.
7. **Manufactured Housing Storage:** No unoccupied manufactured housing unit or trailer shall be stored or exhibited for sale for commercial purposes within a mobile home park.
8. **Motor Vehicle Parking Space:** Not less than 300 square feet of parking space shall be provided in every mobile home park for each individual manufactured housing space in addition to manufactured housing space requirements and all such spaces shall have a well-drained, stabilized or paved surface maintained in good repair.
9. **Playground Area:** Not less than 150 square feet of play space for each individual manufactured housing space shall be provided and restricted in every mobile home park exclusively to playground and/or recreational use, and such spaces shall be protected from streets and parking areas and shall have a well-drained, stabilized or paved surface maintained in good repair. Adequate playground or recreational equipment shall be provided in this area.
10. **Utility Services:** Every manufactured housing unit shall be provided with adequate hygiene and sanitation facilities. Water supply, water service, plumbing, sewage disposal and treatment, electric power service, bottled gas service, heating equipment and fuels, refuse and garbage storage and disposal, and insect and rodent control shall be provided in full conformity with all pertinent state and local health regulations.
11. **Park Administration:** The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to State laws.  
  
Compliance with this Ordinance shall not exempt the park owner, developer, or manager from complying with other applicable Federal, State and Local Statutes.
12. **Ownership of Park:** The land within the mobile home park shall remain in a single, unified ownership. No lots or interest in lots shall be individually conveyed without the prior approval of the Planning Board, and any such lot sold or conveyed shall meet the lot size requirement for a site-built, single family dwelling in the respective zone in which it is located.
13. **Built Homes Prohibited:** No dwelling unit other than a manufactured housing unit shall be located within the mobile home park, unless the permanently placed dwelling meets the lot size and dimensional requirements of the zone in which it is located.

#### 4.21. Manufactured Housing/Mobile Homes - Individual Units

##### A. Older Mobile Homes:

1. **Nonconforming Structures:** Older mobile homes which were legally existing in the City of Calais as of May 25, 1996, shall be considered nonconforming structures and may continue and may be maintained, repaired, improved, and expanded. Legally nonconforming older

mobile homes may also be relocated from one lot to another within a mobile home park, from one mobile home park in Calais to another mobile home park in Calais, from an individual lot in Calais to a mobile home park.

2. Importation of Older Mobile Homes: Older mobile homes shall not be relocated into the City of Calais.
3. Permit Required: A building permit shall be obtained prior to moving an older mobile home from one individual lot to another individual lot or from a mobile home park to an individual lot.
4. Alteration of Older Mobile Homes: No person shall remove any structural component from under the older mobile home, such that it might weaken its structural integrity unless the older mobile home is to be set on a permanent foundation that shall adequately support the older mobile home in such a way as to maintain its structural integrity.

B. Manufactured Housing/Newer Mobile Homes:

Placement on Individual Lots: A manufactured housing unit meeting the following standards may be placed on any residential lot in the R-1, R-2, R-3, and R-4 Zones:

1. Minimum horizontal dimension: 14 feet (24 feet in R-1 zone),
2. Living space: at least 750 square feet,
3. Roof: a pitched, shingled roof with a minimum pitch of 4/12 that meets the standards of the State of Maine Manufactured Housing Act,
4. Construction: meets standards of the U.S. Department of Housing and Urban Development,
5. Siding: residential in appearance,
6. Foundation: concrete pad 4 inches thick and permanent, properly attached and residential appearing skirting, or a full basement.

C. Construction Sites:

The Code Enforcement Officer may issue a special permit for use of a mobile home for a temporary office for the length of the project period in zones where offices are permitted or on construction sites anywhere in the City of Calais, provided:

1. The mobile home is necessary convenience for the construction project and is clearly subordinate to such project; and
2. No health hazards or problems of sanitation will be caused by improper disposal of sewage from the mobile home.

D. Placement in a Mobile Home Park: The following types of manufactured housing may be placed in an approved mobile home park:

1. newer mobile homes

2. modular homes
3. older mobile homes which meet the safety standards as set forth in subsection F of this standard and the following:
  - a. are at least twelve (12) feet in width;
  - b. have a minimum of seven hundred twenty (720) square feet of living area;
  - c. have a roof which sheds snow (minimum pitch 4/12); and
  - d. have residential siding.
  - e. foundation: concrete pad 4 inches thick or a minimum 12" gavel pad and permanent, properly attached and residential appearing skirting, or a full basement.
- E. Travel Trailers: A travel trailer shall in no case be used as a mobile home and any travel trailer in use as a temporary dwelling (i.e. not more than 3 months) shall have adequate health and sanitation facilities provided. A travel trailer while not in use may be stored on the premises of the owner.
- F. Safety Standards for Older Mobile Homes: No mobile home which was constructed prior to June 15, 1976, or which was not built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 shall not be relocated to a mobile home park or individual lot in the City of Calais unless the developer supplies proof to Code Enforcement Officer's satisfaction that the unit complies with safety standards contained in Rule 02-385, Department of Professional and Financial Regulation, Manufactured Housing Board.

4.22. Monuments and Memorial Stones:

Retail sale of monuments and memorial stones and markers and associated preparation of stones and markers to include lettering shall be governed by the following:

- A. such activities shall be confined to the rear one half of any residential lot;
- B. such activities shall be conducted indoors in an accessory building to the maximum extent reasonably possible;
- C. such activities shall be conducted in such a manner, particularly with regard to lettering, to minimize audible noise in the neighborhood both as to sound intensity and as to the hours of operation;
- D. such activities shall maintain no more than one sign identifying the business, not more than two square feet in area;
- E. adequate off-street parking shall be provided and maintained.

4.23. Multi-Family Dwellings:

- A. The following provisions shall apply to all multi-family dwellings proposed in the R-1 Zone:

1. A site plan shall be submitted to the Planning Board.
  2. Minimum size of the housing complex site shall be 2 acres.
  3. Yard requirements of the district shall be met on the boundaries of the building complex site. (Yard areas shall not include parking areas, accessory use buildings, access roads or any paved areas).
  4. District height requirements shall not be exceeded.
  5. Sewer and water service systems shall be adequate to handle the volumes generated by the project.
  6. Access streets shall have adequate capacity to service anticipated traffic generated by the proposed housing complex.
  7. Overall density of the housing complex shall not exceed 10 units per gross acre of complex site and no more than six dwelling units shall be included in each detached structure.
- B. The following provisions shall apply to all multi-family dwellings proposed in the R-4 zone:

Multi-family dwellings shall be situated on a minimum of five acres, have 300 feet of frontage, meet the other area, yards, and height requirements of the zone, have adequate sewer and water utilities, and meet the requirements of a cluster development as set forth in Section 4.10.

#### 4.24. Net Acreage Calculation:

The net acreage shall be calculated by taking the total area of the lot and subtracting, in order the following:

- A. 15% of the area of the lot to account for roads and parking.
- B. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
- C. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated on the Flood Insurance Rate map or Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
- D. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
  1. slopes greater than 25%
  2. 50% of the poorly drained soils (hydric soils, as defined by the Washington County Soil Conservation Service), unless the applicant can demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the Planning Board.

- E. Portions of the lot subject to rights of way.
- F. Portions of the lot located in the Resource Protection District.
- G. Portions of the lot utilized for storm water management facilities.

4.25. Off-Street Parking and Loading:

- A. Parking Spaces: No structure shall be erected nor shall any of the following uses be established unless the minimum number of off-street parking spaces as specified below is provided:
  - 1. Commercial Uses: 1 space per each 300 square feet of floor space of any building.
  - 2. Hotels, Motels, Inns, and Bed & Breakfasts: 1.5 spaces per each guest bedroom.
  - 3. Industrial Establishments: 1 space per each 1.2 employees based on the highest expected employee occupancy of any building .
  - 4. Business and Professional Offices: 1 space per each 300 square feet of floor space of any building.
  - 5. Hospitals and Nursing Homes: 1.5 spaces for each 5 beds.
  - 6. Government and Non-profit Organizations: 1 space for each 300 square feet of floor space of any building.
  - 7. Residential - 2 spaces for each dwelling unit.
  - 8. Schools: 1 space for each 10 pupils in elementary and middle school; and one space for each 2 students in high school education.
  - 9. Elderly Multi-unit Housing: 1.5 spaces for each dwelling unit.
- B. Each parking space shall measure at least 9 feet by 18 feet except ten (10) percent of spaces can be 8 feet by 16 feet to accommodate compact cars. and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be so arranged that vehicles can be turned around within such lots and prevented from backing into the street. (Private roads separated from public right-of-way but not allowing for turn-around space are deemed adequate for these requirements).
- C. Location on Other Property: If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, such spaces may be provided on other off-street property provided that such property lies within 400 feet of the main entrance to such principal use. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner, provided however, that it may serve different principal uses at different times of the day. The burden of proof shall be on the applicant to show that the off-street parking facility has adequate capacity to absorb the additional parking demand created by the new construction.
- D. Loading and Unloading Space shall be Provided: On every lot on which a business, trade or industry is hereafter established, a loading space or bay with access to a public street shall be

provided as indicated below for the loading and unloading of vehicles.

1. Retail Business: 1 space 12 feet by 55 feet with a minimum overhead clearance of 15 feet for the first 5,000 square feet or fraction thereof of floor space plus 1 space for any floor space in excess of 5,000 square feet.
2. Wholesale or Industrial: 1 space 12 feet by 55 feet with a minimum overhead clearance of 15 feet in accordance with the following:

Square Feet of Floor Area of Building	Number of Loading Areas or Bays
8,000 or less.	1 Bay
8,001 to 100,000	2 Bays
100,001 to 160,000	3 Bays
160,001 to 240,000	4 Bays
240,001 to 320,000	5 Bays
320,001 to 400,000 sq. ft.	6 Bays
Each 90,000 sq. ft. over 400,000 sq. ft.	1 Additional Bay

3. Truck and Bus Terminals: Sufficient space to accommodate the maximum number of buses or trucks that would be stored, loaded, and unloaded at the terminal at any one time.

E. Notwithstanding the preceding provisions of this Section 4.25, if a proposed development in an Industrial Zone includes one or more buildings with an aggregate floor area in excess of twenty-five thousand (25,000) square feet, the parking and unloading space requirements shall be established by the Planning Board as part of the site plan review process based upon (a) an analysis of the projected on-site parking and unloading requirements of the proposed development submitted by the applicant, and (b) appropriate allowance for potential conversion of the development to another use that would require greater amounts of parking and/or unloading facilities.

4.26. Preservation of Landscape:

Subject to [Section 6.7](#) if applicable, the landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal; and any grade changes shall be in keeping with the general appearance of neighboring developed areas. For all uses requiring a permit from the Planning Board, developers shall submit a plan showing how existing vegetation will be retained.

4.27. Recreation Buildings:

The following requirements shall apply to recreational buildings in the R-1 zone:

- A. Adequate off-street parking shall be provided;
- B. Buildings and grounds shall be properly screened and landscaped to reduce noise and protect residential properties; and
- C. There shall be a minimum lot area of two acres unless the Planning Board shall waive this requirement in a new development in the course of its subdivision or site plan review process



under the Calais Subdivision Regulations.

4.28. Route 1 Non-Residential Development:

A. Landscaping:

1. The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring areas. Subject to [Section 6.7](#) if applicable, landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses.
2. In order to ensure proper visibility for entering and departing vehicles, all driveway entrances and exits shall be kept free from visual obstructions higher than 3 feet above street level for a distance of 25 feet measured along the intersecting driveway and street lines.
3. Plans presented to the Board shall have annotated in the note section specific measures to be taken to preserve natural vegetation.
4. Plans presented to the Board shall have a detailed landscaping plan, indicating the type and number of trees, shrubs or other plantings that will be placed on the property. The plan shall clearly show the location of each type of planting (this does not necessarily require specific siting of each single planting).
5. Subject to [Section 6.7](#) if applicable, structures shall be designed and located so as to maintain views of the St. Croix River to the maximum extent possible.
6. The Board may require special bonding or letter of credit or other form of security to ensure that required landscaping will be performed and maintained. Such bonding as may be required shall not be in force for more than three (3) years from date of approval.

B. Access Points:

1. Minimum Distance Between Driveways:

- a. New Lots: The minimum distance between driveways served by an arterial shall be measured from the centerline of the driveways at the right-of-way line and shall be a function of highway speed according to the following table. The minimum distances shall apply to driveways on the same lot or on adjoining lots.

Minimum Distance Between Driveways

Highway Speed	Minimum Spacing
20 mph	85 feet
25 mph	105 feet
30 mph	125 feet
35 mph	150 feet
40 mph	185 feet
45 mph	230 feet
50 mph	275 feet

Any new lot created after the effective date of this Ordinance shall contain a minimum frontage equal to the minimum spacing requirement contained in the above table unless the applicant can demonstrate to the Planning Board that: 1) the access to the property will be provided by a frontage road, service road or minor road, or 2) the placement of a driveway on a lot with a smaller frontage will not prohibit abutting property owners from meeting the minimum spacing requirements contained in the above table.

- b. Access to Lots with Non-conforming Frontages: Lots which are served by an arterial and which are non-conforming with respect to required frontage as of the effective date of this Ordinance are prohibited from developing more than a total of one access point. Non-conforming non-residential frontage lots which as of the effective date of this Ordinance are improved with structures, are prohibited from expanding or converting such structures, where such activity will result in the need for new access points or an increase in the anticipated peak hour traffic volume of more than (50)% over existing volumes. Where adjoining non-conforming frontage lots are owned in common, those lots shall be considered combined for the purposes of meeting the frontage and access requirements of this Ordinance.

2. Maximum Number of Driveways Per Lot: The maximum number of driveways to a particular site shall be governed by the following:

- a. No low volume traffic generator, including single- family dwellings and duplexes, shall have more than one two-way access onto a single roadway.
- b. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.
- c. All driveways shall comply with the spacing requirements contained in Section 4.25.

3. Right-Turn Deceleration Lane: Where a driveway serves as an entrance to a development containing 200 or more parking spaces and the adjacent arterial has an annual average daily traffic volume (A.A.D.T.) exceeding 7,500 vehicles, a deceleration lane shall be provided, where suitable frontage exists, for traffic turning right into the driveway from the arterial. The deceleration lane shall be at least two hundred (200) feet long, not including taper, and at least twelve (12) feet wide measured from the road edge or curbline.

The Planning Board may also require a deceleration lane where: 1) a traffic impact study determines a right-turn lane is necessary to meet the level-of-service criteria; or 2) at any intersection where the accident experience, existing traffic operations or engineering judgment indicates a significant hazard to right-turning vehicles.

#### 4.29. Sanitary Provisions:

- A. When not serviced by the public sewerage system, the approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.
- B. When two or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

4.30. SIGNS:

The following permanently placed signs are permitted in specific zones as specified below. The designation P indicates that the sign is permitted, subject only to the issuance of a building permit. The designation S indicates that the sign is permitted, but is subject to site plan approval and the issuance of a building permit. Sign dimensions shown below shall include frames.

	R-1 & R-1-P	R-2	R-3	R-4	C-1	C-2	C-3	I-1	I-2	I-3	RP
A. Residential signs not more than 12 square feet in area, and commercial signs not more than 32 square feet in area, one to a property, advertising the sale, lease, or rental of the property on which they are located or identifying a permitted use on the premises	P	P		P						P	
B. Subdivision signs with area of not more than 24 square feet, one sign advertising each subdivision, to be located on the subdivision site	P	P	P	P	P	P	P	P	P	P	P
C. Signs with area of not more than 2 square feet directing and guiding traffic on private property, but bearing no advertising matter	P	P	P	P	P	P	P	P	P	P	P
D. Outdoor advertising signs provided they are located on the premises to which they pertain and measure not more than twenty-four square feet, not more than one to a property			P	P						P	
E. Signs provided that any sign shall be located on the premises to which it pertains and shall measure not more than 100 square feet in area.*					P	P	P	P	P	P	
F. Exterior home occupation signs not to exceed four square feet	P	P	P	P							

\* The Planning Board may waive the 100 square foot requirement for signs which shall be located 100 feet or more from the public right-of-way and/or to allow standard corporate logos, provided that the increase in sign area shall not cause a traffic hazard or other safety hazard and where the visual integrity of the neighborhood shall be maintained.

The following provisions shall govern all signs where they are permitted as specified in the above table:

A. General: Signs shall be permitted on a premises only to identify the occupants, advertise the rental or sale of the property, advertise goods or services available on the property or provide notice of public events, governmental regulations and similar information. Double faced signs shall be counted as one (1) sign and the area of only one (1) face shall be included in the total sign area.

B. Residential Uses

1. A single sign is permitted and may be used to convey the inhabitants' names, the property name, any home occupation business, and safety and caution messages. Such sign shall not be placed on the roof of the building.
2. Rental vacancies may be advertised with a non-illuminated sign no larger than 12 square feet. Such sign shall be erected only during such times as the rental property is vacant.

3. The sale of real estate may be advertised by non-illuminated temporary signs, no larger than 12 square feet in area.

C. Commercial, Industrial and Institutional Uses:

1. Signs shall only identify the occupant of the premises or advertise the service or goods available within the premises. Temporary promotion signs shall be limited to a cumulative total period of not more than 90 days in one calendar year and no such sign shall exceed 10 square feet.
2. Rental vacancies may be advertised with a non-illuminated sign no larger than 32 square feet. Such signs shall be erected only during such times as the rental property is vacant.
3. The sale of real estate may be advertised by non-illuminated temporary signs, no larger than 32 square feet in area.
4. For existing commercial uses located in a residential zone, the total area of all permanent signs displayed upon a premises shall be a maximum of 50 square feet.
5. Freestanding signs (signs located on poles or stanchions) no higher than 16 feet are limited in number to one per building or premises. The sign shall not interfere with the vision of the operators of vehicles entering or exiting from the premises. A freestanding sign may be placed at the right-of-way line, but shall not be closer than 12 feet to either of the side lot lines.
6. Signs Hanging Over Sidewalks: Prior to the hanging of any sign or advertising device over a public sidewalk and/or street, the owner of the sign or device shall file an application with the Code Enforcement Officer which shall contain the following:
  - a. Name of applicant and address.
  - b. Name of owner of sign or device and address, if different from applicant.
  - c. Location of hanging sign or device.
  - d. Sketch, with dimensions, of sign showing method of suspension.
  - e. Height above sidewalk or street of lowest portion of sign or device.

