ZONING ORDINANCE

of the Town of Chebeague Island, Maine

Adopted by the Town Meeting:
July 1, 2007
Effective July 1, 2007
Amended: September 13, 2008
Amended: June 11, 2016

Attest:

__________________________
Town Clerk

Seal:
# Table of Contents

## Section 100  Title, Purpose, Definitions

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>Title</td>
<td>1</td>
</tr>
<tr>
<td>102</td>
<td>Purpose</td>
<td>1</td>
</tr>
<tr>
<td>103</td>
<td>Authority</td>
<td>1</td>
</tr>
<tr>
<td>104</td>
<td>Intent</td>
<td>2</td>
</tr>
<tr>
<td>105</td>
<td>Land Use Requirements</td>
<td>2</td>
</tr>
<tr>
<td>106</td>
<td>Availability</td>
<td>2</td>
</tr>
<tr>
<td>107</td>
<td>Severability</td>
<td>2</td>
</tr>
<tr>
<td>108</td>
<td>Conflicts with Other Ordinances</td>
<td>2</td>
</tr>
<tr>
<td>109</td>
<td>Official Zoning Map (Appendix A)</td>
<td>2</td>
</tr>
<tr>
<td>109.1</td>
<td>Scale of Map</td>
<td>2</td>
</tr>
<tr>
<td>109.2</td>
<td>Certification of Official Zoning Map</td>
<td>3</td>
</tr>
<tr>
<td>109.3</td>
<td>Changes to the Shoreland Districts on the Official Zoning Map</td>
<td>3</td>
</tr>
<tr>
<td>110</td>
<td>Definitions</td>
<td>3</td>
</tr>
</tbody>
</table>

## Section 200  Zoning Districts

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>201</td>
<td>Zoning Map and Districts</td>
<td>33</td>
</tr>
<tr>
<td>202</td>
<td>District Boundaries</td>
<td>33</td>
</tr>
<tr>
<td>202.1</td>
<td>District Boundaries</td>
<td>34</td>
</tr>
<tr>
<td>202.2</td>
<td>District Boundaries</td>
<td>34</td>
</tr>
<tr>
<td>203</td>
<td>District Objectives</td>
<td>34</td>
</tr>
<tr>
<td>203.1</td>
<td>District Objectives</td>
<td>34</td>
</tr>
<tr>
<td>203.2</td>
<td>District Objectives</td>
<td>34</td>
</tr>
<tr>
<td>203.3</td>
<td>District Objectives</td>
<td>34</td>
</tr>
<tr>
<td>204</td>
<td>District Regulations</td>
<td>34</td>
</tr>
<tr>
<td>204.1</td>
<td>Island Residential District (IR)</td>
<td>34</td>
</tr>
<tr>
<td>204.2</td>
<td>Shoreland Area Overlay Districts</td>
<td>36</td>
</tr>
<tr>
<td>204.3</td>
<td>Island Business District (IB)</td>
<td>44</td>
</tr>
<tr>
<td>205</td>
<td>Lot Regulations</td>
<td>46</td>
</tr>
<tr>
<td>205.1</td>
<td>Lot Regulations</td>
<td>46</td>
</tr>
<tr>
<td>205.2</td>
<td>Lot Regulations</td>
<td>46</td>
</tr>
<tr>
<td>205.3</td>
<td>Lot Regulations</td>
<td>46</td>
</tr>
<tr>
<td>205.3a</td>
<td>Lot Regulations</td>
<td>46</td>
</tr>
<tr>
<td>205.3b</td>
<td>Lot Regulations</td>
<td>46</td>
</tr>
<tr>
<td>205.4</td>
<td>Lot Regulations</td>
<td>46</td>
</tr>
<tr>
<td>205.5</td>
<td>Lot Regulations</td>
<td>47</td>
</tr>
</tbody>
</table>

## Section 206  Site Plan Review

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>206.1</td>
<td>Purpose</td>
<td>47</td>
</tr>
<tr>
<td>206.2</td>
<td>Applicability of Site Plan Review</td>
<td>47</td>
</tr>
<tr>
<td>206.2a</td>
<td>Applicability of Site Plan Review</td>
<td>47</td>
</tr>
<tr>
<td>206.2b</td>
<td>Applicability of Site Plan Review</td>
<td>47</td>
</tr>
</tbody>
</table>

# i
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>206.2c</td>
<td>Review and Approval Authority</td>
<td>48</td>
</tr>
<tr>
<td>206.2d</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>206.2e</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>206.2f</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>206.3</td>
<td>Classification of Projects</td>
<td>48</td>
</tr>
<tr>
<td>206.4</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>206.4a</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>206.4b</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>206.4c</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>206.5</td>
<td>Fees</td>
<td>40</td>
</tr>
<tr>
<td>206.5a</td>
<td></td>
<td>49</td>
</tr>
<tr>
<td>206.5b</td>
<td></td>
<td>49</td>
</tr>
<tr>
<td>206.5c</td>
<td></td>
<td>49</td>
</tr>
<tr>
<td>206.6</td>
<td>Review Procedures</td>
<td>50</td>
</tr>
<tr>
<td>206.6a</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td>206.6b</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td>206.6c</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td>206.6d</td>
<td></td>
<td>51</td>
</tr>
<tr>
<td>206.6e</td>
<td></td>
<td>51</td>
</tr>
<tr>
<td>206.7</td>
<td>Site Plan Application Submission Requirements</td>
<td>55</td>
</tr>
<tr>
<td>206.7a</td>
<td></td>
<td>55</td>
</tr>
<tr>
<td>206.7b</td>
<td></td>
<td>57</td>
</tr>
<tr>
<td>206.8</td>
<td>Approval Standards and Criteria</td>
<td>63</td>
</tr>
<tr>
<td>206.8a</td>
<td>Utilization of the Site</td>
<td>63</td>
</tr>
<tr>
<td>206.8b</td>
<td>Traffic Access and Parking</td>
<td>64</td>
</tr>
<tr>
<td>206.8c</td>
<td>Accessway Location and Spacing Accessways must meet the following standards</td>
<td>65</td>
</tr>
<tr>
<td>206.8d</td>
<td>Internal Vehicular Circulation</td>
<td>65</td>
</tr>
<tr>
<td>206.8e</td>
<td>Parking Layout and Design</td>
<td>66</td>
</tr>
<tr>
<td>206.8f</td>
<td>Pedestrian Circulation</td>
<td>67</td>
</tr>
<tr>
<td>206.8g</td>
<td>Stormwater Management</td>
<td>67</td>
</tr>
<tr>
<td>206.8h</td>
<td>Erosion Control</td>
<td>68</td>
</tr>
<tr>
<td>206.8i</td>
<td>Water Supply Provisions</td>
<td>69</td>
</tr>
<tr>
<td>206.8j</td>
<td>Sewage Disposal Provisions</td>
<td>69</td>
</tr>
<tr>
<td>206.8k</td>
<td>Utilities</td>
<td>69</td>
</tr>
<tr>
<td>206.8l</td>
<td>Groundwater Protection</td>
<td>69</td>
</tr>
<tr>
<td>206.8m</td>
<td>Water Quality Protection</td>
<td>70</td>
</tr>
<tr>
<td>206.8n</td>
<td>Capacity of the Applicant</td>
<td>70</td>
</tr>
<tr>
<td>206.8o</td>
<td>Historic and Archaeological Resources</td>
<td>70</td>
</tr>
<tr>
<td>206.8p</td>
<td>Floodplain Management</td>
<td>70</td>
</tr>
<tr>
<td>206.8q</td>
<td>Exterior Lighting</td>
<td>70</td>
</tr>
<tr>
<td>206.8r</td>
<td>Buffering of Adjacent Uses</td>
<td>71</td>
</tr>
<tr>
<td>206.8s</td>
<td>Noise</td>
<td>71</td>
</tr>
<tr>
<td>206.8t</td>
<td>Storage of Materials</td>
<td>71</td>
</tr>
<tr>
<td>206.8u</td>
<td>Landscaping</td>
<td>71</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>69</strong></td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>206.8v</td>
<td>Building and Parking Placement</td>
<td>72</td>
</tr>
<tr>
<td>206.8w</td>
<td>Fire Protection</td>
<td>72</td>
</tr>
<tr>
<td>206.9</td>
<td>Limitation of Approval</td>
<td>72</td>
</tr>
<tr>
<td>206.10</td>
<td>Performance Guarantees</td>
<td>73</td>
</tr>
<tr>
<td>206.10a</td>
<td>Performance Guarantee</td>
<td>73</td>
</tr>
<tr>
<td>206.10b</td>
<td>Submission of As-Built Plans</td>
<td>73</td>
</tr>
<tr>
<td>206.11</td>
<td>Minor Changes to Approved Plans</td>
<td>74</td>
</tr>
<tr>
<td>206.12</td>
<td>Appeal of Planning Board Actions</td>
<td>74</td>
</tr>
<tr>
<td></td>
<td><strong>SECTION 300</strong> AQUIFER PROTECTION</td>
<td>75</td>
</tr>
<tr>
<td>301</td>
<td>Purpose</td>
<td>75</td>
</tr>
<tr>
<td>302</td>
<td>Applicability</td>
<td>75</td>
</tr>
<tr>
<td>303</td>
<td>Regulations</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td><strong>SECTION 400</strong> GENERAL REGULATIONS</td>
<td>77</td>
</tr>
<tr>
<td>401</td>
<td>Agriculture</td>
<td>77</td>
</tr>
<tr>
<td>401.1</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>401.2</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>401.3</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>401.4</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>402</td>
<td>Animals</td>
<td>77</td>
</tr>
<tr>
<td>402.1</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>402.2</td>
<td></td>
<td>77</td>
</tr>
<tr>
<td>402.3</td>
<td></td>
<td>78</td>
</tr>
<tr>
<td>402.4</td>
<td></td>
<td>78</td>
</tr>
<tr>
<td>402.5</td>
<td></td>
<td>78</td>
</tr>
<tr>
<td>403</td>
<td>Backlots</td>
<td>78</td>
</tr>
<tr>
<td>403.1</td>
<td></td>
<td>78</td>
</tr>
<tr>
<td>403.2</td>
<td></td>
<td>78</td>
</tr>
<tr>
<td>403.3</td>
<td></td>
<td>78</td>
</tr>
<tr>
<td>404</td>
<td>Beach Construction</td>
<td>78</td>
</tr>
<tr>
<td>405</td>
<td>Campgrounds</td>
<td>78</td>
</tr>
<tr>
<td>405.1</td>
<td></td>
<td>79</td>
</tr>
<tr>
<td>405.2</td>
<td></td>
<td>79</td>
</tr>
<tr>
<td>406</td>
<td>Clustered and Traditional Residential Development</td>
<td>79</td>
</tr>
<tr>
<td>406.1</td>
<td>General</td>
<td>79</td>
</tr>
<tr>
<td>406.2</td>
<td>Clustered Residential Development</td>
<td>80</td>
</tr>
<tr>
<td>406.3</td>
<td>Traditional Residential Development</td>
<td>82</td>
</tr>
<tr>
<td>406.4</td>
<td>Net Residential Density</td>
<td>82</td>
</tr>
<tr>
<td>406.5</td>
<td>Criteria To Be Considered</td>
<td>82</td>
</tr>
<tr>
<td>406.6</td>
<td>Standards For Requiring Clustered Residential Development</td>
<td>82</td>
</tr>
<tr>
<td>406.7</td>
<td>Affordable Housing Developments</td>
<td>83</td>
</tr>
<tr>
<td>407</td>
<td>Multiplex Dwellings</td>
<td>86</td>
</tr>
</tbody>
</table>
417.9
418 Mobile Home Parks
418.1
418.2 Lot size, width and density
418.3 Lot setbacks
418.4 Lot coverage
418.5 Buffering
418.6 Roads
418.7 Utilities
418.8 Lighting
418.9 Storage
418.10 Administration