The Code Enforcement Officer shall review the application and determine if the sign or device as described may be safely hung over the sidewalk and/or street, and may require more detailed information about the sign or device and the method of suspension.

If the Code Enforcement Officer is satisfied that the sign or device may be so hung with reasonable safety, he may sign the permit portion of the application and issue it to the applicant upon payment of a fee of \$20.00 to defray the costs of processing the application.

Signs attached to the structure by way of frame or bracket, which overhang a pedestrian sidewalk shall not project more than five (5) feet from the structure face. Height clearance

between the sign bottom and average grade at the base of the sign shall not be less than eight (8) feet.

Signs attached to the structure without the use of overhanging frames or brackets shall not extend or project more than twelve (12) inches from the structure surface. Cut out letters shall not project more than six (6) inches from the building.

The permit shall allow the sign to remain there indefinitely or until it becomes unsafe and a hazard to the public, at which time the Code Enforcement Officer may order its removal. If not removed within 3 days after a removal notice is served on the owner, the City may remove the sign and charge the owner for all labor and materials needed for said removal.

A defective and unsafe sign or device may be replaced within 30 days of its removal without further permission. Thereafter the process must be followed exactly as for a new sign or device with payment of the usual fee then in force.

Where signs or devices become dilapidated and unsightly, the Code Enforcement Officer may order their removal unless they are repaired or replaced within 30 days of the service of the order on the owner.

The granting of a permit under this Ordinance shall allow the hanging of the sign or device over the sidewalk and/or street at the stated location and nowhere else. It shall be construed as a permit granted under the conditions and restrictions stated herein and shall not give rise to a prescriptive easement. Said right shall be assignable to a new owner of the premises provided the Code Enforcement Officer is notified so the record kept by the Code Enforcement Officer may be amended to show the new owner.

D. Prohibited Signs: There shall be no moving signs or signs with moving parts.

1. Exempt Signs: A permit shall not be required for the following signs:

- a. Flags and insignia of any government.
- b. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- c. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter or commercial identification no larger than 2 square feet.
- d. Yard and garage sale signs posted for less than three (3) days.
- e. non-illuminated temporary signs advertising rental vacancies no larger than 12 square feet. Such sign shall be erected only during such times as the rental property is vacant.
- f. non-illuminated temporary signs advertising the sale of real estate no larger than 12 square feet in area.

2. Official Business Directional Signs: Any business may erect off-premises business directional signs in accordance with the standards of the Maine Department of Transportation.

3. Portable Signs: In addition to the signs allowed by this section, any business may use a portable sign. The portable sign shall not exceed thirty-two (32) square feet in area. a permit is required for portable sign and may be issued by the code enforcement officer upon payment of a fee of \$20.00 to defray the cost of processing.
4. Temporary Signs: Temporary signs may be erected in conjunction with social, cultural, political and other periodic activities such as car washes and garage sales, subject to the following limitations:
  - a. Signs may be erected no sooner than thirty (30) days prior to the activity.
  - b. Signs must be maintained in good condition and solidly affixed.
  - c. Signs must be removed within seven (7) days following the activity.

#### 4.31. Soil Suitability:

Proposed uses requiring subsurface waste disposal, and commercial or other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by State-certified professionals. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist. These reports shall be at the expense of the applicant.

#### 4.32. Storage of Materials:

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means.

All dumpsters, recycling bins, or similar receptacles shall be located on level surfaces which are paved or graveled, and shall be situated so as to be stable. The lids or openings shall be kept in a closed position except when the container is being filled or emptied.

Where a potential safety hazard to children is likely to arise, physical screening or fencing sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

#### 4.33. Waste Material Accumulations:

Deposits or accumulations of rubbish, junk, junk automobiles and parts thereof, discarded articles of any kind, household, industrial or commercial wastes shall not be made in any Zone except at a dumping place or places designated as such by the City Council provided, however, that nothing in this Article shall be construed to prohibit the establishment or operation of commercial junk yards and automobile junk yards as permitted under the terms of this Ordinance.

#### 4.34. Abandoned Vehicles:

No vehicle shall be parked on Public Property in any zone in an inoperable state for 30 days or more, at which time the vehicle shall be considered abandoned and shall be removed. Inoperable shall mean unregistered or uninspected or in a state of dilapidation which would render the vehicle unusable.

### **SECTION 5. WELLHEAD PROTECTION ZONES**

The Wellhead Protection Zones are created to protect the public water supply for the City of Calais by preventing contaminants from reaching the groundwater production wells. The Wellhead Protection Area consists of two zones. The outer Wellhead Protection Zone (Zone 2) includes the land area within 2500 day time of travel based on groundwater modeling and as delineated on the Wellhead Protection Zoning Map. This zone is considered the primary recharge area for the two groundwater production wells. The inner Wellhead Protection Zone (Zone 1) includes the area immediately recharging the water supply wells. This zone is within the 200 day time of travel based on groundwater modeling.

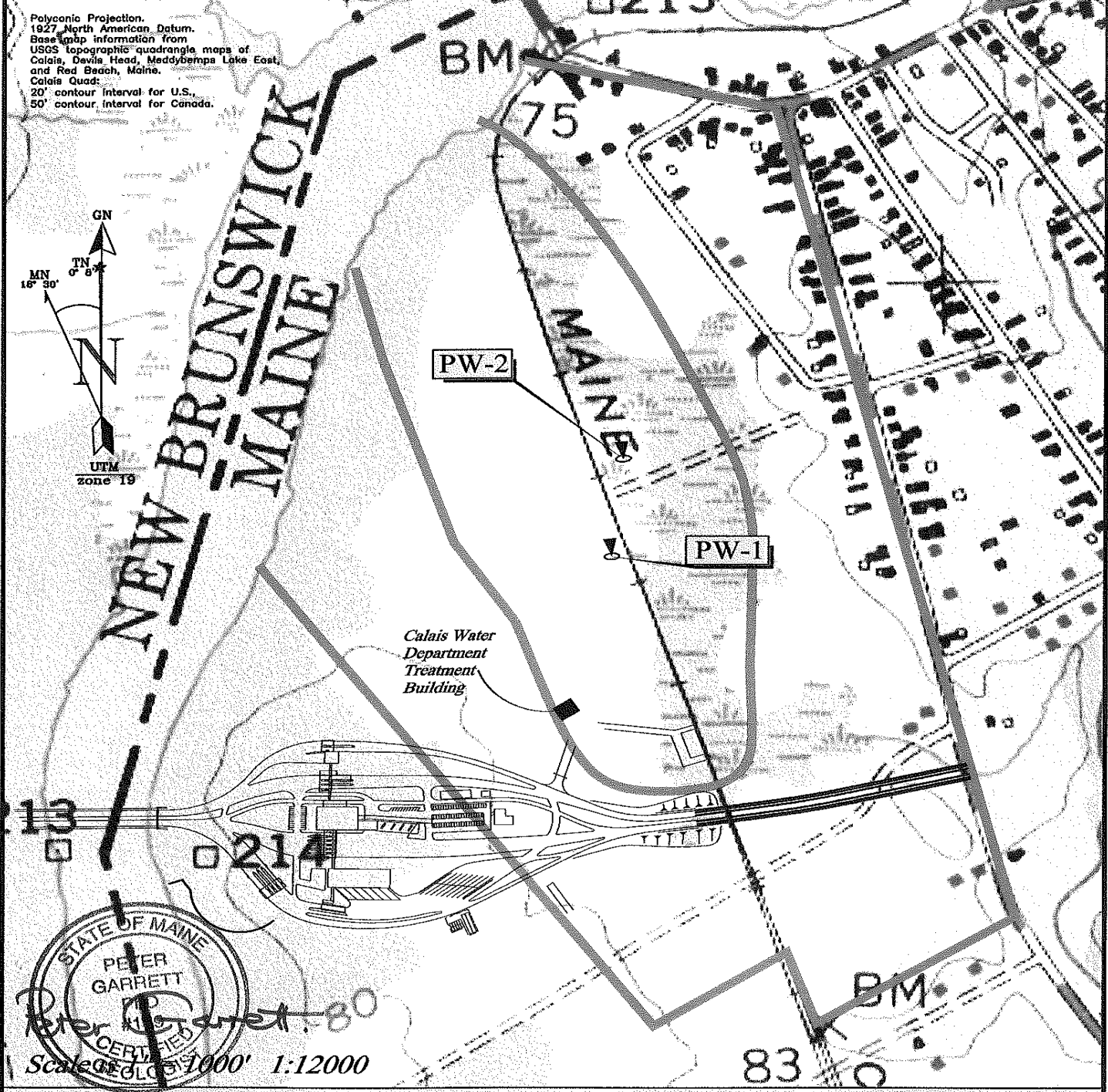
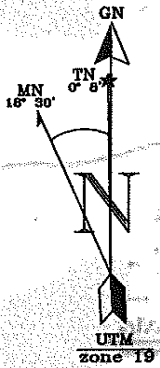
The outer Wellhead Protection Zone (Zone 2) situated in Calais, includes the land area boundary as described below:

Beginning at the centerline of Baring Street at the southern corner of Map 25, Lot 008 (N/F Robert and Margaret Goodwin); thence continuing in a general northerly direction along the centerline of Baring Street 3350 feet until the intersection of North Street and Baring Street, omitting Map 2, Lot 001-010 (N/F Muriel F. Marshall), Map 2, Lot 001-10-1 (N/F JD Thomas, Inc.) and Map 2, Lot 001-11 (N/F Freda and Alan Polk); thence proceeding along the centerline of North Street in general westerly direction 900 feet until the high water mark of the St. Croix River; thence proceeding in a generally southerly direction along the high water mark of the St. Croix River to an intersection of a line representing the straight line extension of the centerline of Nields Avenue; thence proceeding in a southeasterly direction along said line 1700 feet, to Smith Street; thence proceeding along the centerline of Nields Avenue 650 feet in a generally easterly direction until the intersection of Smith Street and the southern corner of Map 24, Lot 1-G (N/F Border Electric Inc.); thence continuing in a easterly direction 550 feet along Map 24, Lot 1-G until reaching the centerline of Maine Central Railroad; thence following the centerline of Maine Central Railroad 325 feet in a generally southerly direction until the southern corner of Map 25, Lot 008 (N/F Robert and Margaret Goodwin); thence continuing 825 feet in a generally easterly direction back to the intersection with Baring Street, to the point of beginning.



# Wellhead Protection Areas Zone I and II Milltown Aquifer, Calais Water Department

Polyconic Projection,  
 1927, Mean American Datum.  
 Base map information from  
 USGS topographic quadrangle maps of  
 Calais, Devils Head, Meddybemps Lake East,  
 and Red Beach, Maine.  
 Calais Quad:  
 20' contour interval for U.S.,  
 50' contour interval for Canada.



last edited: 06/06/2005; by: Arne  
 file: P:\WE\CAL\mod04\working\cc01\mod0518005.dwg; sheet: WHPA

STATE OF MAINE  
 PETER GARRETT  
 P.E.  
 CERTIFIED  
 Scaled 1:12000

Emery & Garrett Groundwater, Inc.

FIGURE 1

The following table indicates the acceptable land use practices within both of these zones located in the City's Wellhead Protection Area:

**Table I: Wellhead Protection Area Land Use Table**

Uses	Zone 1	Zone 2
1. Essential operations of the Water Department or other municipal officials.	Y	Y
2. Wells, abandoned, existing but not in use, or new	PB	CEO
3. Timber harvesting	CEO	Y
4. Utility corridors	PB	PB
5. Recreational use of open space	PB	Y
6. Commercial agriculture, horticulture, silviculture	N <sup>1</sup>	PB <sup>1</sup>
7. Construction or demolition	PB	Y
8. Sand and gravel mining, other mining	N	PB
9. Residential development	N	PB
10. Subsurface wastewater disposal	N	PB
11. Discharge of commercial or industrial wastewater or wash water to a septic system	N	N <sup>3</sup>
12. Discharge and impoundment of wastewater and stormwater to the wellhead protection area.	PB	PB
13. Storage, handling, and processing of solid waste, including sludge and ash utilization	N	PB
14. Disposal of solid waste, sludge, and ash	N	N
15. Bulk storage of leachable material, including but not limited to salt, concrete, asphalt, tar and coal	N	PB
16. Use, storage, or manufacture of hazardous materials or waste	N	PB
17. Use or storage of petroleum products over 500 gallons per parcel of land	N	PB
18. Refueling of commercial vehicles and equipment	N	PB
19. Uses similar to uses requiring Planning Board/ CEO review	PB/CEO	PB/CEO

Footnote 1. Non-commercial agriculture, horticulture, and silviculture are allowed subject to Best Management Practices. The PB may also allow commercial forestry or silviculture in either Zone 1 or Zone 2 if conducted in accordance with an approved forestry management plan that is designated to eliminate any adverse impact on groundwater resources.

Notes:

LAND USES KEY:

Y= permitted

N= not permitted

PB= permitted subject to Planning Board Review and use of Best Management

CEO= permitted subject to CEO Review and use of Best Management Practices

## **BEST MANAGEMENT PRACTICES FOR WELLHEAD PROTECTION AREAS**

### **5.1. GENERAL PROVISIONS**

All development located within the Wellhead Protection Area shall comply with the Best Management Practices (BMP's) to protect the two groundwater supply wells. Best Management Practices are management practices which will mitigate the impacts of the activity on the water quality. There may be more than one BMP which will apply to a specific activity. The Planning Board shall require all development located within the Wellhead Protection Area to comply with the BMP's contained in this Section and may refer to additional applicable BMP's which have been published but are not contained in this ordinance.

### **5.2. ALTERNATIVE SITE SPECIFIC PLAN OPTION**

The Best Management Practices and standards included in this Ordinance are designed to be clear, appropriate, readily available standards. However, if the landowner/developer/land user wishes, they have the option of developing and implementing a site specific plan that will accomplish the drinking water protection, and public health, control purposes of this Ordinance. Such a plan shall be developed with any necessary experts, and as appropriate, consultation with the Water Department. Such plan shall be sent to the CEO, Planning Board, and Water Department for review and comment, and shall be reviewed and authorized by the Planning Board according to Planning Board review procedures set out in this Ordinance.

### **5.3. CHEMICAL STORAGE**

- A. Underground storage tanks are prohibited by this Ordinance in Wellhead Protection areas.
- B. Store all chemicals under cover, and on impervious working surfaces, without floor drains. Design storage space so that failures, emergencies, extreme storm events or routine site clearing will not cause material to spill onto bare ground.
- C. All piping shall be designed to prevent line breakage by collision.
- D. All containers and piping shall be secure and resistant to corrosion.
- E. All containers shall be clearly labeled with name of chemical and date of purchase (or generation of waste).
- F. Adequate spill cleanup materials must be kept on hand at the facility. Spills must be cleaned up promptly and spilled materials disposed of properly.
- G. Proactive plans for firefighting must be prepared bearing in mind the possibility that chemicals could cause groundwater contamination if washed out of a burning building by water. Foam materials and spray plans should be included in the plan, appropriate to the materials and quantities stored in the facility.
- H. Determine if chemicals being stored are "hazardous" by characteristic, or are a listed hazardous waste by state and federal agencies. Information on hazardous materials may be obtained from the Maine DEP. If materials are considered hazardous, ensure that DEP's hazardous waste regulations are being followed.

- I. New home heating oil tanks shall be a UL-80 listed tank with a bottom outlet. Tank ends shall be welded to the body using a lap joint and not a crimp connection. Also, any new outdoor home heating fuel oil tank shall be sited either under the roof eave or away from falling ice or snow and have a protective filter cover.
- J. Manure, ash, and liming agents used for agricultural purposes shall be stored under cover.

**Special Provisions for large facilities and storage units:**

- A. Provide secondary containment to include impervious holding of fluids of at least 20% of the volume of storage of all liquid chemicals, and 110% of the volume of the largest storage container, by permanent dikes or other means.
- B. Tanks for liquid storage shall be equipped with automatic shutoffs and high level alarms. Personnel shall be trained to respond to shutoffs and alarms.
- C. Prepare a Spill Prevention, Containment and Countermeasure Plan (SPCC) for submittal to the CEO. Information on developing an SPCC plan may be obtained from the Maine DEP. This plan shall include provisions to prevent and catch spills during loading and transfer activities. This SPCC plan shall be reviewed and updated annually.
- D. Inspect all storage areas at least weekly, and maintain an inventory and tracking system.

**Special Provisions for chemical storage in relation to vehicle use:**

- A. When draining oils or fluids from vehicles, precautionary measures, such as portable drip pans, must be taken to ensure that no spills occur.
- B. All fuel oil, waste oil, lubricants, antifreeze or other potential contaminants must have secondary containment equal to 110% of the liquid volume stored.

**5.4. CHEMICAL USE**

- A. Use non-hazardous alternatives to hazardous chemicals whenever possible. If hazardous chemicals must be used, provide justification for why they cannot be replaced by non-hazardous chemicals.
- B. Design chemical feed lines and temporary storage containers to prevent spillage by collision and corrosion.
- C. Clearly label all storage vessels and chemical feed lines with chemical name.
- D. Check for spillage and leaks at least weekly. Leaking containers must be removed or placed in secure containers that are larger than the leaking container.
- E. Prepare a SPCC plan. This plan shall include provisions for cleaning up small spills and containing large spills in an emergency. Keep emergency cleanup materials on hand. Information on developing an SPCC plan may be obtained from the Maine DEP.