419 Outdoor Swimming Pools
419.1
419.2
419.3

420 Parking and Loading
420.1 Parking
420.2
420.3 Off-Street Loading
420.4 Parking Areas in the Shoreland Zone

421 Piers, Docks, Wharves, Bridges and Other Structures and Uses
421.1 Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland
421.2
421.3
421.4

422 Private Airports and Private Heliports
422.1
422.2

423 Public Utilities
423.1
423.2
423.3
423.4
423.5
423.6 Public Utilities in the Shoreland Zone

424 Residential Care Facilities
424.1 Review Procedures
424.2 Density and Living Area
424.3 Site and Building Requirements
424.4 Wastewater Disposal
424.5 Occupancy Guarantee and Conversions
424.6 Reserved Units
431.2
431.3
431.4
432
433
433.1
433.2
433.3
433.4
434
434.1
434.2
434.3
435
436

SECTION 500  NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS
501.1
501.2
501.3

SECTION 600  ADMINISTRATIVE PROVISIONS
601
601.1
601.2
601.3
601.4
602
602.1
602.2
602.3
602.4
602.5
602.6
602.7
602.8
602.9
603
603.1
603.2
603.3
603.4
603.5 Successive Appeals 183
603.6 Expiration Rights 183
603.7 Appeals of Shoreland Zoning Decisions 183
603.8 Special Exceptions in the Shoreland Zone 187
603.9 Decision by Board of Appeals for the Shoreland Zone 188
603.10 Appeal to Superior Court for cases in Shoreland Zone 188
603.11 Reconsideration of cases in Shoreland Zone 189
603.12 Legal Actions 189
603.13 Fines 189
  604 Savings Clause 189
  605 Changes and Amendment 190
605.1 190
605.2 190
605.3 190
605.4 190
605.5 190
605.6 191
  606 Contract Zoning 191
  606.1 191
  606.2 Standards 191
  606.3 Conditions 192
  606.4 Notice Requirements and Procedures 192
    607 Violations 193
    607.1 Warning 193
    607.2 Enforcement Actions 193
  607.3 Penalties 193
  608 Outside Consulting Fees 194
    608.1 194
    608.2 194
    608.3 194
    608.4 194
    608.5 194
    608.6 194
    608.7 194
  609 Effective Date 195
SECTION 100 TITLE, PURPOSE, DEFINITIONS

Sec. 101 Title
This ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Chebeague Island, Maine."

Sec. 102 Purpose
The purpose of this Ordinance is to promote public health, safety, and general welfare; to encourage the most appropriate use of land throughout the Town of Chebeague Island (the “Town”); to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to provide a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; and to provide an allotment of land area in new developments sufficient for all public services.

The purposes of the Shoreland Zoning provisions 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.

This Ordinance reflects land use regulations imposed by the Town of Chebeague Island. Additional Federal and/or State approvals, permits, and/or licenses, including from the State of Maine Department of Environmental Protection, United States Environmental Protection Agency, and the United States Army Corps of Engineers, may be required.

Sec. 103 Authority
The Shoreland Zoning provisions of this Ordinance have been prepared in accordance with the provisions of Title 38, Maine Revised Statutes (“M.R.S.”), Sections 435-449. The Shoreland Zone includes all land areas within 250 feet, horizontal distance of the upland edge of a coastal wetland, including all areas affected by tidal action, and the upland edge of a freshwater wetland.
This ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.¹

Sec. 104  **Intent**
Unless otherwise specified, it is the intent of this ordinance that any use not specifically allowed as a permitted use or a special exception use is prohibited.

Sec. 105  **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.

Sec. 106  **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.

Sec. 107  **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.

Sec. 108  **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.

Sec. 109  **Official Zoning Map (Appendix A)**

109.1  **Scale of Map**
The Official 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.

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¹ Coastal wetlands, by definition, include all areas affected by tidal action, not just those areas where salt marshes and salt meadows exist. Cobble and sand beaches, mudflats and rocky ledges, below the Highest Astronomical Tide are all considered to be coastal wetlands.
109.2 Certification of Official Zoning Map
The Official Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

109.3 Changes to the Shoreland Districts on the Official Zoning Map
If amendments are made in the district boundaries or other matters in the Shoreland Districts portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

Sec. 110 Definitions
The word "person" includes an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". Terms not defined shall have their customary dictionary meaning. Other terms shall be defined as follows:

Accessory Building or Use
Accessory Building or Use shall mean subordinate building or use customarily incidental to, and located on the same lot with, the main building or use, including farm markets for the sale of agricultural and similar products where at least 60% of the gross receipts are derived from the sales of products produced or grown, or where some ingredients of products are grown or produced, on the lot. 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.

Acre
An acre means a unit of area measure consisting of 43,560 square feet.

Aggrieved party
Aggrieved Party shall mean 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**
Agriculture shall mean the use of a tract of land for commercial purposes for cultivation and the production of crops, truck gardening, nurseries or greenhouses, or any allied industry, but exclusive of animal husbandry and exclusive of private gardens less than 1/2 acre. Agriculture does not include forest management and timber harvesting activities.

**Agriculture** (applicable in Shoreland overland districts only)
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.

**Airport, Private, Personal Use**
Airport, Private, Personal Use shall mean an airstrip restricted to use by the airstrip owner or lessee, and on an occasional basis, by his invited guests.

**Alternative Tower Structure**
Alternative Tower Structure shall mean clock towers, bell steeples, light poles and water towers, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Animal Husbandry**
Animal Husbandry is the keeping of animals for commercial purposes, including dairying, stock raising, poultry raising, and breeding.

**Antenna**
Antenna shall mean any structure or device used for the purpose of wireless transmitting or receiving electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

**Antenna Array**
Antenna Array shall mean a set of antennas for one carrier or service that are placed on a mount at a given height, and spaced so as to avoid internal interference.
Aquifer
Aquifer shall mean geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water.

Aquaculture
Aquaculture shall mean the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquifer Recharge Area
Aquifer Recharge Area shall mean land area composed of soil or rock that is significantly permeable to allow infiltration and percolation of surface water into an aquifer.

Auto Repair Service Garage
Auto Repair Service Garage shall mean a business establishment engaged in general repair, engine rebuilding, parts replacement, rebuilding or reconditioning of motor vehicles, body, frame or fender straightening and repair, painting and undercoating, but where no engine fuels are sold.

Backlot
Backlot shall mean a lot which does not abut or front on a street, and where access to the road is by a private right-of-way.

Basal Area
Basal Area shall mean the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark

Basement
Basement shall mean 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 Inn
Bed and Breakfast Inn shall mean single family dwelling in which the resident or residents of the dwelling provide overnight lodging to paying guests in a maximum of six guest bedrooms located within the dwelling or permitted attached structures. Total sleeping accommodations shall be for twelve (12) or fewer guests. Breakfast shall be the only meal served to guests and shall be limited to overnight guests. Rentals for more than one month in a calendar year to the same guest(s) are prohibited. The inn shall function as a private home with house guests.

In addition to any other review required under this ordinance, a bed & breakfast inn shall be considered a home occupation and shall be allowed under the conditions and regulations applicable to home occupations
subject to Site Plan Review and approval by the Planning Board if providing four or more guest bedrooms.

A structure shall not be used or occupied as a bed & breakfast inn until the Town of Chebeague Island Fire Chief certifies the structure to be in compliance with applicable sections of the most recent edition of the NFPA 101 Life Safety Code including but not limited to Chapters 20 & 22, all necessary State approvals have been received, and a certificate of use and occupancy has been issued by the Code Enforcement Officer.

**Boarding Care Facility**

Boarding Care Facility shall mean a house or other place having more than two residents which, for consideration, is maintained wholly or partly for the purpose of boarding and caring for the residents. For the purposes of the Town of Chebeague Island Zoning Ordinance, "boarding care facility" shall include only those facilities which have been certified, or which will be certified prior to the issuance of any use permits under this ordinance, by the State of Maine as meeting all licensing and operation regulations for boarding care facilities as promulgated by the Maine Department of Health and Human Services.

**Boarding kennel**

Boarding kennel shall mean any place, building, tract of land or abode in which more than three privately owned dogs or other pets, or both, are kept at any one time for their owners in return for a fee.

**Boat Launching Facility**

Boat Launching Facility shall mean 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**

Building shall mean any structure used or intended for supporting or sheltering any use or occupancy.

**Building Area**

Building Area shall mean a total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

**Building Height**

Building Height shall mean 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.
Bureau of Forestry
State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

Campground
Campground shall mean 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
Canopy shall mean the more or less continuous cover formed by tree crowns in a wooded area.

Cellar
Cellar shall mean that portion of a building that is partly or completely below grade and having at least one-half its height below grade.

Clinic
Clinic shall mean an office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

Cluster System
Cluster System shall mean a subsurface sewage disposal system that receives the effluent from two or more house units, individual homes, or systems in excess of 400 gallons per day.

Clustered Residential Development
Cluster Residential Development shall mean a type of development where building lots are smaller with lot frontages that are shorter than those in a traditional subdivision, are grouped on certain portions of the site that are best suited for development, and other areas remain open and free from development. The homes may or may not be connected to the public sewer system.

Coastal Wetland
Coastal Wetland shall mean 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. All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.
Co-location
Co-location shall mean the location of more than one telecommunications facility (use) on a tower or alternative tower structure.

Commercial Fishing
Commercial Fishing shall mean activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets, and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

Commercial Use
Commercial Use shall mean 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.

Community Living Use
Community Living Use shall mean a state-approved, authorized, certified or licensed group home, or intermediate care facility for mentally retarded group home, for eight or fewer mentally handicapped or developmentally disabled persons.

Condominium
Condominium shall mean a type of real estate ownership in which individual units are owned separately and all of the rest of the property is owned in common by all of the owners of individual units.

Congregate Housing
Congregate Housing shall mean residential housing consisting of private living quarters, with or without cooking facilities, within which a supportive services program is provided to functionally impaired residents who have difficulty living independently without assistance, yet who do not require the level of service available at a nursing home or boarding care facility as herein defined. For the purposes of the Town of Chebeague Island Zoning Ordinance, "congregate housing" shall include only those facilities which have been certified, or which will be certified prior to the issuance of any use permits under this Ordinance, by the State of Maine as meeting all regulations governing the administration of congregate housing services programs for the elderly.

Construction Operations
Construction Operations shall mean the use of a tract of land for the storage of construction equipment and materials used in residential and commercial construction. This use does not include the manufacturing or
processing of concrete and/or asphalt, or the extraction or processing of earth materials.