- F. All spills must be promptly reported to the Maine DEP, the City (CEO and Fire Department) and the Water Department.

**Special provisions for chemical use in relation to vehicles**

- A. Commercial vehicle washing must occur on a concrete pad with sealed sumps to capture wash water.
- B. Refueling of vehicles must occur on a concrete pad with sealed sumps to capture spills.

**5.5. WASTEWATER & SOLID WASTE**

- A. Municipal wastewater facilities, chemical waste disposal sites of any kind, spreading of biosolids and incinerator ash, solid waste landfills, log storage yards and lumber yards, and facility floor drains shall be prohibited in both Wellhead Protection zones.
- B. Subsurface septic systems shall be prohibited in Zone 1.

**5.6. STORMWATER AND PARKING LOTS**

- A. In Zone 1, the impervious area of any lot should be limited to 10% or less of the lot to encourage natural recharge, unless it can be show that the underlying aquifer is confined beneath natural clay at the site.
- B. In Zone 2, the impervious area of any lot should be limited to 15% or less of the lot to encourage natural recharge, unless it can be shown that the underlying aquifer is confined because the natural clay at the site.
- C. Use of vegetated buffers and pervious pavement options should take priority over structural storm water control like detention ponds.
- D. Stormwater should be diverted award from Wellhead Protection Areas (WHPAs) if possible.
- E. Infiltration of stormwater from paved areas greater than 20,000 square feet shall be prohibited. Any detention or retention structures shall be constructed in such a manner that excludes groundwater interaction.

**5.7. RESIDENTIAL ACTIVITIES & HOME OCCUPATIONS**

- A. Residential uses should be prohibited in Zone 1 WHPAs if possible. If allowed, they should be located on lots of at least 5 acres, with a requirement to connect to public sewerage.
- B. New residential users may be allowed in Zone 2 WHPAs, with net density of at least 1 acres/unit, with a requirement to connect to public sewerage
- C. Existing residents shall be permitted to remain.
- D. Developers of residential subdivisions with WHPAs shall complete a nitrate loading study. Nitrate and nitrite concentrations should not exceed 50 mg/L at the property line.
- E. Residents of properties located within Zone 2 WHPAs should be informed by the City of the potential for groundwater contamination from domestic use of various chemicals.

- F. Home occupations proposed for WHPAs shall come under Planning Board review for consideration of how they may impact groundwater quality. No disposal of chemicals from home occupations shall be allowed within WHPAs.
- G. New home and replacement home heating fuel oil tanks must meet the standards set by the Oil and Solid Fuel Board.
- H. Any spills from residential activities should be reported to the Maine DEP, the City and the Water Department.

#### 5.8. FIREFIGHTING

- A. Prepare proactive plans for fire prevention and fire suspension for all facilities within WHPAs. These plans should be tailored to the materials stored on-site, and designed to limit groundwater contamination in the event of fire.
- B. Contingency plan shall be prepared, and meeting with the local fire department shall be required.

#### 5.9. FILL

- A. Use only inert material (loam, sand, gravel, clay, rocks, bricks or concrete).
- B. Use only clean fill (no non-natural odors, no staining, and not originating at a known spill site).
- C. Implement erosion and sedimentation control measures.

#### 5.10. WELLS

- A. Wellheads shall be designed such that surface water does not enter groundwater through the borehole around the well casings.
- B. Wells that are no longer in service for extraction or monitoring shall be abandoned in a manner appropriate to prevent the entry of contaminants and mixing of separate subsurface water-bearing zones. This may involve the use of bentonite and/or cement grout where a water-tight seal is deemed necessary.

High yielding wells (for uses other than domestic purposes) will only be allowed in the WHPA if a safe yield analysis, conducted by a Maine Certified Geologist, can demonstrate that there is a sufficient water for both the new well and the public water source.

## **SECTION 6. SITE PLAN REVIEW**

### **6.1. APPLICABILITY**

Site plan approval by the Planning Board shall be required for uses which specifically require site plan approval, as shown in Section 3 of this Ordinance.

### **6.2. CLASSIFICATION OF PROJECTS**

Minor developments: The construction or addition of less than 5,000 square feet of gross nonresidential floor area; the installation of less than 5,000 square feet of impervious surfaces; the conversion of existing structures from one use to another use which requires site plan approval; the conversion of less than 5,000 square feet of gross floor area in a building subject to an approved site plan from the approved use to another use; the establishment or expansion of non-structural commercial uses involving 10,000 square feet or less of land area; or the establishment of a subdivision involving four or fewer lots.

Major developments: The construction or addition of 5,000 or more square feet of gross nonresidential floor area; the installation of 5,000 or more square feet of impervious surfaces; the establishment or expansion of a campground or mobile home park; the conversion of 5,000 or more square feet of gross floor area in a building subject to an approved site plan from the approved use to another use; or other projects requiring review which are not classified as a minor development; the establishment or expansion of non-structural commercial uses involving 10,000 square feet or more of land area; or the establishment of a subdivision involving five or more lots.

The Planning Board shall classify each project as a minor or major development.

### **6.3. APPLICATION PROCESS:**

#### **A. Pre-Application Meeting**

1. Applicants shall schedule a meeting with the Planning Board to discuss their plans and gain an understanding of the review procedures, requirements and standards.
2. At the pre-application meeting, the Planning Board shall, based on the information supplied by the applicant, classify the application as a minor development, or a major development. If the applicant fails to provide sufficient information to allow the Planning Board to make this determination, the Planning Board shall notify the applicant in writing of the additional material that needs to be submitted to enable the Planning Board to make this determination. If at any time during the application review process the scope of the project changes or the Planning Board determines, based on new information submitted to it, that the classification of the project has changed, the Planning Board shall notify the applicant in writing of this finding and shall provide the applicant with an opportunity to rebut the information which the Planning Board has used to reclassify the project.
3. The Planning Board may waive specific site plan review submission requirements or review criteria upon a finding that such requirements or criteria do not apply to or are irrelevant to the site plan review application.

- B. Applications in Writing: Applications for site plan approval shall be made in writing by the owner or his designated agent to the Code Enforcement Officer on the forms provided for this purpose.

For major developments which are not a subdivision, a site inventory and analysis must first be submitted to the Code Enforcement Officer and reviewed by the Planning Board. For major developments which are a subdivision, the application will not be deemed complete until a site inventory and analysis has been submitted to the Planning Board. The Planning Board shall act on the completeness of the site plan inventory and analysis within 30 days of its receipt.

For all applications which are subdivisions, sketch plan(s) shall be submitted prior to the submission of a site plan review application in accordance with the requirements of Chapter 6, Section 1.2.

1. Fees: At the time of application, the applicant shall pay a minimum fee of fifty (50) dollars PLUS twenty-five (25) dollars per 1,000 square feet of gross floor area or fraction thereof. This fee shall apply to residential, commercial, industrial and institutional structures requiring site plan review. This fee shall not be refundable, and shall be in addition to any building permit fees. This fee shall be waived for construction or alteration of any City owned building.
2. Planning Board Agenda and Action. The application with required documentation shall be placed on the Planning Board's agenda within forty-five (45) days of its receipt, and the agenda shall be advertised in accordance with the by-laws of the Planning Board.
  - a. Any application which the Code Enforcement Officer or Planning Board determines to be incomplete shall not be placed on the agenda but shall be returned to the applicant with an indication of the additional information required. When this additional information has been supplied, the Code Enforcement Officer shall place the application on the Planning Board's agenda.
  - b. The Planning Board shall make a final determination of the completeness of the application. Following receipt of a completed application, the Board shall approve or disapprove the site plan as soon as practicable. For subdivision applications, the Board's action shall be taken within 30 days of a public hearing, or, if no public hearing is held, within 60 days of having received a complete application.
  - c. It is incumbent upon the Planning Board to approve the application unless it makes one or more negative written findings with respect to the above applicable criteria. The Planning Board shall not issue any approval unless any variance that may be required has been granted by the Board of Appeals. All decisions of the Planning Board shall be accompanied by written statements that set forth the precise reasons why the findings were made. Once a decision is made, the Planning Board shall inform, in writing, the applicant and the Code Enforcement Officer of its decision and its reasons therefore. Once site plan approval has been granted, it shall be considered a permitted use and may be expanded or enlarged in conformance with ordinance performance standards and dimensional requirements as long as the use is not changed to a different use, in which event Planning Board approval of a revised site plan shall be required.



- d. If the Board shall vote to approve the site plan application, the Code Enforcement Officer shall issue a building permit, where applicable, provided that all other requirements of the Ordinance are met. The Code Enforcement Officer shall not issue a building permit for any application approved in violation of Federal, State or Local statute.

C. Professional Review

1. The Planning Board may hire a consultant, at the applicant's expense, to review one or more submissions of an application. The Planning Board may require that the applicant deposit with the City of Calais the full estimated cost of the consultant which the City shall place in an escrow account. The City shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed.
2. The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met and/or to determine the public facility impact of the study. The costs of all such studies shall be borne by the applicant.

- D. Public Hearing. The Planning Board may hold a hearing to afford the public the opportunity to comment on the application. For subdivision applications, any public hearing shall be held within 30 days of receiving a completed application, and the agenda shall be advertised at least 7 days prior to the meeting.

- E. Notice to Abutters. Abutting property owners shall be notified by certified mail of a pending application for Site Plan Review.

- F. Financial Guarantee. The Planning Board may require the posting of a bond or escrow agreement to ensure completion of all improvements required as conditions of approval of such plan, in such form as approved by the Board and City Council. The City shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project.

- G. Conditions. Upon consideration of the criteria contained in Section 6.7, the Planning Board may attach such conditions that it finds necessary to further the purposes of this Ordinance in addition to those required elsewhere in this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: Type of vegetation; increased setbacks and yards; specified sewage and disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls (including noise and odor control); professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of facilities; type of construction; or any other conditions necessary to fulfill the purposes of the ordinance.

H. Expiration of Approvals.

1. For developments which are not subdivisions, all Site Plan approvals shall expire within 1 year of the date of issuance unless start of construction has been achieved.
2. If construction is not substantially completed within two years from the date of issuance of a Site Plan approval, a new application must be made.

3. Notwithstanding (a) or (b) above, at the issuance of a Site Plan approval permit or at any subsequent time, the Planning Board may allow for an extended time period to start construction and/or to complete construction when it finds that the scale, complexity, cost, construction scheduling, meteorological or other factors of a particular project warrant such an extension.

#### 6.4. CONTENTS OF SITE INVENTORY AND ANALYSIS

Any application for Site Plan approval by the Planning Board shall include five copies of a Site Plan at a scale sufficient to permit the Planning Board to study all elements of the Plan and shall clearly show the following:

- A. the names and addresses of the owner(s) of record and the applicant
- B. the names and addresses of all consultants working on the project
- C. 5 copies of an accurate scale plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing at a minimum:
  1. scale and North Arrow;
  2. street and Property Lines;
  3. outlines of all structures (including signs, gasoline pump islands, etc.), indicating proposed use, height or number of stories;
  4. layout and location of all parking and loading spaces; vehicular movement areas and access drives;
  5. landscaping and location and type of screening;
  6. topography at a contour interval adequate to show the affect on adjacent properties;
  7. existing and proposed utility service facilities;
  8. adjacent building outlines and other outstanding features within 200 feet of the site;
  9. the name of the development;
  10. the boundaries of the parcel;
  11. major natural features of the site including wetlands, streams, ponds, flood plains, groundwater aquifers, significant wildlife habitats or other important natural features;
  12. existing restrictions or easements on the site;
  13. soils information which shall be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified.
- D. 5 copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any

hydrogeologic studies, traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.

- E. 5 copies of a site analysis plan at the same scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine which portions of the site are unsuitable for development or use, which portions of the site are unsuitable for on-site sewage disposal, which areas of the site have development limitations which must be addressed in the development plan, areas where there may be off-site conflicts or concerns (e.g., ground water impacts, noise, lighting, traffic, etc.) and areas well suited to the proposed use.

#### 6.5. REVIEW OF SITE INVENTORY AND ANALYSIS

The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project. If additional information or analysis is required, the Board shall advise the applicant of this in writing. The Board shall determine the issues and constraints that must be addressed in the application.

#### 6.6. SITE PLAN REVIEW APPLICATION

The complete application shall be submitted to the Code Enforcement Officer who shall forward it to the Chairman of the Planning Board. For applications which are subdivisions, the Code Enforcement Officer shall issue a dated receipt to the applicant. All site plan review applications including subdivisions shall contain:

- A. A fully executed and signed copy of the application.
- B. One (1) original of all maps and drawings on durable material and five (5) copies.
- C. All Applications. Five (5) copies of written materials plus five (5) sets of maps or drawings containing the information listed below. The maps or drawings shall be at a scale of no more than fifty (50) feet to the inch for that portion of the tract being proposed for development.
  - 1. General Information
    - a. Name of owner of record and address
    - b. the name of the proposed development
    - c. names and addresses of all property owners within five hundred (500) feet of the edge of the property line, with reference to tax map and lot number and an indication of which ones are abutters
    - d. boundaries of all adjacent property under the control of the owner or applicant
    - e. the tax map and lot number of the parcel or parcels
    - f. a copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property
    - g. the name, registration number and seal of the land surveyor, architect, engineer and/or

similar professional who prepared the plan, if applicable.

2. Existing Conditions: Survey Map Requirements

- a. land use classification(s) of the property and the location of land use district boundaries
- b. the bearings and distances of all property lines of the property to be developed and the source of this information
- c. location and size of any existing sewage disposal systems, culverts and drains
- d. location, names, and present widths of existing roads and rights-of-way within or adjacent to the proposed development
- e. the location, dimensions and ground floor elevations of all existing buildings on the site
- f. the location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site
- g. the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained
- h. the direction of existing surface water drainage across the site
- i. the location, front view and dimensions of existing signs.

3. Existing Conditions: Other Requirements

- a. location of intersecting roads or driveways within two hundred (200) feet of the site
- b. location and dimensions of any existing easements and copies of existing covenants or deed restrictions including deeded rights-of-way or easements with proof of deed or easement.

4. Proposed Development Activity: Survey Map Requirements.

- a. the location of all building setbacks, yards, buffers, and open space areas
- b. the location, dimensions, and ground flood elevations of all proposed buildings
- c. the location and dimensions of proposed driveways, parking and loading areas, and walkways.
- d. the location and dimensions of all provisions for water supply and wastewater disposal.
- e. the direction of proposed surface water drainage across the site.
- f. location, front view, and dimensions of proposed signs.
- g. location and type of exterior lighting.

- h. proposed landscaping and buffering.

Space shall be provided on the plan for the signatures of the Planning Board and date together with the following words, "Approved: City of Calais Planning Board."

5. Proposed Development Activity: Other Requirements

- a. copies of applicable State approvals and permits (the Board may approve development plans subject to the issuance of specified State approvals)
- b. a schedule of construction, including anticipated beginning and completion dates.

D. Additional Requirements For Major Developments:

The following additional requirements shall apply to major developments. In the case of projects which are also subject to the State's Site Location of Development Act, the following requirements shall be deemed to be met by the submission of copies of application documents submitted to the Department of Environmental Protection.

1. Survey Map Requirements

- a. Existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.
- b. A utility plan showing the location and nature of electrical, telephone, and any other utility services to be installed.
- c. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership.

2. Other Requirements

- a. A storm water drainage and erosion control program showing:
  - i. the existing and proposed method of handling storm water run-offs.
  - ii. the direction of flow of the run-off through the use of arrows.
  - iii. methods of controlling erosion and sedimentation during and after construction.
- b. A planting schedule keyed to the site plan and indicating the general varieties and sizes of trees, shrubs, and other plants to be planted on the site.
- c. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of the City's roads.
- d. Construction drawings for sanitary sewers, water and storm drainage systems, designed and prepared by a Maine-registered professional engineer.
- e. A copy of such covenants or deed restrictions, if any.

- f. Written offers of dedication or conveyance to the City, in a form satisfactory to the City Attorney, of all land included in the roads, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which open spaces, title to which is reserved by the developer, are to be maintained.
- g. Cost of the proposed development and evidence of financial capacity to complete it.
- h. A narrative and/or plan describing how the proposed development scheme relates to site inventory and analysis.

## 6.7. **CRITERIA AND STANDARDS**

The Planning Board shall approve the development unless the site plan does not meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Planning Board. Proposed developments shall also comply with the standards set forth in Section 4 of this Ordinance.

The criteria set forth in paragraphs [A](#) and [E-3](#), [E-4](#), [E-13](#) and [E-15](#) of this subsection 6.7, the performance standards set forth in subsections [4.8](#), [4.19](#) and [4.26](#) of Section 4 and the landscaping performance standards in subsection [4.28](#) of Section 4 shall apply to proposed developments in the I-3 Zone that are subject to site plan review only to the extent the Planning Board determines the objectives of such criteria and standards are practically achievable given the nature and scale of uses permitted in the I-3 Zone.

### A. Neighborhood Compatibility.

The intent of this section is to require the applicant to consider the physical impact of the development on the immediate neighborhood.

1. The development shall be compatible with and sensitive to the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height; identity and historical character; disposition and orientation of buildings on the lot; and visual integrity.
2. The elements of the development, e.g., buildings, circulation, open space and landscaping, etc., shall be designed and arranged to maximize the opportunity for privacy by the residents of the immediate area (within 500 feet).

### B. Plans and Policies

The development shall be in accordance with the Comprehensive Plan.