**Continuing Care Retirement Community**
Continuing Care Retirement Community shall mean a residential care facility, with or without guaranteed lifetime care, which provides any combination of nursing home, boarding care, and congregate housing services as defined herein. For the purposes of the Town of Chebeague Island Zoning Ordinance, “continuing care retirement community” shall include only those facilities which have been certified, or which will be certified prior to the issuance of any use permits under this Ordinance, by the State of Maine as meeting all applicable regulations for nursing homes, boarding care facilities, and congregate housing as promulgated by the Maine Department of Health and Human Services.

**Coverage**
Coverage shall mean that percentage of the lot area covered by the building area.

**Cross-sectional area**
The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**Day Care Home**
Day Care Home shall mean a house or other place conducted or maintained by anyone who provides, on a regular basis and for consideration, care and protection which is required to be licensed by the State, for three to twelve unrelated persons for any part of a day. Any facility, the chief purpose of which is to provide education, shall not be considered to be day care home.

In addition to any other review required under this ordinance, a day care home shall be considered a home occupation and shall be allowed under the conditions and regulations applicable to home occupations.

**Day Care Center**
Day Care Center shall mean a house or other place conducted or maintained by anyone who provides, on a regular basis and for consideration, care and protection for 13 or more children under 16 years
of age, except children related to the operator by blood, marriage or adoption, who are unattended by parents or guardians, for any part of a day, except that any facility the chief purpose of which is to provide education, shall not be considered to be a day care center.

DBH
DBH shall mean the diameter of a standing tree measured 4.5 feet from ground level.

Development
Development shall mean 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
Dimensional requirements shall mean numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability
Disability shall mean 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.

Disruption of shoreline integrity
Disruption of shoreline integrity shall mean the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

District
District shall mean a section or sections of the Town of Chebeague Island for which regulations governing the use of buildings and premises, the size of yards, and intensity of use are uniform.

Driveway
Driveway shall mean a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.
**Duplex**
Duplex shall mean a building used or intended for residential use containing two attached dwelling units.

**Dwelling, Attached**
Dwelling, Attached shall mean a dwelling which shares a common wall with one or more other dwellings, and which has independent outside access.

**Dwelling, Detached**
Dwelling, Detached shall mean a dwelling which is physically separate from any other building, including manufactured housing which is composed of two or more sections joined lengthwise, with the exception of accessory buildings.

**Dwelling Unit**
Dwelling unit shall mean a group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking and eating, the total floor area for which is not less than 600 square feet. In the shoreland a dwelling unit includes rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not dwelling units.

**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 and livestock and property from the threat of destruction or injury.

**Essential services**
Essential services shall include gas, electrical, communication facilities, steam, fuel or water supply, transmission, or distribution systems.

**Expansion of a Structure**
Expansion of a Structure shall mean 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**
Expansion of Use shall mean 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
Family shall mean one or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, but no unrelated group shall consist of more than 5 persons, as distinguished from a group occupying a boarding house, lodging house, or hotel.

Floodway
Floodway shall mean 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
Floor Area shall mean the sum of the gross horizontal area of the floors of a building, enclosed by exterior walls, excluding basement floor areas. All dimensions shall be measured between interior faces of 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.

Forest Management Activities
Forest Management Activities shall include timber cruising and other forest resources evaluation activities, pesticide or fertilizer application, management planning activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands, and other similar associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested Wetland
Forest Wetland shall mean a freshwater wetland dominated by woody vegetation that is twenty (20) feet tall or taller.

Forest Stand
Forest Stand shall mean a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation
Foundation shall mean 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 Wetland shall mean freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

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

B. Inundated or saturated by surface or groundwater 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 subsection.

**Functionally Water-dependent Uses**

Functionally Water-dependent Uses shall include 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 can not be located away from these waters. These 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 aides, 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 and that can not 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.

**Gasoline Station**

Gasoline Station shall mean a building or land that is used for the sale of motor fuel, oil, and motor vehicle accessories, and servicing motor vehicles, and which may include facilities for lubricating or washing, but not including painting, major repairs, storage of vehicles or sales of vehicles.

**Grade**

Grade shall mean a reference plane representing the mean original (prior to construction) average of finished ground level adjoining the building at all exterior walls.
**Ground Cover**
Ground Cover shall mean small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Groundwater**
Groundwater shall mean all water found beneath the surface of the earth.

**Guest House**
Guest House shall mean a separate single-family dwelling intended for the private use of the property owner and located on the same parcel as the principal residential structure. A guest house shall not be leased or rented to a non-family member.

**Harvest Area**
Harvest Area shall mean the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

**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.

**Hazardous Waste**
Hazardous Waste shall mean any substance or materials which are gaseous, liquid, semi-solid or solid, and which are designated as hazardous by the United States Environmental Protection Agency in regulations which have been proposed or finally promulgated pursuant to the United States Resource and Recovery Conservation Act, Public Law 94-580 and amendments to the Act.
Height of a Tower
The Height of a Tower shall mean, when referring to a tower, the distance measured from ground level to the highest point on the tower, even if said point is an antenna.

Heliports, Private, Personal Use
Heliports, Private, Personal Use shall mean a heliport restricted to use by helipad owner or lessee, and on an occasional basis, by his invited guests.

Home Occupations
Home Occupations shall mean an occupation performed or conducted within a dwelling or an accessory structure by the residents thereof, which:

A. Is accessory to a residential use, and;
B. Is clearly incidental and secondary to the residential use of the dwelling unit, and;
C. Does not change the character of the dwelling.

Home occupations may include, but are not necessarily limited to, arts and crafts work, dressmaking, tutoring, music teaching, the use of a portion of a dwelling as a bed and breakfast inn, a day care home, professional offices such as those of a physician, dentist, lawyer, engineer, architect, hairdresser, barber, real estate broker, insurance agent or accountant, or similar uses.

Home-based Occupations
Home-based Occupation shall mean an occupation based or located within a dwelling or an accessory structure which is performed or conducted at a location or locations remote from the dwelling and which:

A. Is accessory to a residential use; and
B. Is clearly incidental and secondary to the residential use of the dwelling unit; and
C. Does not change the character of the dwelling.

Hotel
A building containing individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation, and in which access to all rooms is made through an inside office or lobby.

Impervious Surface
Structures and other man-made improvements to land and materials covering the land which substantially reduce the infiltration of water. Impervious surfaces shall include, but are not limited to, roofs, paved areas, parking lots and driveways, regardless of surface materials.
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.

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.

Junk Yard
A yard, field, or other area used as a place for storage for more than thirty days for three or more unserviceable, discarded, worn-out, or junk motor vehicles. Also a yard, field, or other area used as a place of storage for (a) discarded, worn-out, or junk plumbing, heating supplies, household appliances or furniture and/or (b) discarded, scrapped, or junk lumber and/or (c) old scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, and/or scrap metal.

Land Management Road
A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.
**Landscaping Services**
The business location of a person engaged in the commercial practice of landscaping and who performs or furnishes the labor, and/or materials necessary to maintain or beautify land by contract or consent of the land owner, including, but not limited to; lawn care, planting and care of trees and shrubs, and winter maintenance such as snow removal; but not including retail sales of landscaping materials or tools.

**Leachable Material**
Liquid or solid materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants into the groundwater.

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

**Light Manufacturing**
An establishment which is engaged in the mechanical transformation of materials into new products, including the assembling of component parts, and which has the following characteristics:

A. Does not create any offensive smoke, dust, odor, or other unhealthy or offensive air-borne discharge;
B. Does not create any offensive noise or vibration;
C. Does not include any outdoor storage of equipment or material; and
D. Is designed so that the external appearance of any building is compatible with the neighborhood in which it is located.

**Lodging House**
A building used for temporary occupancy of individuals who are lodged with or without meals and in which bathroom facilities may be shared.

**Lot**
A tract or parcel of land, in the same ownership, provided that parcels located on opposite sides of a public or private road shall be considered each a separate tract or parcel unless such road was established by the owner of the parcels on both sides thereof.

**Lot Area**
Total horizontal area within the property lines excluding any part thereof lying within the boundaries of a public street, or proposed public street and excluding land below the normal high-water line of a water body or upland edge of a wetland. In the shoreland zone land beneath roads serving more than two lots is excluded.
Lot Corner
A lot which has an interior angle of less than 135 degrees at the intersection of two streets. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle less than 135 degrees.

Lot Frontage
For residential uses, the distance measured along a street or public right-of-way, for all other uses the distance measured along a street.

Lot Line
Property line bounding a lot.

A. Lot line, front: The lot line separating a lot from a street or other right-of-way providing access to the lot.

B. Lot line, rear: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line ten feet in length that is located entirely within the lot and is parallel to and at a maximum distance from the front lot line. On a lot that abuts more than one street, the rear lot line shall be that line opposite the shortest front lot line. Where all front lot lines are the same length, the rear lot line shall be designated by the owner as part of the first application for a building permit submitted for the lot after the effective date of this section.

C. Lot line, side: Any lot line other than a front or rear lot line.

Manufactured Housing
This term shall be as defined in 30-A M.R.S. § 4358, as amended from time to time, and shall include both "mobile homes" and "modular homes" as defined therein.

Marina
A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore mooring 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.

**Mobile Home Park**
Mobile home park means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.

**Mobile Home Park Lot**
Mobile home park lot means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home.

**Multiplex**
A multiplex shall mean an existing single-family dwelling converted to a dwelling containing more than two attached dwelling units.

**Municipal Uses or Buildings**
Municipal uses or buildings shall mean any use or building maintained by the Town of Chebeague Island.

**Native**
Native means indigenous to the local forests.

**Net Residential Acreage**
Net residential acreage shall be determined by subtracting from gross acreage available the following:

A. 15% for roads and parking.
B. Land which is cut off from the main parcel by a road, existing land uses, a utility easement or right-of-way or major stream so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes. (Final determination by Planning Board.)

C. Other areas which are difficult to develop in their natural state because of topography, drainage or subsoil conditions. Specific conditions include but are not limited to:

1. Slopes in excess of 20% sustained for 30,000 square feet or more;
2. Wetlands as defined in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands dated 1/10/89 and as amended from time to time;
3. Land shown to be in a 100 year flood zone as shown on the Flood Insurance Rate Map (FIRM) (Appendix C);
4. Land in rights-of-way or easements, but not including land in open space easements under Sec. 407;
5. Resource Protection Districts.

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.

Nursery School  
A house or other place in which a person or combination of persons maintains or otherwise carries out for consideration, during the day, a regular program which cares for three or more children, provided that:

\[ \begin{align*}  
A. & \quad \text{No session conducted for the children is longer than 3 1/2 hours in length;} \\
B. & \quad \text{No more than 2 sessions are conducted per day;} \\
C. & \quad \text{Each child in attendance at the nursery school attends only one session per day;} \quad \text{and} \\
D. & \quad \text{No hot meal is served to the children.} 
\end{align*} \]

The term does not include any facility operated as a day care center, a summer camp established solely for recreational and educational purposes or a public or private school in the nature of a kindergarten approved by the Commissioner of Educational and Cultural Services, in accordance with State statute as amended from time to time.

Outdoor Recreational Facility  
A place designed and equipped primarily for the conduct of non-motorized outdoor sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities, amusement parks, campgrounds, and which has the following characteristics:

\[ \begin{align*}  
A. & \quad \text{the total area of all buildings and structures, parking lots and other non vegetated surfaces not exceed 10% of the total lot area.} \\
B. & \quad \text{exterior lighting shall be used for the purposes of ensuring safe movement of people and vehicles, but not to provide illumination for nighttime use of the outdoor activity.} 
\end{align*} \]

The above notwithstanding, nothing in this definition may be read to prohibit the continued use by snowmobiles of existing snowmobile trails.

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.

**Parking Lot**
An off-street area for more than three cars.

**Parking Space**
Off-street space used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and twenty-two feet long, not including access driveway, and have direct access to a street or alley.

**Permitted Use**
A use specifically allowed in a zoning district, excluding non-conforming uses and special exceptions.

**Personal Services**
Businesses providing services of a personal nature, such as barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, or photographic studio.

**Piers, Docks, Breakwaters, Causeways, Floats Marinas, Bridges and Other Structures and Uses Extending over or Beyond the Normal High-water line or Within a Wetland**

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

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

**Piggery**
A building or portion thereof, or an enclosure, used or designed for the keeping of more than five pigs more than six months old.

**Practical Difficulty**
Practical difficulty shall mean that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner. An applicant for a practical difficulty variance must show compliance with the following standards:

A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

C. The practical difficulty is not the result of action taken by the petitioner or a prior owner;

D. No other feasible alternative to a variance is available to the petitioner;

E. The granting of a variance will not unreasonably adversely affect the natural environment; and

F. The property is not located in whole or in part within the shoreland areas as described in 38 M.R.S. § 435.

For the purposes of this section, “dimensional standards” means and is limited to ordinance provisions relating to lot coverage, frontage and setback requirements.

**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.

**Private Club**
Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

**Private kennel**
Any premises used for the harboring of more than three dogs under one ownership that are more than 6 months old.

**Privy**
A pit in the ground into which human excrement is disposed.

**Professional Office**
A building singularly used for the individual or group practice of doctors, lawyers, dentists, optometrists, architects, engineers, accountants, realtors, insurance agents, or a building used for the branch office of a bank.
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 Flood Plain Soils
The following soils series as described and identified by the National Cooperative Soil Survey:

- Alluvial
- Cornish
- Charles
- Fryeburg
- Hadley
- Limerick
- Lovewell
- Medomak
- Ondawa
- Podunk
- Rumney
- Saco
- Suncook
- Sunday
- Winooski

Recreational Facility
A recreational facility is 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 recreational vehicle is 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 of Maine Bureau of Motor Vehicles.

Religious Institution
Includes church, temple, parish house, convent, or seminary.

Replacement System
A subsurface wastewater disposal 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 Care Facility
A facility defined herein as a boarding care facility, congregate housing, community living use, or continuing care retirement facility.

Residual Basal Area
The average of the basal area of trees remaining on a harvested site.
Residual Stand
A stand of trees remaining in the forest following timber harvesting and related activities.

Retail Store
Any shop or store for the retail sale of goods or personal services, excluding any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

Riding Stable
Any place at which horses or ponies are kept for hire either with or without instructions in riding.

Rip-rap
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.

Right-of-way
A legally created public or private right to pass over the property of another. A private right-of-way is one that is created through a deed; a public right-of-way may be created through a deed, through dedication and acceptance, through laying out and taking or by public prescriptive use. A street right-of-way shall include all land within the lines of the street, whether improved or unimproved.

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 threesquare 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.

School
A public or private kindergarten, elementary or secondary school, approved as such by the State of Maine, including accessory uses thereto, and providing instructional services to more than ten students.

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:

A. in the case of electric service
   1. 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
   2. the total length of the extension is less than one thousand (1,000) feet.

B. in the case of telephone service
   1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
   2. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback
The shortest horizontal distance between a lot line and any structure on a lot; except that for purposes of regulation of lots, buildings, structures and uses located within the shoreland area, setback shall also mean the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or the upland edge of a wetland including a coastal wetland adjacent to tidal waters, to the nearest part of a structure, road, parking space or other regulated object or area. A street or other right-of-way, other than a driveway that serves no more than two (2) residential lots, that is or may be utilized for motor vehicle access or a street shown
on a subdivision plan recorded in the Registry of Deeds in which the Town of Cumberland (prior to July 1, 2007) or the Town of Chebeague Island (on or after July 1, 2007) has reserved its right under the provisions of 23 M.R.S. § 3032 shall not be included within a setback. Where a street or other right-of-way that is or may be used for motor vehicle access, other than a driveway that serves no more than two residential lots, is located within the boundaries of a property, the required setback shall be measured from the nearest edge of the street or right-of-way rather than the property line.

**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.

**Shoreland Area**
The land area located within two hundred and fifty (250) feet, horizontal distance, of

- A. the upland edge of a coastal wetland, including all areas affected by tidal action
- B. the upland edge of a freshwater wetland,
- C. which land area shall consist of the following overlay zoning districts as shown on the Official Zoning Map(s) which is (are) made a part of this Ordinance:
  1. Shoreland Resource Protection Overlay District
  2. Resource Protection/Floodplain Overlay District
  3. Limited Residential Overlay District
  4. Limited Commercial Overlay District
  5. Commercial Fisheries/Maritime Activities Overlay District.

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

**Signs**
The display of a word or words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, pictures, trade names, trade marks by which anything is made known, and/or combination of these shall be deemed signs.
**Skid Road or Skid Trail**
A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

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

**Special Exception**
A use that would not be appropriate generally or without restriction throughout a zoning district by which, if controlled as to number, areas, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district by the Board of Adjustment and Appeals, if specific provision for such special exceptions is made in this Zoning Ordinance.

**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.

**Story**
That portion of a building including between the upper surface of a floor and the upper surface of the floor or roof next above.

**Stream**
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.

**Streets**
Any vehicular right-of-way that is (1) an existing Town, state or county road: (2) shown upon a subdivision plat approved by the Planning Board; (3) accepted or laid out and taken through action of the Town Meeting; (4) a private right-of-way approved by the Town in accordance with the provisions of Section 425 of this Ordinance; or (5) a street shown on a subdivision plan in which the Town of Cumberland (prior to July 1, 2007) or the Town of Chebeague Island (on or after July 1, 2007) has reserved rights under the provisions of 23 M.R.S. § 3032.
Structure
Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guyins and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Structure (applicable in Shoreland overland districts only)
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.

Structural Alteration:
Any change to a structure, other than simple replacement in the supporting members, such as posts, columns, plates, joists, or girders.

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. § 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.

Telecommunications Facility
Telecommunications facility shall mean any structure, antenna, tower, or other device which provides radio/television transmission,
telecommunications services, or any other spectrum-based transmissions/receptions, together with the facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightening rods, electronic and other types of equipment for the transmission, receipt, distribution or offering of such services.

**Tidal waters**
All waters affected by tidal action during the maximum spring 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 Sec. 427.5.

Activities related to timber harvesting include the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Tower**
Tower shall mean any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

**Traditional Residential Development or Subdivision**
A type of development where building lots are at least the minimum lot size for the district in which it is located. A small portion of the lot may remain open and free from development.

**Trailer**
A vehicular portable structure designed as a temporary dwelling for travel or recreational uses, not more than eight feet in body width and thirty-two (32) feet in body length.

**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
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 only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Undue Hardship
For any sign or height variance or for any structure that is located on a lot that is in whole or in part in a shoreland area, undue hardship shall mean:

A. The land in question cannot yield a reasonable return unless a variance is granted;

B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

C. The granting of a variance will not alter the essential character of the locality; and

D. The hardship is not the result of action taken by the applicant or a prior owner

110.166 Upland Edge
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 Astronomical 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.

[Note: The Highest Astronomical Tide is the elevation of the highest observed astronomical tide over the current or most recent 19-year National Tidal Datum Epoch (1983 to 2001)
**Variance**
A relaxation of the terms of this Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of setbacks and lot coverage and/or the size of signs; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

For Shoreland Areas a variance shall also be authorized for percent of lot coverage, lot width, lot area, setbacks, substantial expansions and water frontage requirements.

**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 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

**Windfirm**
The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

**Woody Vegetation**
Live trees or woody, non-herbaceous shrubs.
SECTION 200 ZONING DISTRICTS

Sec. 201 Zoning Map and Districts

The zoning map officially entitled "Town of Chebeague Island Zoning Map" dated July 1, 2007 (Appendix 1), and on file in the office of the Town Clerk and filed with the Cumberland County Registry of Deeds is hereby adopted as part of this ordinance. Regardless of the existence of other printed copies of the zoning map, the said zoning map on file and as officially adopted by the Town of Chebeague Island Town Meeting shall be the final authority as to the location of zoning districts in the Town; provided, however, that notwithstanding said zoning map, the entire surface area of the following islands is contained within the Resource Protection district: Bangs Island, Little Chebeague Island, Stockman Island, Jewel Island, Little Jewel Island, West Brown Cow Island, Crow Island, Broken Cove Island, Goosenest Island, Rogues Island, Upper Green Islands, and Sand Island.

The Town of Chebeague Island Zoning Map divides the Town into the following districts:

Island Residential (IR)
Island Business (IB)

Shoreland Zoning Overly Districts:

- Shoreland Resource Protection Overlay (RP)
- Resource Protection/Floodplain Overlay (RP/FP)
- Limited Residential Overlay (LR)
- Limited Commercial Overlay District (LC)
- Commercial Fisheries/Maritime Activities Overlay (CFMA)

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

Sec. 202 District Boundaries

Where uncertainty exists with respect to the boundaries of the various zones as shown on the official zoning map, the following rules shall apply:

202.1
Unless otherwise indicated, district boundaries shown within the lines of roads, streams and transportation rights of way shall be deemed to follow
center lines. The abandonment or non-use of roads shall not affect the location of such district boundaries. Development of property which is in more than one zoning district shall be controlled by the classification of the area to be used.

202.2
The depictions of the shoreland zoning districts on the official zoning map are illustrative of the general location of such zones. The actual boundaries of these zones may be determined by an on-site evaluation done by an appropriate professional using the criteria established in Section 204.2 of this Ordinance, provided the on-site evaluation is reviewed and approved by the Code Enforcement Officer. Where such measurement is not the same as the location of the boundary on the official zoning map, the on-site measurement shall control, unless the official zoning map indicates that the zone boundary shall follow an existing property line.

Sec. 203 District Objectives

203.1
No building shall hereafter be erected or altered to house a greater number of families, or to have a smaller setback, or to occupy a smaller lot, than is specified herein for the district in which such building is located.

203.2
No use of land or buildings shall be allowed, nor shall any building be erected or altered for a use, which use is not specifically allowed within the district in which it is located, except as permitted under Section 500, Nonconforming Uses.

203.3
No parcel of land shall be subdivided into lots smaller than the minimum lot size specified for the district in which the parcel is located, except as allowed under Section 205, Lot Regulations.