### C. Traffic Pattern Flow and Volume

1. The project shall be designed so that the additional traffic generated does not have a significant adverse impact on surrounding neighborhoods.
  - a. Safe access shall be assured by providing proper sight distance and minimum width curb cuts for safe entering and exiting.

b. Recommended Sight Distances:

Posted Limit	Recommended
25 mph	250 ft.
30 mph	300 ft.
35 mph	350 ft.
40 mph	400 ft.
45 mph	450 ft.
50 mph	500 ft.
55 mph	550 ft.

These sight distances shall not be used as the sole criteria for rejecting an application unless all entrance/exits are deemed to be unsafe due to poor sight distance.

2. The project shall provide access for emergency vehicles and for those persons attempting to render emergency services.
3. The entrance and parking system shall provide for the smooth and convenient movement of vehicles both on and off the site. The development shall satisfy the parking capacity requirements of the City and provide adequate space suited to the loading and unloading of persons, materials, and goods.
4. Site plan approval shall not be granted if a proposed use would create traffic congestion which would interfere with the free passage of vehicles on public highways.

The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

- a. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
  - b. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.
5. Internal Vehicular Circulation. The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.
  6. Traffic Impact Analysis. The developer shall provide a full traffic study at his or her own expense if the Planning Board, in consultation with the Maine Department of Transportation, determines that a traffic study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.
  7. Mitigation Measures. The Planning Board may attach conditions to any Site Plan approval and/or may require that corrective or mitigating measures be taken prior to project approval to minimize potential traffic safety or traffic capacity deficiencies in the vicinity of the development.

D. Public Facilities

1. The development shall be served by utilities with adequate capacity or have arrangements made for extension and augmentation for the following services:
    - a. Water Supply (Both domestic and fire flow)
    - b. Sanitary Sewer/Subsurface Waste Disposal System
    - c. Electricity
    - d. Storm Drainage
  2. The Planning Board shall consider the comments of the Fire Chief, Chief of Police, Public Works Director, Wastewater Treatment Plant Operator, and the Water Department Director relative to the impact of the proposed development on the respective City services.
  3. The Planning Board shall attach conditions to all Site Plan approvals and shall require that corrective or mitigating measures be provided for in the project approval to minimize potential adverse impacts on public safety or the provision of water or sewer services as required by the Chief of Police, Fire Chief, Public Works Director, Wastewater Treatment Plant Operator, or the Water Department Director. This provision shall not limit the Planning Board from requiring stricter conditions, corrective or mitigating measures which the Planning Board deems necessary.
  4. The Planning Board shall impose impact fees in accordance with MRSA Title 30-A Section 4354 as they deem necessary or as requested by the City Manager, Chief of Police, Fire Chief, Public Works Director, Wastewater Treatment Plant Operator, or Water Department Director in accordance with the following provisions:
    - a. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at the City's expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development.
    - b. The funds received shall be placed in an account separate from the City's general revenues, and the funds shall be expended only for the purposes for which they were collected, and consistent with capital investment plan outlined in the City's Comprehensive Plan.
    - c. All impact fees, or portions thereof, which exceed the City's actual costs or were not expended in accordance with this subsection must be returned to the applicant within sixty (60) days of the completion of the infrastructure improvements.
- E. Environmental Standards. The project shall be designed to protect the environment.
1. Site Preparation. Appropriate fill shall be used.
  2. Conservation, erosion and sediment control.
    - a. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
    - b. Disturbed soils shall be stabilized as quickly as practicable.



3. Adverse Impacts.

No site plan application shall be approved that would reasonably be expected to:

- a. create or contribute to the danger of fire or explosion,
- b. produce excessive smoke, fumes, noxious odors, or water pollution,
- c. produce excessive or unpleasant noise,

4. Sensitive Areas

The landscape shall be preserved in its natural state, insofar as practicable. Environmentally sensitive areas such as wetlands, steep slopes, flood plains, scenic areas, and unique natural features shall be maintained and preserved to the maximum extent practicable, except as otherwise permitted by state or federal permit. Natural drainage areas shall be preserved to the maximum extent practicable, except as otherwise permitted by state or federal permit.

5. Air Quality

The project shall conform to applicable local, state, DEP, and Federal DEP air quality standards including but not limited to odor; dust; fumes or gases which are noxious, toxic or corrosive; suspended solid or liquid particles; or air contaminant which may obscure an observer's vision.

6. Water Quality

The project shall conform to applicable local, State DEP and Federal EPA water quality standards, including but not limited to erosion and sedimentation; runoff control; and solid wastes and hazardous substances.

7. Underground Tanks

The project shall conform to applicable local, State and Federal requirements pertaining to underground oil and gasoline tanks.

8. Sewage and Waste

All sewage and industrial wastes shall be treated and disposed of in such a manner as to comply with applicable federal, state, and local standards.

9. Noise

The proposed land use shall be conducted so that noise generated will not be objectionable due to volume, intermittence, beat, frequency, or shrillness. Detailed plans for the elimination of objectionable noises may be required before site plan approval is granted.

10. Glare, Heat

If the project produces intense glare or heat, whether direct or reflected, the operation shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line. Detailed plans for the elimination of intense glare or heat may be required before approval. Temporary construction is excluded from this criterion.

11. Open Space

- a. Common open space areas shall be contiguous, where possible.
- b. The development plan shall contain a notation that common open space areas shall not be further developed.

12. Exterior Lighting. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

13. Landscaping. Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention shall be paid to the use of planting to break up parking areas.

14. Signs. All the signs in the project shall be in compliance with provisions of this Ordinance.

15. Marine Developments. Developers of non-residential marine-related developments shall document the impact of the proposed project on the City's marine resources, and demonstrate that the effects of the development shall not be detrimental to those resources.

F. Shoreland Zone

The project shall comply with the requirements of Chapter 8.

G. Historical Properties/Sites

Any proposed land use activity involving structural development or soil disturbance on sites listed on the National Register of Historic Places shall be subject to conditions of approval imposed by the Planning Board to ensure the preservation of the site or structures to the greatest possible extent.

## SECTION 7. NON-CONFORMANCE

### 7.1. General Requirements

- A. Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and may continue to be used, subject to this Ordinance.
- B. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures, and such other changes as federal, State, or local building and safety codes may require.

## 7.2. Non-Conforming Structures

- A. Expansions: A non-conforming structure may be expanded after obtaining a permit from the Building Inspector if such addition or expansion does not increase the non-conformity of the structure. Additions to structures otherwise requiring site plan approval, as set forth in Section 3, shall first be submitted to the Planning Board for site plan approval.
- B. Foundations: Construction or enlargement of a foundation shall not be considered an expansion provided: that the completed foundation does not extend beyond the exterior existing dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.
- C. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board.

In determining "greatest practical extent," the Planning Board shall base its decision on the size of the lot, the slope of the land, the potential for soil erosion, 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.

- D. Reconstruction or Replacement: Any non-conforming structure which is removed, or damaged or destroyed may be reconstructed or replaced provided that a permit is obtained from the Planning Board within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement is in compliance with the dimensional requirements to the greatest practical extent as determined by the Planning Board.
- E. In determining "greatest practical extent," the Planning Board shall consider the criteria in paragraph C above.
- F. Change of Use of a Non-Conforming Structure (Shoreland Areas Only)

The use of a non-conforming structure may be changed to another use if the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body or wetland, or on the subject or adjacent properties and resources than the existing use.

## 7.3. Non-Conforming Uses

- A. Expansion of a non-conforming use shall require a site plan review permit issued by the Planning Board. In addition to site plan review requirements, such expansion shall be subject to the following:
  - 1. An addition to a structure located within the required setback from the normal high water mark which contains a non-conforming use shall not be expanded.
  - 2. An addition to a structure located beyond the required setback from the normal high water mark which contains a non-conforming use shall not increase the area or volume of the original structure existing on the effective date of this Ordinance by more than 50%;
  - 3. A new structure associated with an existing non-conforming use and located beyond the

required setback from the normal high water mark shall not increase the area or volume of the original structure(s) existing on the effective date of this Ordinance by more than 50%;

4. When a non-conforming use occupies only part of a non-residential structure legally existing on the effective date of this Ordinance, the use of other parts of the building for the non-conforming use shall not be considered an expansion of a non-conforming use. An expansion in the magnitude of business shall not be considered an expansion of a non-conforming use.
  5. An addition to a non-conforming use which is not within a structure shall not increase the original area of the non-conforming use existing on the effective date of this Ordinance by more than 50%.
- B. Resumption Prohibited: A non-conforming use which is superseded by a conforming use, may not again be devoted to a non-conforming use. A non-conforming use which has been abandoned for more than one year may not be resumed. An extension may be granted for good cause by the Board of Appeals.
- C. Change of Use: Non-conforming use may be changed to another non-conforming use provided that the Planning Board finds, after receiving a written application, that the proposed use is equally or more appropriate to the district, and that it will have no greater adverse impact on adjacent properties than the former use.

The determination of appropriateness shall be based on the probable impact on ground water resources, and the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this Ordinance shall apply to such requests to establish new non-conforming uses.

In determining whether or not greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on ground water, public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### 7.4. Non-Conforming Lots

- A. Non-conforming Lots: A vacant, non-conforming lot of record legally existing as of the effective date of this Ordinance or amendment may be built upon, without a variance, provided that such lot is in separate ownership and not adjacent to any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to other requirements shall be obtained by action of the Board of Appeals. If more than one principal structure is built, located or created on a non-conforming lot, the minimum lot size and the frontage requirement of the district shall be met for each unit.
- B. Adjacent, Developed Lots: If two or more adjacent lots are in the same ownership of record at the time of adoption or amendment 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 lots of at least 20,000 square feet are created and that all such lots meet the requirements of the State Subsurface Wastewater Disposal Rules.

- C. If two or more principal uses or structures existed on a single lot of record 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.
- D. Adjacent Lots - Vacant or Partially Built: If two or more adjacent lots are in the same 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
- E. Requirements of this Ordinance, 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.

### **SECTION 8. APPEALS**

Appeals arising from the administration and enforcement of this Ordinance shall be heard in accordance with and shall be subject to Chapter 3 of the City of Calais Land Use Code.

### **SECTION 9. DEFINITIONS**

All words in this Ordinance shall carry their customary dictionary meanings, except that certain words or terms used herein are to be construed or defined as set forth in Chapter 2 of the City of Calais Land Use code.

### **SECTION 10. ENFORCEMENT**

This Ordinance shall be enforced in accordance with the provisions of Chapter 4 of the City of Calais Land Use Code.



# **CHAPTER 6**

## **SUBDIVISION ORDINANCE**





**CITY OF CALAIS  
LAND USE CODES  
SUBDIVISION ORDINANCE**

**SECTION 1. SKETCH PLAN**

At the pre-application meeting as set forth in Chapter 5, Section [6.3B](#), all applicants for subdivision approval shall submit one or more sketch plans, as required in paragraph 1.1 or 1.2 below.

- 1.1. On a subdivision of 4 or fewer lots, a Sketch Plan shall be submitted which shall show the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s). Unless the proposed subdivision is less than ten acres in size, the Sketch Plan shall also be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
- 1.2. On a subdivision of five or more lots, the applicant shall submit two Sketch Plans in accordance with the requirements of Chapter 5, Section [6.4](#) and those immediately above; a conventional subdivision plan with lots designed to meet the requirements of the Zoning Ordinance, and a clustered/open space plan showing how open space is to be preserved. The Board shall select the plan that best preserves open space in accordance with the provisions of Chapter 5, [Section 6.7 E-11](#).

**SECTION 2. FINAL APPROVAL AND FILING**

- 2.1. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the City of Calais.
- 2.2. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., Section 4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Subdivision Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. One copy of the signed Plan shall be retained by the Board as part of its permanent records. Copies of the signed plan shall be forwarded to the Tax Assessor and the Code Enforcement Officer. Any subdivision not recorded in the Washington County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void. Responsibility for recording lies with the subdivider.
- 2.3. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Plan is first submitted and the Board approves any modifications.
- 2.4. The approval by the Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the City of Calais of any street, easement, recreation area or other open space as shown on such plan. The Board may also require the filing of a written agreement between the applicant and the City Council covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

- 2.5. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision as determined by the Planning Board within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Washington County Registry of Deeds to that effect.

### **SECTION 3. INSPECTION OF REQUIRED IMPROVEMENTS**

- 3.1. At least five business days prior to commencing construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the Code Enforcement Officer can cause inspection to be made to assure that all City specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- 3.2. Upon completion of street construction and prior to a vote by the Council to accept a proposed public way, a written certification signed by a professional engineer shall be submitted to the City Council at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of this Ordinance.

### **SECTION 4. VIOLATIONS AND ENFORCEMENT**

- 4.1. No plan of a division of land within the City of Calais which would constitute a subdivision shall be recorded in the Washington County Registry of Deeds until an approved subdivision plan has been approved by the Board in accordance with this Ordinance.
- 4.2. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Washington County Registry of Deeds.
- 4.3. No public utility, water district, or any utility company of any kind shall serve any lot in a subdivision for which a Plan has not been approved by the Board.
- 4.4. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot.
- 4.5. Violations of the above provisions of this section shall be punished in accordance with the provisions of Title 30-A M.R.S.A., Section 4452.

### **SECTION 5. SITE PLAN REVIEW APPLICATION**

In addition to the requirements of Chapter 5, [Section 6](#), the site plan review application shall include the following:

- 5.1. **Water Supply:** Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by the Calais Water Department, a written statement from the Department shall be submitted indicating there is adequate supply and pressure for the subdivision

and that the Department approves the plans for extensions where necessary. Where the Department's supply line is to be extended, the applicant shall submit a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the Department approving the design of the extension.

- 5.2. **Public Sewers:** When the applicant proposes to utilize the public sewer system, a written statement from the Calais Public Works Department shall be submitted by the applicant indicating that there is adequate capacity in the sewer lines and plant to handle the anticipated flows from the development and that the Department approves the plans for any needed extensions or improvements.
- 5.3. **Public Facility Impact:** In residential, commercial or industrial subdivisions of 5 or more lots, the Planning Board will require an analysis of the impact of the proposed subdivision at the applicants expense on public facilities including roads, schools, police and fire protection, outdoor recreation, water supply, sewage disposal, and storm drainage.

Any impact fee charged to the applicant shall be in accordance with Chapter 5 (Zoning Ordinance).

## **SECTION 6. PERFORMANCE STANDARDS**

In addition to the standards contained in Chapter 5, Sections 4 and 5 of the City of Calais Land Use Code, all subdivisions shall also conform to the following standards.

### 6.1. Sufficient Water:

A. The subdivider must demonstrate either that:

1. the proposed public water system has the capacity to serve the proposed subdivision; or
2. there is sufficient ground water available to provide individual wells with an adequate supply of potable water.

B. The Board shall require either that:

1. the applicant shall, where soil type and topography are appropriate, construct ponds and dry hydrants to provide for adequate water storage for fire fighting purposes;
2. or the applicant shall demonstrate that an adequate supply of naturally occurring water exists for fire fighting purposes. An easement shall be granted to the City granting access to the dry hydrants or naturally occurring water supply when necessary.

C. In cases where ponds or dry hydrants cannot be installed, and where there is no naturally occurring water source, the Board may require the subdivider to present additional options for rapid water supply at the request of the Fire Chief.

D. The subdivider must demonstrate that the proposed subdivision will not contaminate or otherwise harm wells on adjacent property.

### 6.2. Open Space:

For residential subdivisions of 5 or more lots, the subdivider shall reserve a minimum of 10 percent of the gross area of the subdivision as open space. Depending upon the size and location of the

subdivision, the Board may require the developer to provide up to 10% of the total area for recreation. It is desirable that areas reserved for recreation be at least one acre in size and easily accessible from all lots within the subdivision.

#### 6.3. Backland Access:

Access to backland shall be retained as land is developed by means of a 50-foot right-of-way. The right-of-way shall be designed and located on suitable soils so as to provide full and complete access to backland by means of a road constructed in accordance with this Ordinance.

#### 6.4. Access to Numbered Highways:

In the R-3 and R-4 zones, all subdivisions of 5 or more lots shall be designed to provide access to individual lots only by interior subdivision roads. Direct access from any numbered highway to any lot in a proposed subdivision shall be prohibited unless the Planning Board determines that physical conditions unique to the parcel justify the granting of a waiver from this requirement. A waiver shall be granted only if there will be no further subdivision of the parcel and one of the following conditions is met:

- A. There is too little road frontage to reasonably allow creation of a new way;
- B. The shape or physical condition of the parcel does not permit access to or creation of a street other than the existing public way; or
- C. Common access will be utilized which will allow all proposed lots to be serviced by one new curb cut. Street entrances onto existing state-aid or state highways in the above described areas, and driveway or street entrances onto existing state-aid or state highways in all other areas must be approved by the Maine Department of Transportation at the cost of the applicant. Copies of such approval shall be submitted to the Board at the time of final review.

#### 6.5. Sidewalks/Pedestrian Ways:

Subdivisions which are located within 1,000 feet of any portion of the urban portion of Calais served by sidewalks shall be designed and constructed with concrete or paved sidewalks and/or pedestrian walkways serving all of the lots in the proposed subdivision. Such sidewalks shall interconnect where feasible with existing sidewalks and/or pedestrian walkways and shall provide for inter-connections with future sidewalks and/or walkways on adjacent, undeveloped land. Sidewalks and/or pedestrian walkways shall be designed to provide for pedestrian circulation within the subdivision and to adjacent areas.

#### 6.6. Buffer Strip:

Within the R-3 and R-4 Zones, a 50-foot buffer strip shall be provided where the proposed subdivision abuts a numbered highway. When natural features such as slope, gullies, stands of trees, shrubbery or rock outcrops do not exist or are insufficient to provide a buffer, the developer shall provide a landscaped buffer strip.