Sec. 204 District Regulations

204.1 Island Residential District (IR)

A. The following uses are permitted in the IR district:

1. Single family detached dwellings and duplex dwellings,2

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2 Accessory apartments and “manor houses” are also allowed in the IR district. They are defined and regulated under Sec. 408: Conversions.
2. Manufactured housing and mobile home parks as defined in 30-A M.R.S. § 4358(1);
3. Agriculture;
4. Uses related to commercial fishing, including storage and repair of traps, seines, boats and other equipment, the keeping and cooking of fish for sale at retail on the premises, and fish processing as a home occupation;
5. Timber Harvesting;
6. Private Heliport for Personal Use, subject to Site Plan Review and to the provisions of Section 422;
7. Antennas as defined in Sec. 110.8, subject to Site Plan Review, and Section 43;
8. Uses and buildings accessory to those above.

B. The following uses are allowed as special exceptions in the IR district, requiring the approval of the Board of Adjustment and Appeals:

1. Home occupations;
2. Above ground utility lines not located in a public way;
3. Private kennels;
4. Temporary sawmill, subject to the provisions of Sec. 431;
5. Excavation of lands, subject to the provisions of Sec. 412;
6. Animal husbandry;
7. Municipal buildings and uses, subject to Site Plan Review;
8. Accessory structures of public utilities, subject to Site Plan Review;
9. Cemeteries, subject to Site Plan Review;
10. Private clubs, subject to Site Plan Review;
11. Religious institutions, subject to Site Plan Review;
12. Funeral homes, subject to Site Plan Review;
13. Any use permitted in Island Business (IB), subject to Site Plan Review;
14. Boat building, storage, or marina, subject to Site Plan Review;
15. Private schools, subject to Site Plan Review;
16. Boarding kennels, subject to Site Plan Review;
17. Riding stable, subject to Site Plan Review;
18. Professional office building, subject to Site Plan Review;
19. Campgrounds;
20. Extraction and/or bulk storage of ground water subject to the provisions of Sec. 434;
21. Day care centers and nursery schools, subject to the provisions of Section 410 and Site Plan Review;
22. Uses and buildings accessory to those above.
C. The following lot standards shall apply to all lots within the IR district created on August 1, 1975 or later:

1. 1.5 acre minimum lot size;
2. In the case of duplex development, there shall be no less than 0.94 acres of lot area per dwelling unit;
3. There shall be no less than 150 feet of lot frontage.

D. The following minimum setbacks are required for all structures in the IR district that are more than 1.5 acres in size or that were created on or after August 1, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:

1. Front: 55 feet;
2. Rear: 65 feet;
3. Side: 30 feet - combined width at least 65 feet;
4. Shoreland setbacks shall be as required by Section 427.

E. The following minimum setbacks are required for all lots in the IR district that are less than 1.5 acres and that were created on or before July 31, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:

1. Front: 25 feet;
2. Rear: 20 feet;
3. Side: 20 feet;
4. Shoreland setbacks shall be as required by Section 427.

204.2 Shoreland Area Overlay Districts

A. Definition of Districts

1. Resource Protection Overlay District (RP)
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, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, or Commercial Fisheries/Maritime Activities Overlay Districts need not be included within the Resource Protection Overlay District.
a. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006.

b. Floodplains adjacent to tidal waters defined by the 100 year floodplain as designated on the or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

b. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

d. 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.

e. Land areas adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs as shown in the Coastal Bluff maps in Appendix B.

2. Resource Protection/Floodplain Overlay District (RP/FP) Areas of 100 year floodplains adjacent to tidal waters as shown on Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps (Appendix C).

3. Limited Residential Overlay District (LR) The Limited Residential Overlay District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection Overlay District, and areas which are used less intensively than those in the Limited Commercial Overlay District, or the Commercial Fisheries/Maritime Activities Overlay District.

4. Limited Commercial Overlay District (LC)
The Limited Commercial District includes areas of mixed, light commercial and residential uses. 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.

5. Commercial Fisheries/Maritime Activities District (CFMA)
The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in Table 1: Land Uses in the Shoreland Zone and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

a. Shelter from prevailing winds and waves;

b. Slope of the land within 250 feet, horizontal distance, of the shoreline;

c. Depth of the water within 150 feet, horizontal distance, of the shoreline;

d. Available support facilities including utilities and transportation facilities; and

e. Compatibility with adjacent upland uses.

B. Table of Land Uses in Shoreland Zone
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 Sec. 427. 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 Overlay District
RP/FP - Resource Protection/Floodplain Overlay District
LR - Limited Residential Overlay District
LC - Limited Commercial Overlay District
CFMA - Commercial Fisheries/Maritime Activities Overlay District
MFS – Maine Forest Service
### TABLE 1. LAND USES IN THE SHORELAND ZONE

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>DISTRICT</th>
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<tbody>
<tr>
<td></td>
<td>RP</td>
</tr>
<tr>
<td>1. Non-intensive recreational uses not requiring structures such as</td>
<td>Yes</td>
</tr>
<tr>
<td>hunting, fishing and hiking</td>
<td></td>
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<tr>
<td>2. Motorized vehicular traffic on existing roads and trails and</td>
<td>Yes</td>
</tr>
<tr>
<td>snowmobiling</td>
<td></td>
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<td>3. Forest management activities except for timber harvesting and land</td>
<td>Yes</td>
</tr>
<tr>
<td>management roads</td>
<td></td>
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<tr>
<td>4. Timber harvesting&lt;sup&gt;3&lt;/sup&gt;</td>
<td>MFS</td>
</tr>
<tr>
<td>5. Clearing or removal of vegetation for activities other than</td>
<td>CEO</td>
</tr>
<tr>
<td>timber harvesting&lt;sup&gt;3&lt;/sup&gt;</td>
<td></td>
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<td>6. Fire prevention activities</td>
<td>Yes</td>
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<td>7. Wildlife management practices</td>
<td>Yes</td>
</tr>
<tr>
<td>8. Soil and water conservation practices&lt;sup&gt;3&lt;/sup&gt;</td>
<td>Yes</td>
</tr>
<tr>
<td>9. Mineral exploration&lt;sup&gt;3&lt;/sup&gt;</td>
<td>CEO</td>
</tr>
<tr>
<td>10. Mineral extraction including sand and gravel extraction&lt;sup&gt;3&lt;/sup&gt;</td>
<td>PB&lt;sup&gt;2&lt;/sup&gt;</td>
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<tr>
<td>11. Surveying and resource analysis</td>
<td>Yes</td>
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<td>12. Emergency operations</td>
<td>Yes</td>
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<tr>
<td>13. Agriculture&lt;sup&gt;3&lt;/sup&gt;</td>
<td>PB</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td>PB</td>
</tr>
<tr>
<td>15. Principal structures and uses&lt;sup&gt;3&lt;/sup&gt;</td>
<td>No&lt;sup&gt;9&lt;/sup&gt;</td>
</tr>
<tr>
<td>A. One and two family residential, including driveways&lt;sup&gt;3&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td>B. Commercial&lt;sup&gt;3&lt;/sup&gt;</td>
<td>No</td>
</tr>
<tr>
<td>C. Industrial&lt;sup&gt;3&lt;/sup&gt;</td>
<td>No</td>
</tr>
<tr>
<td>D. Governmental and institutional&lt;sup&gt;3&lt;/sup&gt;</td>
<td>No</td>
</tr>
<tr>
<td>E. Small non-residential facilities for educational, scientific, or</td>
<td>PB</td>
</tr>
<tr>
<td>nature interpretation purposes&lt;sup&gt;3&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses&lt;sup&gt;3&lt;/sup&gt;</td>
<td>PB&lt;sup&gt;6&lt;/sup&gt;</td>
</tr>
<tr>
<td>17. Piers, docks, wharfs, bridges and other structures and uses</td>
<td>CEO&lt;sup&gt;10&lt;/sup&gt;</td>
</tr>
<tr>
<td>extending over or below the normal high-water line or within a</td>
<td></td>
</tr>
<tr>
<td>wetland&lt;sup&gt;3&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td>A. Temporary</td>
<td>CEO&lt;sup&gt;10&lt;/sup&gt;</td>
</tr>
<tr>
<td>B. Permanent</td>
<td>PB</td>
</tr>
<tr>
<td>18. Conversions of seasonal residences to year-round residences&lt;sup&gt;3&lt;/sup&gt;</td>
<td>LPI</td>
</tr>
<tr>
<td>19. Home occupations</td>
<td>PB</td>
</tr>
</tbody>
</table>
20. Private sewage disposal systems for allowed uses.

21. Essential services

<table>
<thead>
<tr>
<th>Services</th>
<th>CEO</th>
<th>CEO</th>
<th>LPI</th>
<th>LPI</th>
<th>LPI</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Roadside distribution lines (34.5kV and lower)</td>
<td>CEO</td>
<td>CEO</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>B. Non-roadside or cross-country distribution lines involving ten poles or less in the Shoreland zone</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>C. Non-roadside or cross-country distribution lines involving eleven or more poles in the Shoreland zone</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>D. Other essential services accessory to permitted uses</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
</tbody>
</table>

22. Service drops, as defined to allowed uses

Yes Yes Yes Yes Yes

23. Public and private parks and recreation areas involving minimal structural development

PB PB PB CEO CEO

24. Individual, private campsites

CEO CEO CEO CEO CEO

25. Campgrounds

No No PB PB No

26. Road construction

No No PB PB PB

27. Land management roads

PB PB Yes Yes Yes

28. Parking facilities

PB No PB PB PB

29. Marinas

PB No PB PB PB

30. Filling and earth moving of <10 cubic yards

CEO CEO Yes Yes Yes

31. Filling and earth moving of >10 cubic yards

PB PB CEO CEO CEO

32. Signs

Yes Yes Yes Yes Yes

33. Uses similar to allowed uses

CEO CEO CEO CEO CEO

34. Uses similar to uses requiring a CEO permit

CEO CEO CEO CEO CEO

35. Uses similar to uses requiring a PB permit

PB PB PB PB PB

---

1Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

2In RP not allowed in areas so designated because of wildlife value.

3A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S. § 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland 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.

4Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

5Functionally water-dependent uses and uses accessory to such water dependent uses only.

6Provided that a variance from the setback requirement is obtained from the Board of Appeals.

7See further restrictions in Sec. 423.6.B.

8Except as provided in Sec. 425.2.C.

9Single family residential structures may be allowed by special exception only according to the provisions of Sec. 603.8, Special Exceptions. Two-family residential structures are prohibited.

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

11Permit not required, but must file a written “notice of intent to construct” with CEO.
C. Land Use Standards

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

   a) Minimum Lot Standards

   (1)  Minimum Lot Area (sq. ft.)  Minimum Shore Frontage (ft.)

   (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
        principle structure
        (i) Within the Shoreland Zone
            Adjacent to Tidal Areas, Exclusive of those Areas Zoned
            for Commercial Fisheries and Maritime Activities
            40,000  200
        (ii) Within the Shoreland Zone
            Adjacent to Tidal Areas Zoned
            for Commercial Fisheries and Maritime Activities
            NONE  NONE
        (iii) 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 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.
204.3 Island Business District (IB)
Site plan review and approval by the Planning Board is required for all permitted uses and special exceptions, with the exception of single-family dwellings, day care homes, bed & breakfast inns with three or fewer guest bedrooms, home occupations, agriculture, and animal husbandry and uses related to commercial fishing as allowed in 204.3.A.4 below.

A The following uses are permitted within the IB District:

1. Single family detached dwellings and duplex dwellings;
2. Manufactured housing and mobile home parks as defined in 30-A M.R.S. § 4358(1);
3. Retail stores;
4. Uses related to commercial fishing, including, but not limited to, storage and repair of boats and equipment, the keeping and cooking of fish for retail sale on the premises, and fish processing as a home occupation;
5. Marinas, and other facilities for building and storage of boats;
6. Personal services;
7. Private clubs;
8. Restaurants;
9. Private schools;
10. Municipal buildings and uses;
11. Religious institutions;
12. Private Heliport, Personal Use, subject to Site Plan Review and to the provisions of Sec. 422;
13. Home occupations (special exception not required notwithstanding Sec. 415);
14. Auto repair service garage;
15. Residential Care Facility;
16. Agriculture;
17. Timber harvesting;
18. Public Facility,
19. Business/professional offices;
20. Uses and buildings accessory to those above.

B. The following uses are allowed in the IB District as special exceptions, requiring the approval of the Board of Adjustment Appeals:

1. Accessory structures of public utilities;
2. Above ground utility lines not located in a public way;
3. Gasoline stations, and other facilities for the retail sale and storage of petroleum products;
4. Funeral homes;
5. Day care centers and nursery schools, subject to the provisions of Sec. 410 and Site Plan Review;
6. Residential care facilities,
7. Animal husbandry
8. Telecommunications Facilities, subject to Site Plan Review and the provisions of Sec. 430,
9. Uses and buildings accessory to those above.

C. The following lot standards shall apply to all lots within the IB District created on August 1, 1975 or later:
   1. 1.5 acre minimum lot size for single family detached dwellings;
   2. In the case of duplex development, there shall be no less than 0.94 acres of lot area per dwelling unit;
   3. There shall be no less than 150 feet of lot frontage on a public right-of-way.

D. The following setbacks are required for all structures in the IB District that are more than 1.5 acres in size or that were created on or after August 1, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:
   1. Front: 55 feet;
   2. Rear: 65 feet;
   3. Side: 30 feet - combined width at least 65 feet;
   4. Shoreland setbacks shall be as required by Section 427.

E. The following minimum setbacks are required for all lots in the IB district that are less than 1.5 acres and that were created on or before July 31, 1975, except that sheds and driveways are permitted to a minimum setback of fifteen (15) feet from the side and rear lot lines:
   1. Front: 25 feet;
   2. Rear: 20 feet;
   3. Side: 20 feet
   4. Shoreland setbacks shall be as required by Section 427.
Sec. 205 Lot Regulations

205.1 Lots which abut on more than one street shall provide the required front setbacks along each and every public street on which that lot abuts, unless a public street was created and built by someone other than the owner of the lot or the subdivider of the land from which the lot was created after the issuance of a building permit for the lot.

205.2 No structures, whether attached to the principal structure or not, and, whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall project beyond the setbacks provided in this Ordinance.

205.3 In any district, notwithstanding limitations imposed by other provisions of this Ordinance, a single lot of record at the effective date of adoption of this Ordinance may be built upon subject to the following conditions:

A. Such a lot must be in a separate and distinct ownership from adjacent lots on said date. This provision shall apply even though such lots fail to meet the minimum requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions of the lot shall conform to the requirements for the district in which the lot is located. Variance of setback requirements shall be obtained only through action of the Board of Adjustment and Appeals.

B. If two or more lots or combinations of lots and portions of lots with continuous frontage are in single ownership at the time of the passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an individual parcel for the purpose of this Ordinance and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this Ordinance.

205.4 In the IR and IB districts, notwithstanding limitations imposed by other provisions of this Ordinance, a lot containing at least 20,000 square feet, as shown on a plan of a subdivision duly approved and recorded in the Cumberland County Registry of Deeds on or before July 31, 1975, and
irrespective of whether said lot was in separate and distinct ownership from adjacent lots on said date, may be built upon subject to the conditions in sec 204.1.C, D, and E, or sec. 204.3.C, D, and E. [Amended Sept. 13 2008]

205.5
No lot shall be reduced in size by conveyance of a portion thereof unless both of the following standards are met: (a) the remaining land is in conformance with the minimum lot size provided for the zoning district in which that land is located, and (b) unless the land conveyed is in conformance with said minimum lot size, or is conveyed to the owner of the abutting property.

Sec. 206 SITE PLAN REVIEW

206.1 Purpose
The site plan review provisions set forth in this section are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that non-residential construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater; erosion; and sedimentation; protection of the groundwater; protection of the environment; wildlife habitat; fisheries; and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

206.2 Applicability of Site Plan Review
A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

A. The construction or placement of any new building or structure for a use identified in Sec. 204 District Regulations, or the construction, placement, or alteration of any telecommunications facility.

B. The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.
C. The conversion of an existing building, in whole or in part, from a residential use to any non-residential use included in Section 204 District Regulations of this Ordinance.

D. The establishment of a new use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other non structural nonresidential uses.

E. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on - or off-site impacts of the use subject to the standards and criteria of site plan review described in Section 206.8.

F. The construction or expansion of paved areas or other impervious surfaces, including access drives, and parking lots.

206.3 Review and Approval Authority

The Planning Board is authorized to review and act on site plans for both minor developments and major developments as defined below. In considering site plans under this section, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

206.4 Classification of Projects

A. The Town Administrator shall classify each project as a major or minor development. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.

B. Minor developments shall include those projects involving the construction or addition of fewer than five thousand (5,000) square feet of gross nonresidential floor area or projects involving only the installation of impervious surfaces, or projects involving the conversion of existing buildings or structures from one use to another without enlargement of the gross floor area.

C. Major developments shall include projects involving the construction or addition of five thousand (5,000) or more
square feet of gross nonresidential floor area, or other projects requiring review which are not classified as minor developments.

206.5 Fees

A. Application Fee
Any application for minor or major site plan review must be accompanied by an application fee set by order of the Board of Selectmen. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, staff review, and similar costs. The fee shall not be refundable.

B. Site Inventory and Analysis Fees
All site plan applications for major developments are subject to Site Inventory and Analysis review. Prior to submitting a site inventory and analysis for a major development, the applicant must pay a processing fee in an amount as set by order of the Board of Selectmen. The fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, staff review, and similar costs.

C. Technical Review Fee
In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the municipality's legal and technical costs of the application review. This fee must be paid to the municipality and shall be deposited in an escrow account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, in the account after the payment by
Town of all costs and services related to the review, provided, however, that where the cost of technical reviews exceeds the amount of monies in the escrow account the applicant shall pay to the Town prior to the issuance of any building permit the amount by which the technical reviews exceed the amount of monies in the escrow account.

206.6 Review Procedures
The Planning Board shall use the following procedures in reviewing applications for site plan review.

A. Pre application
Prior to submitting a formal application, the applicant or his/her representative may request a pre application conference with the Planning Board. The pre application conference shall be informal and informational in nature. There shall be no fee for a pre application review, and such review shall not cause the plan or any related application to be a pending application or proceeding under 1 M.R.S. § 302. No decisions on the substance of the plan shall be made at the pre application conference.

B. Purpose
1. Allow the Board to understand the nature of the proposed use and the issues involved in the proposal,
2. Allow the applicant to understand the development review process and required submissions,
3. Identify issues that need to be addressed in future submissions, and
4. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

C. Site Inspection
The Board may schedule a site inspection if deemed necessary, and offer guidance on any requests for waivers and variations from the submission requirements.

A written notice for such site inspections shall be posted at the Town Office and published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven (7) days prior to the site
inspection. Notice shall also be sent by first class mail to all property owners of record within five hundred (500) feet of the parcel on which the proposed development is located.

D. Information Required
There are no formal submission requirements for a pre application conference. However, the applicant should be prepared to discuss the following with the Board:

1. The proposed site, including its location, size, and general characteristics,

2. The nature of the proposed use and potential development,

3. Any issues or questions about existing municipal regulations and their applicability to project, and

4. Any requests for waivers from the submission requirements.

E. Application Submission and Review Procedures

1. Minor Development Submission Procedure
Projects classified as minor developments shall go through a simplified review process. Applicants shall not be required to submit a site inventory and analysis and may proceed directly to preparing and submitting a formal site plan review application including the development plan and supporting documentation meeting the submission requirements. This material must be submitted to the Planning Board. The Planning Board shall have the authority to waive any review standards if it finds they are inapplicable to a minor site plan application.

2. Major Development Submission Procedure
   a) Applicants with projects classified as major developments must submit a site inventory and analysis for Planning Board review. This review must be completed prior to the preparation and submission of a site plan review application and supporting documentation. The Board shall review the site inventory and analysis with the applicant and shall authorize the submission of the formal application when the site analysis is complete. The
site inventory and analysis must be submitted to the Planner.

b) Upon receipt of a site inventory and analysis, the Town Administrator shall give a dated receipt to the applicant. Within thirty (30) days of the receipt of a site inventory and analysis submission for a major development, the Town Administrator shall review the material and determine whether or not the submission is complete. If the submission is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional material required to make the submission complete, and shall advise the applicant that the application will not be reviewed until the additional information is submitted. When the submission is determined to be complete, the applicant shall be notified in writing of this finding and the item placed on the agenda for informal review by the Board.

c) The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. A written notice for such site inspections shall be posted at the Town Office and published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven (7) days prior to the site inspection. Notice shall also be sent by first class mail to all property owners of record within five hundred (500) feet of the parcel on which the proposed development is located.

d) Within forty-five (45) days of the finding that the site inventory and analysis submission is complete, the Board shall complete its review of the submission and notify the applicant in writing of its findings.

3. Site Inventory and Analysis Review Procedure
(Major developments only)
The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The parties identified in section 206.6.E.4.a below shall be notified of the time, date, and place of the Board meeting at which the site inventory and analysis will be reviewed. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application. The Board shall also act on any requests for waivers.

4. Site Plan Application Review Procedure
   (Minor and Major Developments)
   
a) Upon receipt of a formal site plan review application, the Town Administrator shall give a dated receipt to the applicant and shall notify by first-class mail all property owners of record within five hundred (500) feet of the parcel on which the proposed development is located. The determination of the names and owners shall be based upon the records of the local Assessor's records. The notice shall specify the location of the proposed development and provide a general description of the project. Written notice of the pending application shall be mailed to a newspaper or newspapers in general circulation and posted at the Town Office.

b) Within thirty (30) days of the receipt of a formal development review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete, and shall advise the applicant that the application will not be reviewed until the additional information is submitted. Failure to submit the additional information within six months shall be deemed an abandonment of the application.
c) As soon as the application is determined to be complete, the applicant shall be notified in writing of this finding. The notification requirements of subsection (4) below shall be met and the item placed on the agenda for substantive review within thirty (30) days of this finding.

d) The Planning Board shall give written notice of the date, time, and place of the public hearing at which the application will be considered, to the applicant, and to those who received notice in section 206.6.E.4.a above. A notice of the hearing shall be posted at the Town Office and published in a newspaper of general circulation in the community at least once, the date of publication shall be at least seven (7) days prior to the hearing.

e) Failure of any property owner to receive notice under this section for any reason shall not necessitate a new hearing and shall not invalidate any action by the Planning Board.