## 6.7. Street Design and Construction Standards:

### A. Definitions

1. Street: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.
2. Street Classifications:
  - a. Arterial street: A major thoroughfare which serves as a major traffic way for travel within and through the municipality. Arterial streets are designated in the comprehensive plan.
  - b. Collector street: A street servicing at least fifteen lots or dwelling units or streets which serve as feeders to arterial streets and collectors of traffic from minor streets.
  - c. Minor street: A street servicing less than fifteen lots or dwelling units.
  - d. Private roads: A road maintained by a road association or other private interest, not by the City. Driveways servicing no more than two dwelling units and less than 1,000 feet in length are excluded. Private roads must meet all standards for minor streets except for paving.
  - e. Industrial/Commercial Roads: "Industrial/ Commercial Roads" means roads primarily for access to abutting industrial and commercial properties.

### B. General Requirements

1. The Board shall not approve any subdivision plan unless proposed streets and storm water management systems are designed in accordance with this local Ordinance. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
2. Subdividers shall submit to the City, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plans shall include the following information:
  - a. Date, scale, and magnetic north point.
  - b. Intersections of the proposed street with existing streets.
  - c. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
  - d. Kind, size, location, material, profile, and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
  - e. Complete curve data shall be indicated for all horizontal and vertical curves.
  - f. Turning radii at all intersections.

- g. Center gradients.
  - h. Locations of all existing and proposed overhead and underground utilities, to include, but not be limited to, water, sewer, electricity, telephone, lighting, and cable television.
3. Five copies of the plans are to be submitted for review.

C. Street Design Standards

1. These design standards shall be met by all streets within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
2. Minor streets shall be designed to discourage through traffic within a residential subdivision. However, streets with a length greater than 500 feet shall not be designed as dead end or cul de sac streets unless the Planning Board grants an exception based solely on the impracticability of a through street due to cost, topography, natural features, or lack of other streets to connect to within that distance.
3. When a dead end or cul de sac street is approved, a right-of-way will be reserved, and granted to the City if the street is a public street, to allow continuation of the street in the future.
4. The character, extent, width, and grade of all streets may be considered in their relation to existing or planned streets.
5. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in this Ordinance.
6. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this Ordinance), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Alignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
7. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deeds of any lot with frontage on the arterial street.
8. Any subdivision containing fifteen dwelling units or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street serving fifteen dwelling units or more shall have at least two street connections leading to existing public streets, streets shown on the Official Map, or streets on an

approved subdivision plan for which performance guarantees have been filed and accepted. This requirement may be waived by the Planning Board due to impracticability (distance, topography, natural features).

9. The following design standards apply according to street classification:

DESCRIPTION	<-----TYPE OF STREET----->				
	ARTERIAL		COLLECTOR	MINOR	INDUSTRIAL/ COMMERCIAL
	Rural	Urban			
Minimum Right-of-Way Width	80'	80'	60'	60'	80'
Minimum Pavement Width	24'	44'	24'	20'	44'
Sidewalk Width	5'	5'	5'	5'	8'
Minimum Grade	0.5%	0.5%	0.5%	0.5%	0.5%
Maximum Grade	5%	5%	10%	10%	5%
Minimum Centerline Radius	800'	800'	200'	150'	800'
Minimum Tangent Between Curves of Reverse Alignment	300'	300'	200'	100'	300'
Roadway Crown	¼"/ft	¼"/ft	¼"/ft	¼"/ft	¼"/ft
Minimum Angle of Street Intersections	90°	90°	60°	60°	90°
Minimum Curb Radii at Intersections	30°	30°	20°	15°	30°
Minimum r/o/w Radii at Intersections	20°	20°	10°	10°	20°
Minimum Width of Shoulders (each side)	9'	8'	3'	3'	3'
Minimum Tangent Between Vertical Curves	200'	200'	100'	50'	200'

- 10. The centerline of the roadway shall be the centerline of the right-of-way.
- 11. Dead End Streets. In addition to the design standards above, dead end streets shall be constructed to provide a cul de sac turn around with the following requirements for radii: Property line 65 feet; outer edge of pavement 50 feet. The Board may require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a sixty foot easement in line with the street to provide continuation of the road where future subdivision is possible.

12. Grades, Intersections, and Sight Distances:

- a. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- b. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.
- c. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the desired visibility.

- d. A minimum distance of two hundred feet shall be maintained between centerlines of side streets.

13. Sidewalks. Sidewalks shall be installed within all subdivisions within the urban compact area, as follows:

- a. Arterial streets: both sides
- b. Industrial streets: one side
- c. Commercial streets: both sides
- d. Collector streets: one side

Where installed, sidewalks shall meet these minimum requirements:

14. Bituminous Sidewalks

- a. The gravel aggregate sub-base shall be no less than eight inches thick.
- b. The hot bituminous pavement surface course shall be no less than two inches after compaction.



15. Portland Cement Concrete Sidewalks

- a. The sand base shall be no less than six inches thick.
- b. The Portland Cement concrete shall be 4,000 pound mix and be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

16. Where installed, curbing shall be granite and shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. The specified pavement width above shall be measured between the curbs.

17. Catch basins, etc., will not be connected to the City sewer system.

D. Street Construction Standards

1. Minimum thickness of material after compaction:

STREET MATERIALS	<-----MINIMUM REQUIREMENTS----->			
	ARTERIAL	COLLECTOR	MINOR	INDUSTRIAL/ COMMERCIAL
Aggregate Sub-base Course	24"	21"	21"	24"
Hot Bituminous Pavement Total Thickness	3-¾"	2-½"	2-½"	3"
Surface Course	1-½"	¾"	¾"	1-¼"
Base Course	1-¾"	1-¾"	1-¾"	1-¾"

2. Preparation

- a. Before any clearing has started on the right-of-way, the centerline and side lines of the new road shall be staked or flagged at fifty foot intervals.
- b. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.
- c. All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified as not suitable for roadways, the subsoil shall be removed from the street site and replaced with material meeting the specifications for gravel aggregate sub-base below, or GEO textiles installed or alternative.
- d. Side slopes and back slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Steeper slopes will be allowed only with approved guardrail, etc.
- e. All underground utilities shall be installed prior to
- f. paving to avoid cuts in the pavement. Building sewers and water service connections

shall be installed to the edge of the right-of-way prior to paving.

3. Bases and Pavement

- a. Bases - bases shall conform with Type C MDOT specifications.
- b. Pavement Joints - where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
- c. Curbs and Gutters:
  - i. Street curbs and gutters shall be installed as required by the Board.
  - ii. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.
- d. Pavements:
  - i. Minimum standards for the base layer of pavement shall be the MDOT specifications for plant mix grade B with an aggregate size no more than one inch maximum.
  - ii. Minimum standards for the surface layer of pavement shall meet the MDOT specifications for plant mix grade C with an aggregate size not more than 3/4 inch maximum.
- e. Any existing streets and any streets for which the subdivider has previously received final site plan approval do not have to conform to these standards.
- f. The provisions of this Ordinance shall in no way be construed to require the City of Calais to upgrade existing streets to these standards.

# **CHAPTER 7**

## **FLOODPLAIN MANAGEMENT**

### **ORDINANCE**



## **ARTICLE I – PURPOSE AND ESTABLISHMENT**

Certain areas of the City of Calais, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the City of Calais, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the City of Calais, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The City of Calais has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Calais having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the City of Calais, Maine.

The areas of special flood hazard, Zones A, AE and VE for the City of Calais, Washington County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – Washington County, Maine,” dated July 18, 2017 with accompanying “Flood Insurance Rate Map” dated July 18, 2017 with panels: 708E, 709E, 716E, 717E, 718E, 719E, 736E, 737E, 740E, 741E, 742E, 743E, 744E, 775E, 935E, 955E, 957E, 960E, and 976E derived from the county wide digital Flood Insurance Rate Map entitled “Digital Flood Insurance Rate Map, Washington County, Maine,” are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the City of Calais, Maine.

## **ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

A. The name, address, and phone number of the applicant, owner, and contractor;

- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones AE and VE from data contained in the "Flood Insurance Study - Washington County, Maine," as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.; or,
      - (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.F.2.b., Article VI.G.2.b. or Article VI.H.2.b.
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
  - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
  - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  - 4. a certified statement that bridges will meet the standards of Article VI.M.;
  - 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

**ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$50 shall be paid to the City Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or the Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

**ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  - 1. the base flood and floodway data contained in the "Flood Insurance Study - Washington County, Maine," as described in Article I.;
  - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.(1); Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
  - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
  - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,



2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

## **ARTICLE VI - DEVELOPMENT STANDARDS**

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
  - 1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  - 2. Zone A shall have the lowest floor (including basement) elevated:
    - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D., or;
    - b. in the absence of all data described in Article VI.F.2.a., to at least two feet above the highest adjacent grade to the structure.
  - 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
  - 1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of

practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated:
  - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D., or;
  - b. in the absence of all data described in Article VI.G.2.a., to at least two feet above the highest adjacent grade to the structure; or,
  - c. together with attendant utility and sanitary facilities, be floodproofed to one foot above the elevation established in Article VI.G.2.a. or b., and meet the floodproofing standards of Article VI.G.1.a., b., and c.
3. Zone VE shall meet the requirements of Article VI.P.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zones AE shall:
  - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
  - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; Article IX.D.; or
- b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure; and
- c. meet the anchoring requirements of Article VI.H.1.c.

3. Zone VE shall meet the requirements of Article VI.P.

**I. Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE, shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

2. Zone VE shall meet the requirements of either Article VI.I.1.a. and b., or Article VI.P.

**J. Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones A and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;
2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
3. be located outside the floodway;

4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

**K. Floodways -**

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
  - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

**L. Enclosed Areas Below the Lowest Floor -** New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

- a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones A, AE, and VE shall be designed such that:
- 1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
  - 2. a registered professional engineer shall certify that:
    - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
    - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:
- 1. Zones A, AE, and VE shall:
    - a. have the containment wall elevated to at least one foot above the base flood elevation;

- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, AE, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

- 1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
- 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. **Coastal Floodplains** -

- 1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
- 2. New construction or substantial improvement of any structure located within Zone VE shall:
  - a. be elevated on posts or columns such that:
    - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
    - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
    - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
  - b. have the space below the lowest floor:
    - (1) free of obstructions; or,

- (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
    - (3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
  - c. require a registered professional engineer or architect to:
    - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,
    - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zone VE is prohibited.
4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
  - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
  - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
  - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
  - d. The structure shall have unfinished interiors and shall not be used for human habitation.



- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

## **ARTICLE VII - CONDITIONAL USE REVIEW**

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

### **A. Review Procedure for a Conditional Use Flood Hazard Development Permit**

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

### **B. Expansion of Conditional Uses**

- 1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

## **ARTICLE VIII - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to Code Enforcement Officer:
  - 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
  - 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  - 1. review the required certificate(s) and the applicant's written notification; and,
  - 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

#### **ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or

document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE X - APPEALS AND VARIANCES**

The Board of Appeals of the City of Calais may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  1. a showing of good and sufficient cause; and,
  2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - 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.

- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. other criteria of Article X and Article VI.K. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  - 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
  - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - 2. such construction below the base flood level increases risks to life and property; and,
  - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
  - 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. 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 days from the date of any decision of the Board of Appeals.

#### **ARTICLE XI - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XII - VALIDITY AND SEVERABILITY**

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

## **ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

## **ARTICLE XIV - DEFINITIONS**

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - means a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

**Adjacent Grade** - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

**Base Flood** – a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement** - area of a building that includes a floor that is subgrade (below ground level) on all sides.

**Breakaway Wall** - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Building** - see **Structure**.

**Certificate of Compliance** - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** – a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

**Conditional Use** - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

**Containment Wall** – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

**Development** – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

**Digital Flood Insurance Rate Map (FIRM)** – see **Flood Insurance Rate Map**

**Elevated Building** - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

**Elevation Certificate** - an official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

### **Flood or Flooding**

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - see **Flood Elevation Study**.

**Floodplain or Floodprone Area** - land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

**Floodway Encroachment Lines** - the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship



building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

**Manufactured Home** - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**New Construction** - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)**- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** –

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

## **ARTICLE XV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).



# **Chapter 8**

## **SHORELAND ZONING ORDINANCE**



# Shoreland Zoning Ordinance for the City of Calais

- 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 spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
- 2. Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
- 3. Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

  - normal high-water line of any great pond or river,
  - upland edge of a coastal wetland, including all areas affected by tidal action, or
  - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.
- 4. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on February 11, 2016, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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.
- 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.
- 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.
- 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.
- 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. If the Commissioner fails to act on



any amendment within forty-five (45) days of his/her 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.

## 9. Districts and Zoning Map

**A. Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

- (1) Resource Protection
- (2) Limited Residential
- (3) Limited Commercial
- (4) General Development I
- (5) General Development II
- (7) Stream Protection

**B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

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

**10. Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

**11. Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

## 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.

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**NOTE:** See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

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## C. Non-conforming Structures

- (1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
  - (a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
  - (b) Notwithstanding paragraph (a), above, if a legally existing 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 municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
    - (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
  - (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
  - (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
  - (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
  - (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
- (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 Planning Board 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 Planning Board 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 Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (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 Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming 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 waterbody, 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 Planning Board 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 Planning Board, 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 Planning Board 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 Planning Board, 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 Planning Board 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, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(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.

### 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 and General Development I need not be included within the Resource Protection District.

- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

Based on existing information of physiographic features and existing land use in these shoreline areas, it is recommended that minimal development standards be adopted to protect natural resources, limit erosion, and prevent water pollution in the following areas (identified as official Resource Protection Districts on the official tax maps of the City of Calais).

- (a.) Total shoreline surrounding Vose Pond.
- (b.) Total shoreline surrounding Flowed Lake Pond (Flowed Land Ponds)
- (c.) Total shoreline of that portion of Shattuck Lake located within the City of Calais.
- (d.) The shoreline of Beaver Lake included in map 32-95, map 32-96, map 32-97, and map 32-98.
- (e.) Total shoreline on Nash's Lake owned by the City of Calais (map 32-66).
- (f.) Island located at map 34-41 at Howard Lake.
- (g.) A portion of lots 8-2, 11, 11-1, 12, and 18 as delineated on Calais tax map 2, block 2.
- (h.) A portion of lots 33 and 34 as delineated on Calais tax map 3, block 1.
- (i.) A portion of lot 1 as delineated on Calais tax map 4, block 1.
- (j.) A portion of lots 1, 2, block 1 and lots 1,3,4 and 5, block 2 as delineated on Calais tax map 5.
- (k.) A portion of lots 13,14,15,16,17,18,19,20 and 21 on as delineated Calais tax map 6, block 2.
- (l.) Pikes Park, so called, map 6, block 3, lot 5 and map 7, block 1, lots 1, 13, 14, 15, and 15-1
- (m.) A portion of lots 1,2,3,4,5,5-1,5-2,5-3,6,7,9,10 on as delineated Calais tax map 13, block 1.
- (n.) A portion of lots 13,14,15,17,18,19,21,22,28,30, and 39 as delineated on Calais tax map 14.
- (o.) A portion of lots 14,15,18,20-1,20-2,21,22,23,and 24 as delineated on Calais tax map 15.
- (p.) A portion of lots 1,2,3,3-1,3-2,4,5,6,7,7-1,8,8-1,9,10,12,13,13A, and 13-1 as delineated on Calais tax map 16.
- (q.) A portion of lots 11-1,12,13,13-1 as delineated on Calais tax map 17.
- (r.) A portion of lots 19,22,23,24,24-1 27,28,28-1,32 and 33 as delineated on Calais tax map 18.
- (s.) A portion of lots 3,6,7,8,8-1,8-2,9,10,16,16-1,17,17-1,18-1,19,and 20 as delineated on Calais tax map 19
- (t.) A portion of lots 4,4-1,5,6,7,8,9,10,11 and 12 as delineated on Calais tax map 20.
- (u.) A portion of lots 2,3,4,5,6, and 8 as delineated on Calais tax map 21.
- (v.) A portion of lots 7,8 and 12 as delineated on Calais tax map 22.
- (w.) Lots 17, 18, 18A 18-1, 19, 20, 21, 22, and a portion of lots 7,8,8 1,9,10,11,12,13,14,16, and 23A23, 23-1 and 24 as delineated on Calais tax map 23.
- (x.) A portion of lots 3 and 15 as delineated on Calais tax map 24.
- (y.) A portion of lots 2, 3 and 4 as delineated on Calais tax map 28.
- (z.) A portion of lot 146 as delineated on Calais tax map 29.

- (aa.) A portion of lots 128, 128A 128-1, 129-1, 130, 156, 159,159-4,159-5 165, and 169 as delineated on Calais tax map 30.
- (bb.) A portion of lots 5, 2939, and 51 as delineated on Calais tax map 31.
- (cc.) A portion of lots 66,85-5,88B,89, 90, 91,91-2,91-3,91-4,92,93, 94, 95, 96, 131, 133, 134, 136, 137, 138, 139, 140, 141, and 142 as delineated on Calais tax map 32.
- (dd.) A portion of lots 110, 111, 112, 113,114, 115, 116, 117, 118,118-1, 119, 120, 121,122, 122-1, 123, 200,200-1, 201, and 202 as delineated on Calais tax map 33.
- (ee.) A portion of lots 40A, 41, 43, 44, 45,45-13, 45-14, 45-16, 46,46-12, 47, and 49 and 50 as delineated on Calais tax map 34.
- (ff.) A portion of lots 54-5,54-6,54-7,54-8,55,56 57-2, 58-1, 63-24,63-25, 69,63-26, 85,86-1,86-2,87-3, and 87-4 as delineated on Calais tax map 35.
- (gg.) A portion of lots 1,1-1 and 1-2 as delineated on Calais tax map 36
- (hh.) A portion of lots 101, 108-1,109-1, 208, 209, 210, 211, 214, 215, 217, 217-2, 218, 220, and 221, and 221-1 as delineated on Calais tax map 37.