5. Procedure for Public Hearing of an Application (Minor and Major Developments)

a) The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this ordinance or other municipal ordinances.

b) The Chair shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Chair shall then allow the members of the Board to ask questions of the applicant and for the applicant to answer those questions. Following Board questions, the Chair shall open the public hearing to the public for statements, information submissions, or questions about the project. At the
close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

6. Procedure for Final Action on an Application (Minor and Major Developments)

a) The Planning Board shall take final action on said application within thirty (30) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this ordinance.

b) In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the standards of approval, performance standards, and other requirements of this Ordinance.

c) The Board shall notify the applicant, of the action of the Board, including the findings of fact and any conditions of approval.

7. Time Limitations
   All time limits provided for in this section may be extended by mutual agreement of the applicant and Board.

206.7 Site Plan Application Submission Requirements

A. Submission Requirements for Site Inventory and Analysis (Major developments only)

The site inventory and analysis is intended to provide both the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a development plan that reflects
the conditions of the site; those areas most suitable for the
proposed use will be utilized, while those that are not suitable
or present significant constraints will be avoided to the
maximum extent possible. Therefore, the submission
requirements provide that the applicant submit basic
information about the site and an analysis of that information.
All submission requirements shall be submitted to the Town
Administrator at least twenty-one (21) days prior to the
meeting at which it is to be considered. If the application is
found to be deficient all additional information must be
submitted no later fourteen (14) days prior to the meeting at
which it is to be considered. The site inventory and analysis
submission must contain, at a minimum, the following
information:

1. The names, addresses, and phone numbers of the record
owner and the applicant.

2. The names and addresses of all consultants working on the
project.

3. Evidence of right, title, or interest in the property.

4. Evidence of payment of the site inventory and analysis fee.

5. Eleven (11) copies of an accurate scale inventory plan of
the parcel at a scale of not more than one hundred (100)
feet to the inch showing as a minimum

   a) the name of the development, north arrow, date and
      scale;

   b) the boundaries of the parcel;

   c) the relationship of the site to the surrounding area;

   d) the topography of the site at an appropriate contour
      interval depending on the nature of the use and
      character of the site;

   e) the major natural features of the site and within two
      hundred (200) feet of the site, including wetlands,
      streams, ponds, floodplains, groundwater aquifers,
      significant wildlife habitats or other important
      natural features;
f) existing buildings, structures, or other improvements on the site;

g) existing restrictions or easements on the site;

h) the location and size of existing utilities or improvements servicing the site;

i) a class D medium intensity soil survey; and

j) if a private sewage disposal system will be used, a suitable location for a system.

6. Eleven (11)) 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 traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.

7. Eleven (11) copies of any requests for waivers from the submission requirements for the site plan review application.

B Submission Requirements for Site Plan Review Applications (Minor and Major developments)

Applications for site plan review must be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Town Administrator. Applications for major developments will not be received until the review of the site inventory and analysis is completed. All submission requirements shall be submitted to the Town Administrator at least twenty-one (21) days prior to the meeting at which it is to be considered. If the application is found to be deficient all additional information must be submitted no later fourteen (14) days prior to the meeting at which it is to be considered. The submission must contain at least the exhibits and information specified in this section, unless specifically waived in writing.

1. All applications for site plan review must contain the following information:
a) a fully executed and signed copy of the application for development review;

b) evidence of payment of the application and technical review fees; and

c) eleven (11) copies of written materials plus fifteen (15) sets of maps or drawings containing the information listed in Sections 206.7.B.2, 3, 4, 5, and 6 below. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria: forty (40) feet to the inch is preferred, but in no case shall the scale exceed one hundred (100) feet to the inch for that portion of the tract of land being proposed for development.

2. General Information (Minor and Major developments)

a) record owner's name, address, and phone number and applicant's name, address and phone number, if different;

b) the location of all required building setbacks, yards, and buffers;

c) names and addresses of all property owners within five hundred (500) feet of any and all property boundaries;

d) sketch map showing general location of the site within the municipality based upon a reduction of the tax maps;

e) boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time;

f) the tax map and lot number of the parcel or parcels on which the project is to be located;

g) a copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant;
h) the name, registration number and seal of the person who prepared the plan, if applicable; and

i) evidence of the applicant's technical and financial capability to carry out the project as proposed;

3. Existing Conditions Plan (Minor and Major developments)

a) zoning classification(s), including overlay districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district;

b) the bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries;

c) location and size of any existing culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow;

d) location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development;

e) the location, dimensions and ground floor elevation of all existing buildings on the site;

f) the location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site;

g) location of intersecting roads or driveways within two hundred (200) feet of the site;
h) the location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features;

i) the direction of existing surface water drainage across the site, and any off-site drainage facilities that will be used;

j) the location, front view, dimensions, and lighting of existing signs;

k) location and dimensions of any existing easements and copies of existing covenants or deed restrictions; and

l) the location of the nearest fire hydrant or other water supply for fire protection.

4. Proposed Development Activity (Minor and Major developments)

a) estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed;

b) the direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties;

c) provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities;

d) the location, dimensions, and materials to be used in the construction of proposed driveways, parking
and loading areas, and walkways and any changes in traffic flow onto or off-site;

e) proposed landscaping and buffering;

f) the location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site;

g) location, of proposed signs together with the method for securing the sign;

h) location and type of exterior lighting;

i) the location of all utilities, including fire protection systems;

j) a general description of the proposed use or activity;

k) an estimate of the peak hour and daily traffic to be generated by the project; and,

l) stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions.

5. Additional Submission Requirements for Major Developments

In addition to the information required for all applicants, an application for a major development must contain eleven (11) copies of the following information:

a) a narrative and/ or plan describing how the proposed development plan relates to the site inventory and analysis;

b) a grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine; and

c) a stormwater drainage and erosion control program showing:
(1) the existing and proposed method of handling stormwater runoff;

(2) the direction of flow of the runoff, through the use of arrows;

(3) the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;

(4) engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency; this is required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces being proposed; and

(5) methods of controlling erosion and sedimentation during and after construction.

d) A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.

e) The name, registration number, and seal of the architect, engineer, landscape architect and/or similar professional who prepared the plan.

f) A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone and any other utility services to be installed on the site.

g) A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.

h) A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project
or expansion will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generator manual of the Institution of Traffic Engineers.

i) Cost of the proposed development and evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed or available, and individual's or institution's interest in financing the project or in the form of a letter from a certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.

6. Waiver of the Submission Requirements

The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre application conference or at the initial review of the application if no pre application conference is held. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria. The application must contain eleven (11) copies of all waiver requests as part of the application.

206.8 Approval Standards And Criteria
The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site

Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife
habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

B. Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient.

1. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

2. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

3. The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

4. The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

5. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

6. Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes,
traffic directional islands, and traffic controls within public streets.

7. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

8. The following criteria must be used to limit the number of driveways serving a proposed project:

   a) No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

   b) No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

C. Accessway Location and Spacing Accessways must meet the following standards:

1. Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

2. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

D. Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

1. Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
2. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

3. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

4. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

E. Parking Layout and Design

Off street parking must conform to the following standards:

1. Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

2. All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

3. Parking stalls and aisle layout must conform to the following standards:
<table>
<thead>
<tr>
<th>Parking Angle</th>
<th>Stall Width</th>
<th>Skew Width</th>
<th>Stall Depth</th>
<th>Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>90°</td>
<td>9'-0&quot;</td>
<td>18'-0&quot;</td>
<td>24'-0&quot; 2-way</td>
<td></td>
</tr>
<tr>
<td>60°</td>
<td>8'-6&quot;</td>
<td>10'-6&quot;</td>
<td>18'-0&quot;</td>
<td>16'-0&quot; 1-way</td>
</tr>
<tr>
<td>45°</td>
<td>8'-6&quot;</td>
<td>12'-9&quot;</td>
<td>17'-6&quot;</td>
<td>12'-0&quot; 1-way</td>
</tr>
<tr>
<td>30°</td>
<td>8'-6&quot;</td>
<td>17'-0&quot;</td>
<td>17'-0&quot;</td>
<td>12'-0&quot; 1 way</td>
</tr>
</tbody>
</table>

4. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

5. Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

6. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

F. Pedestrian Circulation
   The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

G. Stormwater Management
   Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.
1. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

2. Unless the discharge is directly to the ocean, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

3. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

4. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

5. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

6. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

7. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

H. Erosion Control

1. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept
to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.


The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a multi-house water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic flows.

J. Sewage Disposal Provisions
The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. Proposed on-site waste disposal systems must conform to the Subsurface Wastewater Disposal Rules.

K. Utilities
The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

L. Groundwater Protection
The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following
development, with the standards for safe drinking water as established by the State of Maine.

M. Water Quality Protection
All aspects of the project must be designed so that:

1. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

N. Capacity of the Applicant
The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

O. Historic and Archaeological Resources
If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

P. Floodplain Management
If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency (see Appendix C), all use and development of that portion of the site must be consistent with the Town's Floodplain Management Ordinance.

Q. Exterior Lighting
The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if
such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights-of-way, and the unnecessary lighting of the night sky.

R. Buffering of Adjacent Uses
The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.

S. Noise
The development must control noise levels such that it will not create a nuisance for neighboring properties.

T. Storage of Materials

1. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

2. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

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

U. Landscaping
Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break
up parking areas, soften the appearance of the development, and protect abutting properties.

V. Building and Parking Placement

1. The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

2. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

W. Fire Protection

The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a “Certificate of Compliance” once the applicant has met the design requirements of the Town’s Fire Protection Ordinance.

206.9 Limitation on Approval

Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.
206.10 Performance Guarantees

A. Performance Guarantee

The Planning Board may require the posting of a performance guarantee in such amount and form as specified in subsections 1 to 4 below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Attorney.

1. Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.

2. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.

3. Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

4. Surety Bonds. The applicant may provide a surety bond given by the contractor to the developer, provided the town is included in the bond as an additional named insured and that the bond states that the amount provided for in the bond cannot be reduced without prior written approval of the town.

B. Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate municipal officials. The respective municipal officials shall inspect all improvements and shall file a report indicating either approval, partial
approval, or rejection of such improvements with a statement of reasons for any rejection.

206.11 Submission Of As-Built Plans
Plans must be submitted for any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of improvements as actually constructed on the site. These "as built" plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

206.12 Minor Changes To Approved Plans
Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal.

206.13 Appeal Of Planning Board Actions
Appeal of any actions taken by the Planning Board with respect to this section shall be to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.
SECTION 300 - AQUIFER PROTECTION

Sec. 301  **Purpose**

The purposes of this section are to protect the health, safety, and general welfare of the residents of the Town of Chebeague Island by protecting the quality of the Town's groundwater through the regulation of activities and land use practices.

Sec. 302  **Applicability**

The requirements of Section 300 shall apply to all areas designated as Aquifer Protection (AP) on the official aquifer protection map (Appendix 2) dated July 1, 2007 which shall be adopted as part of this Zoning Ordinance and on file in the office of the Town Clerk and filed with the Cumberland County Registry of Deeds. Aquifer Protection areas shall be determined on the basis of the most recent data available from the United States Geological Survey and Maine Geological Survey and other public sources.