**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 Districts.

Based on existing information of physiographic features and existing land use in these shoreline areas, it is recommended that minimum standards be adopted to encourage low density, seasonal residence and recreational use and to prevent water pollution, erosion, and other damage to the material environment in the following shoreline areas which is identified as the Limited Residential-Recreational District.

- a. The shoreline along the St. Croix River from the Baring/Calais boundary to the Calais/Robbinston boundary including any islands located in the St. Croix River within the boundary of the City of Calais, except map 6, block 3, lots 1B and 2 and a portion of lot 5; all the lots from South Street to the Ferry Point Bridge, except lots in Pike's Park, so called, map 6, block 3, lot 5, and map 7, block 1, lots 13, 14, 15, and 15-1; and map 22, lots 7 and 8; And excepting lots on the River Road Map 14, lots 41, 45, 46, 47, 48, 49, and 50 , portion of lots Map 41, lots 39 and 40; Map 17, lots 3, 4, 5, 7, 10, 11, 11-1, and a portion of Map 17, lots 8, 9, 12, 13-1, and 13; Map 18, a portion of lots 19 and 22; Map 27 a portion of lots 179 and 178; Map 29, lot 172, and a portion of Map 29, lots 172-1 and 173.
- b. All shoreline surrounding that portion of Howard Lake located within the city of Calais except a portion of, and an island located, on map 1-34-41.
- c. All shoreline surrounding Nash's Lake including any islands except map 1-32-66.
- d. The shoreline surrounding Beaver Lake located within map 1-32-91, 91-1 thru -9, 93 and 93-1.
- e. All shoreline surrounding Keenes Lake including all islands except map 1-37-103.

**C. Limited Commercial District.** The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. 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.

Based on existing information of physiographic features and existing land use in these shoreline areas, it is recommended that minimum standards be adopted to encourage a mix of light commercial and residential uses, where industrial uses are prohibited, in the following shoreline areas which is identified as the Limited Residential-Recreational District.



The shoreline on the River Road identified as Map 14, lots 45, 46, 47, 48, 49, and 50, Map 17, lots 3, 4, 5, 7, 10, 11, 11-1, and a portion of Map 17, lots 8, 9, 12, 13-1, and 13; Map 18, a portion of lots 19 and 22; Map 27 a portion of lots 179 and 178; Map 29, lot 172, and a portion of Map 29, lots 172-1 and 173.

**D. General Development I District.** The General Development I District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
  - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
  - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
  - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

Based on existing information of physiographic features and existing land use in these shoreline areas, it is recommended that minimum standards be adopted to encourage commercial, industrial or intensive recreational activities, or a mix of such activities in the following shoreline areas which is identified as the General Development I District.

(a.) The shoreline on Keenes Lake located at map 1-37-103.

(b.) The shoreline of the St. Croix River- all the lots between the former railroad bed and the Ferry Point Bridge (map 6, block 3, lots 1, 1A, 1B and 1C, and 1D) and South Street and the Ferry Point bridge, except lots in Pike's Park, so called, map 6, block 3, lot 5 and map 7, block 1, lots 13,14,15 and 15-1.

**E. General Development II District.** The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

1. General Development II District includes the following areas:

- (a) The shoreline of the St. Croix River located at map 22, lots 7 and 8.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General

Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

**F. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are 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.

**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 Shoreland Zoning Map.

**Key to Table 1:**

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

**Abbreviations:**

RP - Resource Protection

GD I - General Development I and General Development II

LR - Limited Residential

GD II - General Development II

LC - Limited Commercial

SP - Stream Protection

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

**LAND USES**  
**DISTRICT**

	<b>SP</b>	<b>RP</b>	<b>LR</b>	<b>LC</b>	<b>GDI</b>	<b>GDII</b>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO <sup>1</sup>	yes	yes	yes	yes
4. Fire prevention activities	yes	yes	yes	yes	yes	yes
5. Wildlife management practices	yes	yes	yes	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes	yes	yes	yes
7. Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
8. Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB	PB	PB	PB
9. Surveying and resource analysis	yes	yes	yes	yes	yes	yes
10. Emergency operations	yes	yes	yes	yes	yes	yes
11. Agriculture	yes	PB	yes	yes	yes	yes
12. Aquaculture	PB	PB	PB	yes	yes	yes
13. Principal structures and uses						
A. One and two family residential, including driveways	PB <sup>4</sup>	PB <sup>9</sup>	CEO	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB	PB
C. Commercial	no	no <sup>10</sup>	no <sup>10</sup>	PB	PB	PB
D. Industrial	no	no	no	no	PB	PB
E. Governmental and institutional	no	no	PB	PB	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	CEO	CEO	CEO	CEO
14. Structures accessory to allowed uses	PB <sup>4</sup>	PB	CEO	CEO	yes	yes
15. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	LPI
16. Home occupations	PB	PB	PB	CEO	yes	yes
17. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
18. Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>12</sup>	yes <sup>12</sup>	yes <sup>12</sup>	yes <sup>12</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	CEO	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB	PB
D. Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB	PB
19. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	yes
20. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO
21. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO
22. Campgrounds	no	no <sup>7</sup>	PB	PB	PB	PB
23. Road construction	PB	no <sup>8</sup>	PB	PB	PB	PB
24. Parking facilities	no	no <sup>7</sup>	PB	PB	PB	PB
25. Marinas	PB	no	PB	PB	PB	PB
26. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes	yes
27. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO
28. Signs	yes	yes	yes	yes	yes	yes
29. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
30. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
31. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

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

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

<sup>3</sup>In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup>Provided that a variance from the setback requirement is obtained from the Board of Appeals.

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

<sup>6</sup>See further restrictions in Section 15(L)(2).

<sup>7</sup>Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

<sup>8</sup>Except as provided in Section 15(H)(4).

<sup>9</sup>Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special

Exceptions. Two-family residential structures are prohibited.

<sup>10</sup>Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>11</sup>Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>12</sup>Permit not required but must file a written "notice of intent to construct" with *CEO*.

<sup>13</sup>Option 3 towns only.

**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.

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

(1)

	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Shore Frontage (ft.)</b>
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	40,000	200
(ii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

(2) 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.

- (3) 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.
- (4) 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.
- (5) 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.

## **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 I 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.

### **In addition:**

- (a) The water body, tributary stream, or wetland setback provision shall neither apply 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) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
- (c) 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.

- (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) With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

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

- (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;
  - (b) 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;

- (c) 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, coastal wetlands, 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 waterbody, 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 storm water 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(P)(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 shoreline 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 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

15 C. has been repealed  
 The City has opted not to regulate structures and uses extending over or below a water body or wetland.

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) 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.

**E. Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 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.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**F. 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 storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

**G. 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 in Districts other than the General Development I District 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:
  - (a) 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.
  - (b) Internal travel aisles: Approximately twenty (20) feet wide.

**H. 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 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 (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15(H)(1) does not apply to approaches to water crossings or 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 permanent roads are not allowed within the shoreland zone along Significant River Segments except:
  - (a) To provide access to structures or facilities within the zone; or
  - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (4) 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 a 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.
- (5) 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(T).

- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) 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 (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.
- (8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow 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:

<b>Grade (Percent)</b>	<b>Spacing (Feet)</b>
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 (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope 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.
- (9) 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.

**I. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per

premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

#### **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) a holding tank is not allowed for a first-time residential use in the shoreland zone.

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**NOTE:** The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

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#### **L. Essential Services**

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not 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.

- (3) 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 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 procedures to be undertaken to fulfill the requirements of Section 15 (M)(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) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) 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.
  - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
  - (c) Top soil 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.
- (5) 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 former 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.
- (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 and coastal wetlands; 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 and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

## **O. Timber Harvesting**

15 – O. has been repealed. Timber Harvesting in the Shoreland Zone is enforced by the Maine Forest Service.

## **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 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section Q.

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 P(1), above, 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, or within a strip extending 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 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
- (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(P)(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.

<b>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</b>	<b>Points</b>
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. 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.

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**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 trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

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

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.

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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 is 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(P)(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 rectangle 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 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 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(P) paragraphs (2) and (2)(a) above.
  - (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
  - (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
  - (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).
- (3) At distances greater than 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 (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent



calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

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

from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

- (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - (ii) Stumps from the storm-damaged trees may not be removed;
    - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

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

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

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

- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - (a) A coastal wetland; or
  - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

#### **S. Revegetation Requirements**

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a

mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
  - (a) All trees and saplings removed must be replaced with native noninvasive species;
  - (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;

- (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;
  - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of storm water; and
  - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

#### **T. Erosion and Sedimentation Control**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time 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 twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways 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.

**U. 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.

**V. 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.

**W. Archaeological Site.** 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.

## 16. Administration

### A. Administering Bodies and Agents

- (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) **Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) **Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

**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 not 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 35 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 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 35 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 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if 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 and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.



- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

**F. Expiration of Permit.** Permits 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.

**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not 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 or other written arrangements have been made between the municipal officials and the utility.

## **H. Appeals**

- (1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(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 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 limitations set forth 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 in 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.

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the code enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that

the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, 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 the 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 the 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 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) 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(H)(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 Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) 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.

(iii) 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.

(iv) 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.

(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 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 decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

(5) **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.

(6) **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 a decision 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 hearing(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.

**I. 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 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.
- (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 a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

**17. Definitions**

**Accessory structure or use** - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Aggrieved party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit

or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agriculture** - the production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental green-house products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture** - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Basal Area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

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

**Boat Launching Facility** - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

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

**Campground** - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

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

**Coastal wetland** - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

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

**Dimensional requirements** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability** - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or

psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

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

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

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

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

**Family**- one or more persons occupying a premises and living as a single housekeeping unit.

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

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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

**Forested wetland** - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

**Freshwater wetland** - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

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

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

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**Great pond** - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

**Great pond classified GPA** - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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

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

**Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of



the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

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

**Individual private campsite** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**Institutional** – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

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

**Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**Market value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

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

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

**Minimum lot width** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Multi-unit residential** - a residential structure containing three (3) or more residential dwelling units.

**Native** – indigenous to the local forests.

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

**Non-conforming lot** - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

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

**Non-conforming use** - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

**Normal high-water line (non-tidal waters)** - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**Piers, docks, wharves, bridges and other structures and uses** extending over or beyond the normal high-water line or within a wetland. Section 15C. repealed.

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

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

**Public facility** - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent floodplain soils** - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**Recreational facility** - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

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

**Replacement system** - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

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

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

**River** - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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

**Salt marsh** - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

**Salt meadow** - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common three-square occurs in fresher areas.

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

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

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

(1) in the case of electric service

- (a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- (b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service

- (a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- (b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

**Shore frontage** - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

**Shoreline** – the normal high-water line, or upland edge of a freshwater or coastal wetland.

**Significant River Segments** - See 38 M.R.S.A. section 437.

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

**Stream** - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

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

**Substantial start** - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface sewage disposal system** – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters** – all waters affected by tidal action during the highest annual tide.

**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

**Tree** - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream**– means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

**Vegetation** - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

**Velocity zone** - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**Volume of a structure** - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water body** - any great pond, river or stream.

**Water crossing** - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

This definition includes crossings for timber harvesting equipment and related activities.

**Wetland** - a freshwater or coastal wetland.

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

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STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)

EFFECTIVE DATE: March 12, 2016



# **CHAPTER 9**

## **BUSINESS DISTRICT REVITALIZATION ORDINANCE**





**City Of Calais  
Land Use Codes  
Business District Revitalization Ordinance**

**SECTION 1. SECTION 1. PURPOSE**

This Ordinance is adopted in accordance with the Charter of the City of Calais and the laws of the State of Maine for the following purposes:

- 1.1. to promote the public health, safety, convenience, comfort, aesthetics, property, and general welfare of the inhabitants and property owners of the City of Calais;
- 1.2. to establish a positive and identifiable image for the downtown area for the purposes of encouraging private investment, increasing the stability of property values, and enhancing the community's economic viability; , while preserving the architectural character of the existing historic buildings.

**SECTION 2. GENERAL PROVISIONS**

**2.1. Calais Business District Revitalization Area:**

The Calais Business District Revitalization Area (hereinafter "Area") shall encompass and include all properties located on the Calais Business District Revitalization Area Map (attached hereto as Exhibit A1) including all lots which abut the interior boundary line of said Area.

**2.2. Regulation:**

Every building, structure, or land within the Area shall be rehabilitated by their owners, in accordance with the provisions contained herein, to comply with the minimum Property Rehabilitation Standards set forth in this Ordinance. In addition, any exterior change (other than rehabilitative maintenance which does not alter the architectural design of the building, structure, or element thereof of emergency repairs) to any building, structure or land within the Area shall comply with the Property Design Standards set forth in this Ordinance.

**2.3. Scope:**

The provisions of this Ordinance shall not be construed to repeal, abrogate, annul or in any manner impair or interfere with the provisions of other laws or ordinances, except those specifically repealed by this Ordinance. Where this Ordinance imposes a greater restriction upon land, building, or structures than is imposed by any other provision of law or ordinance, the provisions of this Ordinance shall prevail.

**2.4. Severability:**

If any section, subsection, sentence, clause, phrase or other portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remainder of this Ordinance.

### **SECTION 3. ADMINISTRATION AND ENFORCEMENT**

#### **3.1. Administration and Enforcement:**

The administration and enforcement of this Ordinance shall be the responsibility of the Code Enforcement Officer.

#### **3.2. Powers and Duties:**

The Code Enforcement Officer shall be vested with full authority and responsibility for the enforcement and administration of this Ordinance, including, but not limited to the following powers and duties:

- A. Inspection of each property in the Area to determine whether the property is in compliance with the minimum Property Rehabilitation Standards set forth in this Ordinance.
- B. If the Code Enforcement Officer shall find and determine that any property does not comply with the provisions of this Ordinance, he/she shall notify the property owner in writing, in accordance with the provisions of this Ordinance, of said determination and shall make recommendations and/or orders as to the corrective measures necessary to bring the property into compliance with this Ordinance.
- C. Review of all designs, plans and/or sketches for all improvements, modifications, repairs, installations, rehabilitation or painting (where the estimated fair market value cost for the materials, supplies, and/or labor for the same is less than \$7,500 which affect:
  - 1. the exterior of existing buildings or structures;
  - 2. signs;
  - 3. awnings;
  - 4. exterior lighting;
  - 5. show windows;
  - 6. roofs;
  - 7. rear yards or open space; and
  - 8. vacant lots.

This review shall be conducted in order to ascertain whether or not said designs, plans, and/or sketches for the contemplated work conform to the requirements of this Ordinance.

- D. Approval of such designs, plans, and/or sketches specified above as the Code Enforcement Officer determines to be in accordance with the provisions of this Ordinance.

- E. In the event that the Code Enforcement Officer does not approve a design, plan, or sketch under this Section, the applicant may request an independent review of the same by the Planning Board.
  - F. Review and inspection of the rehabilitation of properties at various stages of completion to ensure that the same is conducted and completed in accordance with any approved designs or plans and the requirements of this Ordinance. In the event that the Code Enforcement Officer determines that the rehabilitation is not in accordance with approved designs or plans and/or the requirements of this Ordinance, he shall so notify the property owner in writing. Said notice shall indicate the nature of the violations and order such action as deemed necessary or appropriate to correct the same.
- 3.3. Permit Required: No exterior of an existing building or structure, storefront, display window, roof, window, awning, entrance sign, lighting, or land located within the Area shall be altered, improved, modified, repaired, rehabilitated, or painted until a permit therefore has been issued by the Code Enforcement Officer. Provided, however, that a permit shall not be required for emergency or minor maintenance repairs which do not materially alter the existing exterior elements of the building or structure. No permit shall be issued until the proposed activity complies with the provisions of this Ordinance. Furthermore, no permit shall be issued for work with an estimated fair market value cost of \$7,500 or more for materials, supplies, and/or labor until the proposed activity has been approved by the Planning Board pursuant to this Ordinance. The issuance of such a certificate by the Planning Board shall be determinative of the compatibility of the proposed design or plan with the architecture of the building.
- 3.4. All applications for a permit shall be accompanied by a design or plan, accurately drawn at a suitable scale, showing in sufficient detail, the entire building or structure elevation, storefront design, windows, cornices, colors (including color chips, if requested), materials (including samples, if requested), signs, lighting, awning, and other architectural features. Said plan or design shall be prepared to acceptable standards as determined by the Code Enforcement Officer or the Planning Board. In addition, the Code Enforcement Officer or Planning Board is hereby authorized to require such additional information as may be deemed necessary or appropriate for the proper administration and enforcement of this Ordinance. The Code Enforcement Officer may accept a sketch outlining the proposed work for projects which do not require Planning Board approval. For projects which require Planning Board approval, the Code Enforcement Officer shall refer the application to the Planning Board within thirty (30) days of his determination that the application is in order.
- 3.5. Once the Planning Board has approved an application under this Ordinance and the building or structure in question conforms to the requirements of this Ordinance, further Planning Board review and approval will not be required for the following activities:
- A. repainting of exterior elements of the building or structure in accordance with previously approved color schemes;
  - B. emergency repairs to exterior elements of the building, such as replacement of glass or other broken door or window elements;
  - C. renovation or repair of signs which does not depart from the design approved by the Planning

Board;

D. minor repairs, as long as said repairs do not alter the design approved by the Planning Board.

3.6. Planning Board. The Calais Planning Board shall be responsible for reviewing certain applications under this Ordinance to insure compliance with the objectives and rehabilitation standards contained herein.

#### Duties and Responsibilities.

The Planning Board shall have the following duties and responsibilities under this Ordinance:

1. Review of all preliminary and final designs and/or plans for all improvements, modifications, repairs, installations, rehabilitation, or painting (except for emergency or minor maintenance repairs or rehabilitation work with an estimated fair market value cost of less than 7,500 for materials, supplies, and/or labor) which affect:
  - a. the exterior of existing buildings or structures,
  - b. signs,
  - c. awnings,
  - d. exterior lighting,
  - e. show windows
  - f. roofs,
  - g. rear yards or open spaces, or
  - h. vacant lots

This review shall be conducted in order to ascertain whether or not said designs or plans for the contemplated work conform to the requirements of this Ordinance. Such review shall be in accordance with provisions of this Ordinance.

2. Approval of such designs or plans as the Planning Board determines to be in accordance with the provisions of this Ordinance.
3. Assistance to property owners in the development of acceptable rehabilitation designs or plans to bring their properties into compliance with the provisions of this Ordinance.

#### 3.7. Compliance Requirements and Review Procedure

The Code Enforcement Officer shall make written notification to each property owner, and/or such other persons as he finds to be responsible for the property in question, whose property does not conform to the rehabilitation standards set forth in this Ordinance. Said notice shall specify

the respects in which the property fails to comply with said standards, and shall specify the corrective measures required to bring the property into compliance with this Ordinance. The notice will also classify each measure as either a Tier 1 or Tier 2 corrective measure. Tier 1 - Routine repairs such as peeling paint, broken glass, boarded up windows, loose hardware or other deficiencies that constitute an immediate threaten to life and safety: Tier 2 – More extensive long term repairs such as brick repointing, deteriorating cornices and window restorations

2. Within thirty (30) days from the date of the notice referred to above, the property owner, or his agent, shall submit an application and preliminary plans to the Code Enforcement Officer. Said application and plans shall: conform to the requirements of submission set forth in this Section, address all of the violations contained in the notice, and contain information on other rehabilitation work contemplated by the owner. In addition, a property owner may, on his own initiative, submit an application and plans for review which shall be reviewed in accordance herewith. For rehabilitation work with an estimated fair market value cost of less than \$7,500 for materials, supplies, and/or labor, the Code Enforcement Officer shall review the submitted plans and application within thirty (30) days from the date of submission and shall either approve, approve with modification, or disapprove the same. For all other rehabilitation work, the Planning Board shall review submitted applications and plans within thirty (30) days from the date of referral by the Code Enforcement Officer and shall either approve, approve with modifications, or disapprove the same.
3. In the event the Code Enforcement Officer or Planning Board disapproves and application or plan submitted in accordance with paragraph 2 above, the property owner, or his delegate, shall submit to the Code Enforcement Officer within thirty (30)days for Tier 1 measures or within ninety (90)days for Tier 2 measures final plans which shall adequately address the contents of said notification and the provisions of this ordinance. In the event that the application and/or final plans are determined to be deficient by the Planning Board or Code Enforcement Officer, the owner shall have thirty (30) days from the date of notification to correct said deficiencies.
4. All rehabilitation work necessary to meet the Tier 1 standards contained in this Ordinance shall be completed within 120 days from plans approval. All rehabilitation work necessary to meet the Tier 2 standards contained in this Ordinance shall be completed within one 1 year from plans approval. The Planning Board may grant an extension of this requirement for good cause for a period of up to an additional twelve (12) months, or longer at the sole discretion of the Planning Board. Applications for such extensions shall be submitted in writing to the Planning Board prior to the established deadline to be eligible for consideration. All new construction or alterations to existing structures with the Area shall meet the requirements of this Ordinance upon its effective date. It is also required that properties be maintained to the standards. The Code Enforcement Officer may conduct periodic inspections and issue corrective measure notices to owners to insure the standards are maintained.

### 3.8. Elements of Review.

In reviewing properties to determine compliance with the provisions of this Ordinance and in reviewing designs or plans submitted in accordance herewith, the Planning Board or the Code Enforcement Officer shall be concerned with all aspects affecting the exterior appearance of the properties located within the Area, including, but not limited to the following:

1. Materials and colors used on all visible exterior areas of the building(s).
2. Design of windows, storefronts, and entrance areas, including materials and types of security devices.
3. Design of signs, methods of illumination, colors, materials and methods of attachment.
4. Design of awnings and canopies, colors, materials, and methods of attachment.
5. Condition of parking areas, rear yards, open spaces, and vacant lots.

3.9. Standards of Review:

The following standards and considerations will be used by the Planning Board or the Code Enforcement Officer in evaluating applications to determine whether or not the proposed activity conforms to the requirements of this Ordinance and promotes the intent and purpose hereof:

All alterations, improvements, modifications, repairs, rehabilitation painting, and other improvements shall attempt to improve or preserve the character of existing historic buildings, and shall not detract from properties.

3.10. Penalties:

Any person, firm, or corporation being the actual or constructive owner of any building or premises which is adjudged to be in violation of any of the provisions of this Ordinance shall be guilty of a civil violation and on conviction shall be fined not less than \$50.00 nor more than \$500.00. Each day such a violation is permitted to exist after notification, shall constitute a separate offense. Any fines imposed pursuant to this Ordinance shall inure to the benefit of the City of Calais.

3.11. Legal Actions.

The Code Enforcement Officer, or his representative, is hereby authorized and directed to institute any and all actions and proceedings, either in law or in equity, that may be appropriate or necessary to obtain compliance with the provisions of this Ordinance.

## **SECTION 4. PROPERTY REHABILITATION AND DESIGN STANDARDS**

4.1. Applicability of Standards:

The provisions of this article shall apply to all exterior improvements to existing properties and new structures within the Area. It is required that all exterior improvements shall be made in accordance with the provisions and objectives of this Ordinance. Over and above the codes and ordinances of the City of Calais, the provisions contained in this Section shall be applied to all properties within the Area, whether occupied or vacant.

4.2. General Requirements:

4.3. All work performed in compliance with this Ordinance shall be conducted in a manner in accordance with accepted standards of the building trades. Materials used in making repairs shall be of a quality suitable for the purpose and of a kind normally used to accomplish the required repairs.

4.4. Minimum Property Rehabilitation and Design Standards:

A. Exterior Walls & Windows, Storefronts and Awnings (Front, Side, & Rear):

1. All of the visible exterior walls & windows of all structures located in the Area shall be included in this requirement.
2. All exposed and visible surfaces, including walls and windows shall be repaired, cleaned, or painted. All colors and color schemes used in the Area shall be compatible with buildings in the Area.
3. All defective structural and decorative elements of building fronts and sides abutting on or visible from streets shall be repaired or replaced in a manner to maintain, as closely as possible, the architectural character of that building. All damaged, sagging, inoperative or otherwise deteriorated storefronts, signs, show windows, or entrances shall be repaired or replaced and made structurally sound.
4. All miscellaneous unused elements on the exterior walls of the structures such as empty electric boxes, conduits, pipes, unused signs and brackets, etc., shall be removed.
5. Storefront windows of vacant shops shall be kept clean and free of clutter.

B. Roofs:

Roofs shall be kept free of visible trash, debris, or any other element which is not a permanent part of the building or a functioning element of its mechanical or electrical system. All equipment that is visible that is part of the mechanical or electrical system shall be located in such a manner as to minimize its visual impact and shall be kept in good condition.

C. Signs: In addition to the Zoning Ordinance of the City of Calais, as may from time to time be amended, the following provisions shall apply to the rehabilitation of all signs located within the Area:

1. Size, shape, letter style(s), colors, design, type illumination and/or method of installation of all new and existing signs shall be compatible with the architecture of the building. Use of wooden signs by graphic designers is encouraged and shall be used where practical.
2. Materials employed for construction of signs shall be durable and weather resistant. Use of plastics or similar materials is discouraged, but not prohibited with Planning Board approval.
3. Signs identifying the occupant shall be permitted at rear entrance and delivery doors, but shall not exceed two (2) square feet in area and may be illuminated.



4. Signs in the form of letters, symbols, or other graphics may be incorporated in the design of any awning included in the design of a storefront, provided such signs are compatible with the architecture of the building and the awning.
5. Signs may be painted on the inside surface of the show window and permanent sign panels may be hung inside the show window, but must be designed to be compatible with the architecture of the facade and the text related to the business. Signs painted on the inside glass and sign panels shall be limited to lettering no greater than six (6) inches in height. When these signs are the only identifying sign for the property, they can use twelve (12) inch lettering.
6. Signs which are an integral part of the building structure and compatible with the original architecture of the building are permitted.
7. Flags and banners shall be compatible with the architecture of the building to which attached and neighboring structures.
8. Super Graphics or murals are a special form of outdoor art and the Planning Board may permit their application, on wall surfaces that are predominantly blank except where it would detract from the architectural significance or historic value of the building or adjacent properties, upon submission and approval of full-color drawings of the intended super graphic or mural.
9. No new hanging backlit signs shall be allowed in the area.
10. All legally existing backlit signs shall be allowed to remain in the area as long as they are kept in good repair.
11. CESSATION OF BUSINESS- When a business permanently closes, the sign associated with the business must be removed within 30 days. If it is not, it becomes an unpermitted sign and is subject to the impoundment provisions of section 5-h.
12. IMPOUNDMENT OF SIGNS
  - a. The Code Enforcement Officer shall have the authority to remove and hold any sign or sign structure subject to impoundment by the provisions of this Ordinance.
  - b. The owner of an impounded sign or sign structure may recover same upon the payment of \$50.00 for each sign plus the costs of removal. In the event it is not claimed within 10 days from the date of impoundment, the Code enforcement Officer shall have the authority to dispose of such sign or sign structure without compensation to the owner.

D. Lighting:

The following lighting methods shall be removed:

- a. Exposed fluorescent lighting.

- b. Exposed quartz or mercury vapor lamps.
- c. Exposed incandescent lamps other than low wattage, purely decorative, lighting and neon as provided for herein.

E. Parking Areas, Yards, and Vacant Lots.

- a. Parking Areas: All driveways, parking areas, walks, and plazas shall be suitably surfaced with a hard, dust-free material and shall be kept clean of all trash and debris.
- b. Yards and Vacant Lots: All yards and vacant lots shall:
  - i. Be graded in such a way as to provide satisfactory drainage and an even, smooth surface
  - ii. Be kept clean of all trash and debris.
  - iii. Be kept mowed unless landscaped as approved by the Planning Board.

F. Exterior Accessory Structures:

Exterior accessory structures which serve no useful purpose, or those in a deteriorated condition which are not economically repairable, shall be removed. Such structures include porches, terraces, entrance platforms, garages, car ports, walls, fences, unused sign posts, and miscellaneous auxiliary structures.

G. Lighting

- a. Exterior lighting shall be limited to lighting fixtures designed to be in harmony with the character of the buildings. Lighting of the shops will be encouraged during the evening hours.
- b. Lighting of the facades of the buildings may be accomplished with projecting fixtures at the roofline or at the shop front cornice line. All exterior sign lighting shall be installed to be as inconspicuous as possible and compatible with building architecture.
- c. All lighting and electrical elements such as wires, conduits, junction boxes, transformers, ballasts, switches, and panel boxes shall be concealed from view where possible.



# **CHAPTER 10**

## **STREET OPENING AND CULVERT ORDINANCE**



**City Of Calais**  
**Land Use Codes**  
**Street Opening And Culvert Ordinance**

**SECTION 1. STREET OPENING PERMIT**

- 1.1. Permits Required: No person, contractor or utility shall open or excavate any public street or sidewalk without obtaining a street opening permit from the Public Works Director. All permits shall be applied for 48 hours prior to any excavation of utilities excluding Saturdays, Sundays and legal holidays. In the case of an emergency involving a utility, the utility may excavate without an opening permit. However, the utility shall be responsible for obtaining an opening permit on the next City business day following the emergency.
- 1.2. Winter Permits: No street opening permit will be issued between December 1st in any one year and March 15th of the following year except for an extreme emergency as determined by the Public Works Director.

**SECTION 2. PROCEDURE FOR BACKFILLING**

Whenever a permit has been issued for a street opening and the excavation has been made, the trench or opening shall be backfilled with the same material that was removed from the trench to within one foot of the existing pavement except as may be hereinafter provided. The top twelve inches of the trench shall be filled and compacted with approved bank-run gravel. If a permit is issued during the winter and the excavated material freezes, the frozen material shall not be placed back in the trench but shall be removed from the area and disposed of. The excavated area is to be backfilled with an unfrozen material similar to that removed within twelve inches of the surface. If the material excavated contains too much moisture for proper compaction, it shall be removed and replaced with suitable backfill material.

**SECTION 3. PROPER SURFACING**

- 3.1. On all streets or sidewalks which have been excavated, the City will replace the pavement to its original condition and the cost of materials and labor shall be paid by the applicant to the City. Except that during the winter months a temporary surface of premixed bituminous material shall be used and this will remain until a permanent pavement can be installed. The cost of this temporary pavement shall also be billed to the applicant.
- 3.2. Payments: All payments shall be made to the City of Calais within 30 days of receipt of a City invoice. Non-payment within the 30 days by a utility, individual or company will be cause for the Public Works Director to deny subsequent street opening requests.

**SECTION 4. CULVERT: INSTALLATION PERMIT**

No culvert shall be installed in any public street or road right-of-way or drainage ditch before first obtaining a permit issued by the Public Works Director.

**SECTION 5. CULVERT REQUIREMENTS**

No culverts shall be installed that is less than twelve inch diameter. The permit issued by the Public Works Director shall stipulate the diameter, length, type and location of the culvert deemed necessary by he or she to adequately control water flow adjacent to the culvert. Only the specific culvert and location approved on the permit may be utilized. In instances where a public street, road right-of-way or drainage ditch has been filled for the purpose of entry to private property without the installation of a culvert, or the installation of an inadequate size culvert, to provide year-round drainage and water flow adjacent to the filled area, the Public Works Director is hereby empowered to require the proper size culvert be installed by the involved property's owner.

#### **SECTION 6. REPLACEMENT OF SOD AND GRASS**

Whenever in the course of excavation in the right-of-way or drainage ditch of any street or road, sod and/or grass is removed by a utility or contractor, the sod shall be replaced and adequate grass seed shall be applied to ensure replacement of any grass destroyed.

#### **SECTION 7. PENALTIES**

Any person, firm, or corporation violating the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not more than \$100.00 for each offense; except that nothing herein contained shall be deemed to bar any other legal or equitable action to restrain or enjoin any act in violation of this Ordinance. All violations of this Ordinance must be corrected in all respects immediately upon notification of the property owner by the City. Any person, firm, or corporation who shall fail to comply with the terms and conditions of this Ordinance or any amendment thereto shall not hereafter be granted another permit to excavate in any City street, road, sidewalk, or right-of-way without the prior approval of the City Manager.

# **CHAPTER 11**

## **BUILDING CODE**

**Repealed 2011**





Repealed by State Law  
TITLE 10 Chapter 1101  
2011

**Land Use Codes  
Building Code**

***Section 1 Purpose***

The purpose of this Building Code is to promote the health, safety and general welfare of the residents of the City.

***Section 2 Building Code Adopted***

The City of Calais hereby ordains that in accordance with Title 30-A M.R.S.A. Section 3003 the “International Building Code 2003”, published by the International Code Council, Inc., is hereby adopted and incorporated by reference, as the minimum standard for the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment, both existing and proposed, located within the City of Calais.

***Section 3 Inconsistent Ordinances Repealed***

The section of the City of Calais, Land Use Codes known as the “Building Code” adopted on June 24, 1996 is hereby repealed. If any provision of this code conflicts with any provision of another ordinance, the more strict provision shall prevail.

***Section 4 Amendments to Published Version***

Said Building Code is adopted in its published form as fully set forth herein, except as follows:

Chapter 1 is amended to read as follows::

Section 101.1 Title: These regulations shall be known as the Building Code of the City of Calais herein after referred to as “this code”.

Sections 101.4 and 101.4.1 through 101.4.7 is deleted

Section 103.1 is deleted and replaced with the following:

103.1 Building Official: Further references in this code to the “building official” shall be interpreted to mean the Code Enforcement Officer of the City of Calais.

Sections 104 thru and including 115 is deleted and replaced with Chapter 5, section 2 of the City of Calais Land Use Codes

Adopted by the Calais City Council: \_\_\_Septber 8, 2005\_\_\_

Effective: \_ October 8, 2005\_\_REPEALED 2011



# **CHAPTER 12**

## **WIRELESS**

### **TELECOMMUNICATIONS**

#### **FACILITIES SITING ORDINANCE**



**Wireless Telecommunications  
Facilities Siting Ordinance  
Of The City Of Calais**

**SECTION 1. TITLE**

This Ordinance shall be known as the City of Calais Wireless Telecommunications Facilities Siting Ordinance (hereinafter referred to as this “Ordinance”)

**SECTION 2. AUTHORITY**

The ordinance is adopted pursuant to the enabling provisions of Article VII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A, M.R.S.A., Section 3001 (Home Rule) and the provisions of the planning and Land Use Regulation Act, title 30-A, M.R.S.A., Section 4312 *et seq.*

**SECTION 3. PURPOSE**

The purpose of this ordinance is to provide a process and set of standards for the construction and locating of Wireless Telecommunications Facilities in order to; implement a municipal policy concerning the provision of wireless telecommunication services, and the siting of their facilities. Ensure that all telecommunications carriers providing facilities or services within the City of Calais comply with the ordinances of the City of Calais; ensure that the City of Calais can continue to fairly and responsibly protect the public health, safety, and welfare, encourage co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community, and to enable the City of Calais to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development. The purpose of this ordinance is also to provide an environment where the citizens want to live and work, to protect the citizens of the city, the aesthetic values, property values, community character, and to prevent adverse impact on residential and village areas within the City of Calais.

**SECTION 4. APPLICABILITY**

This Ordinance applies to all construction and expansions of wireless telecommunications facilities new or pending, except as provided Section 4.1

Exemptions

The following are exempt from the provisions of this ordinance:

- A. Emergency Wireless Telecommunications Facility. Temporary wireless telecommunications facilities for emergency communications by public officials.
- B. Amateur (Ham) Radio Stations. Amateur (Ham) radio stations licensed by the Federal Communications Commission (FCC) or CB Radio Antennas.
- C. Parabolic Antenna. Parabolic antennas less than seven (7) feet in diameter that are an accessory use of the property.
- D. Maintenance and Repair. Maintenance and repair of a wireless telecommunications facility and related equipment provided that there is no change in the height or any other dimension of the facility.
- E. Antenna as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

**SECTION 5. REVIEW AND APPROVAL AUTHORITY**

5.1. Approval Required

No person shall construct or expand a wireless telecommunications facility without approval of the Planning Board (PB) as follows:

- A. Expansion of an Existing Facility and Co-Location. Approval by the PB is required for any expansion of an existing wireless telecommunications facility; accessory use of an existing wireless telecommunications facility; or co-location on an existing wireless telecommunications facility.
- B. New Construction. Approval of the PB is required for construction of a new telecommunications facility, within the allowed areas of City.

5.2. Approval Authority

In accordance with section 5.1 above, the PB shall review all applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this ordinance.

**SECTION 6. APPLICATION PROCESS**

6.1. Pre-application Conference

All persons seeking approval of the PB under this Ordinance shall meet with the Code Enforcement Officer (CEO). At this meeting the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this Ordinance.

6.2. Application

All persons seeking approval of the PB under this Ordinance shall submit an application as provided below.

### 6.3. Application for Planning Board Approval .

An application for approval by the PB must be submitted to the PB. The application must include the following information:

- A. Documentation of the applicant's right, title, or interest in the property in which the facility is to be sited, including the name and address of the property owner and applicant.
- B. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulation.
- C. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above one hundred fifty (150) feet in height above ground level, except antennas located on rooftops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the City of Calais. This requirement may be met by submitting current information, within thirty (30) days of the date the application is filed, from the FCC Tower Registration database.
- D. A Site Plan:
  - 1. indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting, off-site land uses means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
  - 2. certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and
  - 3. a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
- E. A scenic assessment consisting of the following:
  - 1. Elevation drawings of the proposed facility, and any other proposed structures, showing the height above ground level;
  - 2. A landscaping plan indicating the proposed placement of the facility on the site;
    - a. location of existing structures, trees, and other significant site
    - b. features; the type and location of plants proposed to screen the facility; the
    - c. method of fencing; the color of the structure; and the proposed lighting method.
  - 3. a narrative discussing:



- a. the extent to which the proposed facility would be visible from or within a designated scenic resource,
  - b. the tree line elevation of vegetation within one hundred (100) feet of the facility, and
  - c. the distance to the proposed facility from the designated scenic resources noted viewpoints.
- F. A written description of how the proposed facility fits into the applicant's telecommunications network; this submission requirement does not require disclosure of confidential business information.
- G. Evidence demonstrating that no existing building, site or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
- 1. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,
  - 2. Evidence that existing facilities do not have sufficient height and cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements
  - 3. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
    - a. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities and these existing facilities cannot be reinforced to accommodate the new equipment.
    - b. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna
    - c. or equipment on the existing facility would cause interference with the applicant's proposed antenna.
    - d. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
  - 4. For facilities existing prior to the effective date of this Ordinance, the fees costs, or contractual provisions required by the owner in order to share or adapt to existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance.
  - 5. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access.

- H. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CER 60 and 800).
- I. A signed statement declaring that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
  - 1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - 2. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  - 3. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
  - 4. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate over the useful life span of the facility.
- H. A form of surety approved by the PB to pay for the costs of removing the facility if it is abandoned.
- I. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

#### 6.4. Submission Waiver

The PB may waive any of the submission requirements based upon a written request of the applicant submitted at the time the application. A waiver of any submission requirement may be granted only if the PB finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

#### 6.5. Fees

- A. Planning Board Application Fee. An application for Planning Board approval shall include payment of an application fee of \$200.00 (two hundred). The PB after holding a public hearing, shall establish reasonable fees for the administration of this Ordinance, including, Board of Appeals application fees. The application shall not be considered complete until the fee is paid. An applicant is entitled to a refund of the application portion of the fees if the applications withdrawn within fifteen (15) days of the date of filing, less all expenses incurred by the City of Calais to review the application.

- B. Planning Board Review Fee. An applicant for approval by the PB shall pay all reasonable and customary fees incurred by the City of Calais that are necessary to review the application. The review fee shall be paid in full prior to the start of construction. That portion of the review fee not used shall be returned to the applicant within fourteen (14) days of the PB's decision.

## **SECTION 7. STATNDARDS OF REVIEW**

### **7.1. Planning Board Approval Standards**

An application for approval by the PB under Section 5.1 must meet the following standards.

- A. Priority of Locations. New wireless telecommunication facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.
  - 1. Co-location on an existing wireless telecommunications facility.
  - 2. A new facility on public or private property in the City of Calais.
- B. Design for Co-location. A wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least four (4) additional wireless telecommunications facilities or providers. However, the PB may waive or modify this standard where the height limitation effectively prevents future co-location.
- C. Height. A new wireless telecommunications facility must be no higher than one hundred ninety (190) feet in height.
- D. Setbacks. A new or expanded wireless telecommunications facility must comply with the applicable setback requirements of the City of Calais, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. Including the areas outside of the property boundaries if secured by an easement may satisfy the setback. In cases of leased property, the assessment of setback requirements applies to the parent lot as a whole and not just the leased portion of the parent lot. the following exemptions apply:
  - 1. The setback shall be reduced by the PB upon showing evidence that the facility is designed to collapse within the tower compound, but set back will not be less than the setbacks which apply to other structures in the City of Calais Land Use Ordinance.
  - 2. An antenna is exempt form the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon and abutting property.
- E. Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable.
- F. Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

- G. Lighting. A new wireless telecommunication facility shall be illuminated at the top of the facility by an FAA approved lighting apparatus as deemed necessary by the height of said tower. Security lighting may be used as long as it is shielded to be down-directional to retain lighting within the boundaries of the site, to the maximum extent practicable.
- H. Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- I. Structural Standards. A new wireless telecommunications facility must comply with current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.”
- J. Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the City of Calais as identified by a State or Federal agency.

In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the PB shall consider the following factors:

- a. the extent to which the proposed wireless telecommunications facility is visible above the tree line, from the viewpoint(s) of the impacted designated scenic resource;
  - b. the type, number, height and proximity of existing structures and featured, and background features within the same line of sight as the proposed facility;
  - c. the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
  - d. the amount of vegetative screening;
  - e. the distance of the proposed facility from the view point and the facility’s location within the designated scenic resource; and
  - f. the presence of reasonable alternatives that allow the facility to function consistently with its purpose.
- K. Historic and Archaeological Properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure, which is currently listed on, or eligible for listing on the National Register of Historic Places.

## 7.2. STANDARD CONDITIONS OF APPROVAL

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the PB. Where necessary to ensure that an approved project meets the criteria of this Ordinance, the PB can impose additional conditions of approval. Reference to the conditions of approval

shall be clearly noted on the final approved site plan, and shall include:

- A. The owner of the wireless telecommunications facility and his or her successor and assigns to:
  - 1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - 2. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  - 3. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
  - 4. require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower of equipment to accommodate a shared use without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.
  
- B. Upon request by the City of Calais, the applicant shall certify compliance with all applicable FCC radio frequency emission regulations.

## **SECTION 8. AMENDMENT TO AN APPROVED APPLICATION**

Any changes to an approved application must be approved by the PB in accordance with Section 5.

## **SECTION 9. ABANDONMENT**

A wireless telecommunications facility that is not operated for a continuous period of six months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the City of Calais may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the City of Calais for removal of the facility, the owner of the facility may apply to the PB for release of the surety when the facility and related equipment are removed to the satisfaction of the PB.

## **SECTION 10. APPEALS**

Any person aggrieved by a decision of the PB under this Ordinance may appeal the decision to the Board of Appeals, as provided by in the City of Calais Board of Appeals Ordinance.

## **SECTION 11. ADMINISTRATION AND ENFORCEMENT**

The CEO, s appointed by the City Manager, shall enforce this ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action necessary to ensure compliance with this Ordinance.

The City Council, or their authorized agent, is 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 a violation of this Ordinance and recovering fines without court action. Such agreements shall not allow a violation of this Ordinance to continue unless:

There is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by and authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety, abutting property de-valuation, or substantial environmental damage.

## **SECTION 12. PENALTIES**

### **12.1.Conflicts with other Ordinances**

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

### **12.2.Severability**

The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

## **SECTION 13. DEFINITIONS**

The terms used in this Ordinance shall have the following meanings:

**Abutter** means any landowner within five hundred (500) feet of the property that the tower or facility will be located on.

**Antenna** means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signal.

**Antenna Height** means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if mid highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured form the finished

grade or facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**Co-location** means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

**Expansion** means the addition of antennas, towers, or other devices to an existing structure.

**FAA** means the Federal Aviation Administration, or its lawful successor.

**FCC** means the Federal Communications Commission, or its lawful successor.

**Designated Scenic Resource** means the specific location, view, or corridor, as identified as a scenic resource in the City of Calais's comprehensive plan or by a State or federal agency that consists of;

1. A three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skylight or a mountain range, resulting in a panoramic view corridor; or
2. Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, and seen from a viewpoint on a public way or within a public recreational area.

**Height** means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

**Historic or Archaeological Resources means** resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been terrified by the Secretary of the Interior through the Mine Historic Preservation commission; or

5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the City of Calais's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

**Historic Landmark** means any improvement, building or structure of particular historic or architectural significance to the city relating to its heritage, cultural, social, economic or political history, or which exemplifies lust ode personages or important events in local, state or national history identified in the City of Calais's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

**Line of Sight** means the direct view of the object from the designated scenic resource.

**Parabolic Antenna** (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

**Principal Use** means the use other than the one that is wholly incidental or accessory to another use on the same premises

**Public Recreational Facility** means a regionally or locally significant facility; as defined and identified either by State statute or in the City of Calais's comprehensive plan, designed to serve the recreational needs of municipal property owners.

**Targeted Market Coverage Area** means the area that is targeted to be served by this proposed telecommunications facility.

**Tower Compound** means the area leased or owned by the Wireless Telecommunications Facility owner who is or is planned to be used as part of the telecommunications facility.

**Unreasonable Adverse Impact** means that the proposed project would produce an end result, which is:

1. excessively out-of-character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resource; and
2. would significantly diminish the scenic value of the designated scenic resource.
3. would impact surrounding, existing, or established buildings and property values.

**Viewpoint** means the location which is identified either in the City of Calais's comprehensive plan or by a State of Federal agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

**Wireless Telecommunications Facility Or Facility** means any structure, antenna, a tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common



carrier wireless exchange phone services and personal communications service (PCS) or page services.

**SECTION 14. EFFECTIVE DATE**

This ordinance shall take effect immediately following passage at the City Meeting held on November 29, 2001.

# **CHAPTER 13**

## **HOLDING TANK ORDINANCE**



**City of Calais  
Land Use Codes  
Holding Tank Ordinance**

This Appendix is not intended to be enforced as part of the code's minimum requirements.

BE IT ENACTED AND ORDAINED by the Councilmen/women of the City of Calais, Washington County, and it is hereby enacted and ordained as follows:

**SECTION 1. Purpose.**

The purpose of this Ordinance is to establish procedures for the use and maintenance of holding tanks designed to receive and retain waste water from residential or commercial uses. It is hereby declared that the enactment of this Ordinance is necessary for the protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of this municipality.

**SECTION 2. Definitions.**

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

“Authority” shall mean Councilmen/women of Calais, Washington County, Maine.

Holding tank: A closed, water-tight structure designed and used to receive and store waste water or septic tank effluent. A holding tank does not discharge waste water or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of waste water at another site.

“Improved property” shall mean any property within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure waste water shall or may be discharged.

“Municipality” shall mean Calais, Washington County, Maine.

“Owner” shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the municipality.

“Person” shall mean any individual, partnership, company, association, corporation, or other group or entity.

“Waste water” shall mean any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried wastes from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water-carried wastes of human origin. This term specifically excludes industrial, hazardous, or toxic wastes and materials.

**SECTION 3. Rights and Privileges granted.**

The Authority is hereby authorized and empowered to undertake, within the municipality, the control of and methods of disposal of holding tank waste water and the collection and transportation hereof.

**SECTION 4. Rules and regulations to be in conformity with applicable law.**

All such rules and regulations adopted by the authority shall be in conformity with provisions herein, all other ordinances of the City of Calais, all applicable laws, and applicable rules and regulations of the administrative agencies of the State of Maine. Holding tanks cannot be used for seasonal conversion, see Subsection 301.3, or new construction within the shoreland zone of a major water course.

**SECTION 5. Rates and charges.**

The Authority shall have the right and power to fix, alter, charge, and collect rates, assessments, and other charges in the area served by its facilities at a reasonable and uniform rate as authorized by applicable law.

**SECTION 6. Exclusiveness of rights and privileges.**

The collection and transportation of all waste water from any improved property utilizing a holding tank shall be done solely by, or under the direction and control of, the Authority, and the disposal thereof shall be made at such site or sites as may be approved by the Maine Department of Environmental Protection.

**SECTION 7. Duties of owner of improved property.**

The owner of an improved property that utilizes a holding tank shall:

- 7.1. Maintain the holding tank in conformance with this or any other Ordinance of this City of Calais, the provisions of any applicable law, the rules and regulations of the authority, and any administrative agency of the State of Maine; and
- 7.2. Permit only the authority, or its agent, to collect, transport, and dispose of the contents therein.

**SECTION 8. Violations.**

Any person who violates any provisions of Section 7 shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than One Hundred and not more than Three Hundred dollars, plus costs.

**SECTION 9. Abatement of nuisances.**

In addition to any other remedies provided in this ordinance, any violation of Section 7 above shall constitute a nuisance and shall be abated by the municipality or Authority by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

**SECTION 10. Alternative disposal.**

An alternative means of waste water disposal shall meet first time system criteria. Replacement system criteria shall not be considered.

**SECTION 11. Repeal.**

All ordinances or resolution, or parts of ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

**SECTION 12. Severability.**

If any sentence, clause, Section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance.

**SECTION 13. Effective date.** This ordinance shall become effective thirty days after its adoption. (Effective of this chapter June 13, 1998)



# **Chapter 14**

## **BUILDING AND PROPERTY MAINTENANCE ORDINANCE**





**Building And Property Maintenance Ordinance  
City Of Calais, Maine**

**SECTION 2. PURPOSE/SCOPE:**

The purpose of this ordinance is to establish minimum standards for the condition and maintenance of the exterior of all buildings and structures and the premises surrounding said buildings and structures.

**SECTION 3. MAINTENANCE REQUIRED:**

All buildings and structures, and all parts thereof, shall be maintained in a safe, sanitary and non-hazardous manner. All means of egress shall be kept in good working order and clear of debris. The exterior of all premises and the condition of all buildings, structures and components thereon shall be maintained to prevent and repair deterioration, so that the appearance thereof shall reflect a level of maintenance insuring that the property itself may be preserved safely, and that hazards to the public health, safety and welfare are avoided.

Violations of this ordinance are established when it is demonstrated that conditions found contrary to this ordinance create a risk to public health, safety and welfare.

**SECTION 4. MAINTENANCE STANDARDS/BUILDINGS AND STRUCTURES:**

Each property owner or mortgagee shall keep all exterior components of every principal and accessory structure in good repair, including but not limited to, walls, roofs, chimneys, cornices, gutters, down spouts, drains, porches, steps, landings, fire escapes, exterior stairs, windows, shutters, doors, and storefronts.

All surfaces shall be maintained free from deterioration, including but not limited to, broken glass, loose or missing shingles or siding, crumbling brick, stone and mortar, and peeling, scaling or deteriorated paint.

**SECTION 5. MAINTENANCE STANDARDS/PREMISES AND YARD AREAS:**

All premises and yard areas shall be maintained in a safe and sanitary condition, including but not limited to, steps, walks, driveways, fences, retaining walls, trees, shrubs, grass and weeds. If any such area or object constitutes a danger to health or safety, it shall be repaired, replaced, or removed.

All fences, retaining walls or similar structures shall be firmly anchored in the ground and maintained in good structural repair.

Weed and grass shall be kept from becoming overgrown.

All yards or lots shall be kept free of accumulations of trash, garbage, refuse, junk, or other material which may cause a fire hazard or may act as a breeding place for vermin.

**SECTION 6. ENFORCEMENT:**

The Code Enforcement Officer of the City of Calais shall enforce the provisions of this ordinance. In the event of a violation, the Code Enforcement Officer shall notify the property owner or mortgagee, serving a written notice by certified mail or by hand deliver. Said notice shall explain the nature of the violation and allow no more than 30 days from the date of the receipt of the notice to correct the violation. If the

violation is not corrected within the required time allowed, the property owner or mortgagee shall be subject to penalties as set forth in section 6.

**SECTION 7. PENALTIES:**

Any person who violates any provision of this Ordinance commits a civil violation punishable by a civil penalty of \$25 for each day the violation continues beyond the allotted correction period as referenced in Section 5. In addition, the City may pursue all remedies and relief available at law and/or in equity, including without limitation the remedies and relief provided 30-A MRSA §4452.

**SECTION 8. SEVERABILITY:**

If any section, subsection, clause, paragraph, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 9. AUTHORITY:**

This Ordinance is adopted as a local building code ordinance pursuant to 30-A MRSA §3001 and 30-A MRSA § 3007 (2)

**SECTION 10. EFFECTIVE DATE:**

This Ordinance shall be effective upon adoption by the City Council of the City of Calais pursuant to City Charter authorization.

ADOPTED: 8<sup>th</sup> of October 2015 by the City Council of the City of Calais