Sec. 303  **Regulations**

303.1  Disposal of hazardous waste materials is prohibited.

303.2  The following uses shall only be allowed upon a positive finding by the Planning Board that the proposed use, with any conditions imposed by the Board, will not adversely affect the quality of groundwater:

A. Disposal of solid waste, other than brush or stumps;
B. Storage of road salt or other de-icing agents;
C. Animal feedlots which hold more than three (3) animals per acre, or in the case of poultry, which holds more than 150 animals per acre;
D. Manure piles or storage pits in excess of 50 cubic yards, or in the case of poultry manure in excess of 20 cubic yards; manure shall otherwise be disposed in accordance with the provisions of Sec. 401.1;
E. Storage of petroleum or other refined petroleum products, with the exception of petroleum products used for household purposes;
F. Disposal of other leachable materials, with the exception of single-family and two-family residential septic systems;
G. Extraction of earth materials;
H. Any residential, commercial, industrial, institutional, or governmental development, including subdivision, which occupies a land or water area in excess of 20 acres.
SECTION 400 GENERAL REGULATIONS

Sec. 401 Agriculture

401.1 All spreading of manure shall be accomplished in conformance with Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of 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.

401.2 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 the Ordinance.

401.3 There shall be no new tiling of soil within seven-five (75) feet, horizontal distance, from 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 provision may be maintained.

401.4 Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of 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 to be filed with the Planning Board.

Sec. 402 Animals

402.1 Household pets are allowed in all districts.

402.2 Horses may be kept provided that there shall be at least one (1) acre of containment area for the first horse to be kept on the premises, and 10,000 square feet of containment area for each horse thereafter.
402.3 Animals other than horses or household pets may be kept for personal use and enjoyment in all districts.

402.4 The free range of poultry is prohibited;

402.5 No chicken house and no piggery shall be permitted nearer than 100 feet to any property line.

Sec. 403 Backlots

Single-family dwellings and duplex dwellings shall be permitted on backlots provided they are served by a private street meeting the standards of Sec. 425 of this Ordinance subject to the following provisions:

403.1 The creation of a lot which does not have the required lot frontage on a public right-of-way shall require twice the minimum lot size for the district in which it is located, and shall require a right-of-way no less than fifty (50) feet wide, except that in no case shall such private right-of-way be required to be wider than the public street which it intersects. Where a lot is in existence and is provided access by a private right-of-way recorded at the Cumberland County Registry of Deeds prior to the adoption of this ordinance, these provisions shall not apply.

403.2 The Board of Adjustment and Appeals may allow a reduction of these standards upon a finding that backlots will be provided with safe access and that the proposed reduction in requirements is otherwise in conformance with Sec. 603.2.E.

403.3 Any dwelling unit erected on a back lot shall not be located within two-hundred feet of an existing public street.

Sec. 404 Beach Construction

Beach construction on any coastal wetland shall require a permit from the Department of Environmental Protection. Beach construction on any river, stream, or brook shall require approval from the Commissioner of the DEP, as required by law.

Sec. 405 Campgrounds
Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

405.1 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.

405.2 The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of seventy-five (75) feet, horizontal distance from the normal high-water line of tributary streams, or the upland edge of a wetland.

Sec. 406 Clustered and Traditional Residential Development

406.1 General:
In reviewing applications for major subdivision approval involving a residential development consisting of four or more single family residences and/or duplex dwellings in the Island Residential and Island Business zoning districts, the Planning Board shall be authorized to require that the residential development be designed and constructed as a clustered residential development or a traditional residential development, based on the standards and criteria set forth in this Section, except that developments with four or fewer lots may be designed as a clustered development upon a positive finding by the Planning Board that the intent of the Ordinance listed below can be met. Such developments are subject to Section 4.4 of the Subdivision Ordinance. All such residential developments shall conform to the requirements of this Ordinance as well as the Subdivision Ordinance of the Town of Chebeague Island and all other applicable Ordinances of the Town of Chebeague Island and the Town of Chebeague Island Comprehensive Plan. The intention of this section of the Ordinance is to assure that residential developments are designed in such a way as to assure protection of wells and groundwater from contamination; prevent adverse impacts on existing wells on adjoining properties and on wells to be created within the new residential development; avoid septic contamination or interference within the new residential development and with respect to surrounding properties; minimize the cost of constructing and maintaining public utilities and improvements including streets, water lines, sewer lines, electric lines, gas lines, telephone lines, and other utilities; protect and preserve existing farms and farmland; protect areas in resource protection districts; protect, preserve and improve existing recreational areas and trails; protect and preserve sensitive wildlife habitats and other natural areas; and protect and preserve public access to water bodies.
406.2 Clustered Residential Development:
Clustered residential developments are residential developments in which groups or clusters of dwelling units may be located on adjoining individual building lots which may be smaller than the required minimum lot size for the zoning district in which they are located but within which land is set aside as open space so long as the following requirements are satisfied:

A. Minimum lot size: The minimum lot size for each single family dwelling shall be 60,000 square feet (1.37 ac.) and for each duplex dwelling shall be 80,000 square feet (1.83 ac.).

B. Setback: Setback requirements for a clustered residential development shall be the same as those required in the zoning district in which the residential development is located.

C. Frontage: Each lot shall have no less than 75 feet of lot frontage on a street.

D. Buffering: A buffer area at least 75 feet in depth shall be established between the clustered residential development and abutting tracts or parcels of land and between the clustered residential development and existing streets and roads adjoining or abutting the clustered residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.

E. Open space. At least 25% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:

1. Active farmland or land adjoining active farmland.

2. An active trail system or which provides a link to an existing trail system.

3. Land which provides a buffer around a sensitive wildlife habitat or other natural area.
4. Land which provides physical or visual access to a water body including the ocean, pond, stream or brook.

5. Land which is in Resource Protection.

6. Land which is suitable for active recreation.

7. Land which abuts or adjoins and existing public open space.

F. Land set aside as open space may be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:

1. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.

2. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

3. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

4. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County
Registry of Deeds and included or referred to in the deed of each lot.

G. Some or all of the open space may be dedicated to the Town of Chebeague Island, subject to acceptance by the Board of Selectmen. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

H. Some or all of the open space may be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

406.3 Traditional Residential Development:
Traditional residential developments are residential developments in which the dwelling units are located on individual building lots which conform to the minimum lot size for the zoning district in which they are located. A traditional residential development may but is not required to include land set aside as open space, as provided in Section 7.5 of the Subdivision Ordinance.

406.4 Net Residential Density:
The maximum number of dwelling units permitted on the tract or parcel of land proposed for any type of residential development shall be determined by dividing the net residential acreage of the tract or parcel by the zoning district minimum lot size for the zone in which the project is located. In no event shall the number of residential units exceed the density requirement of the zoning district in which it is located.

406.5 Criteria To Be Considered:
In determining whether a proposed residential development shall be constructed as a clustered residential development or a traditional residential development the Planning Board shall consider the following criteria as required by 30-A M.R.S. § 4404 and the Town of Chebeague Island Subdivision Ordinance:

406.6 Standards For Requiring Clustered Residential Development:
The Planning Board shall require that a residential development be designed as a clustered residential development if the following standards are met:

A. If the Planning Board determines that adequate wells can be established for each residential unit without risk of
contamination or interference with existing wells or groundwater on abutting properties and wells to be located within the proposed residential development;

B. If the Planning Board determines that adequate on site septic systems can be established for each residential unit without risk of contamination or interference with existing wells, groundwater and septic systems on abutting properties and within the proposed residential development;

C. If the tract or parcel of land to be developed contains one or more of the following types of open space:

1. Land which is active farmland or which adjoins or abuts active farmland;

2. Land which contains an existing trail system used by the public or which can provide a link to existing trails;

3. Land which contains or adjoins a significant wildlife habitat or other rare and irreplaceable natural area as determined by the Department of Inland Fisheries and Wildlife or the Town of Chebeague Island;

4. Land which may provide physical or visual access to waterbodies including the ocean, ponds, streams, and brooks;

5. Land which contains or adjoins a Resource Protection district as shown on the official zoning map of the Town of Chebeague Island;

6. Land which adjoins or abuts an existing parcel of land which constitutes public open space;

7. Land which is suitable for active recreational activities.

**406.7 Affordable Housing Developments:**
Notwithstanding the foregoing requirements of this section and the requirements applicable to the underlying zoning district, the Town, at Town Meeting, may by contract or conditional rezoning pursuant to Section 606 of this Ordinance, allow a clustered residential development of single family residential lots that is developed as an affordable housing development in any zoning district in which residential uses are permitted and which has access to public water and sewer subject to the following requirements:
A. "Affordable housing" shall mean residential dwelling units such that the persons eligible to purchase such residential dwellings shall have annual incomes which fall within income guidelines established by the Town of Chebeague Island Board of Selectmen.

B. Minimum lot size: 10,000 square feet per single family dwelling unit.

C. Setback: Front: 25 feet
   Rear: 30 feet
   Side: 10 feet

D. Frontage: Each lot shall have no less than 100 feet of lot frontage on a street.

E. Buffering: A buffer area at least 75 feet in depth shall be established between the affordable residential development and abutting tracts or parcels of land and between the affordable residential development and existing streets and roads adjoining or abutting the affordable residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.

F. Open space. At least 25% but no more than 50% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:

   1. Active farmland or land adjoining active farmland.

   2. An active trail system or which provides a link to an existing trail system.

   3. Land which provides a buffer around a sensitive wildlife habitat or other natural area
4. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream or brook.

5. Land which is in Resource Protection.

6. Land which is suitable for active recreation.

7. Land which abuts or adjoins and existing public open space.

G. Land set aside as open space may be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:

1. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.

2. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

3. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

4. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.
H. Some or all of the open space may be dedicated to the Town of Chebeague Island, subject to acceptance by the Town Meeting. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

I. Some or all of the open space be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

Sec. 407 Multiplex Dwellings

407.1 General:
The conversion of an existing single-family dwelling or duplex dwelling into a multiplex dwelling shall comply with the following standards and the Planning Board shall review a proposed multiplex dwelling development for compliance with these standards:

A. The number of multiplex dwelling units allowed on a tract or parcel shall be calculated by dividing the net residential acreage of the tract or parcel by the minimum lot area per dwelling unit required by the appropriate zoning district for multiplex development.

B. On any tract or parcel, the maximum number of attached dwelling units per structure shall be six (6). The distance between the foundations of any two principal structures, shall be no less than the height of the taller of the two buildings, but in no event shall a building separation of less than 25 feet be permitted.

C. A tract or parcel developed under this Section shall be held either in single or common ownership, and shall have the same amount of lot frontage on a public right-of-way as is required by the underlying District.

D. Setbacks. The following minimum setbacks are required for front, rear or side yards that adjoin a boundary line of the tract or parcel or a street:

1. Front: The same as in the underlying District except that this shall be twice that required when the tract or parcel has any frontage along a collector street as defined in the Subdivision Ordinance.
2. Side: The same as in the underlying District.
3. Rear: The same as in the underlying District.

E. A buffer shall be established between the multiplex housing and any dwelling on abutting tracts or parcels, which buffer shall be sufficient to minimize any potential nuisance, including but not limited to headlights, noise, storage areas and solid waste storage. This buffering shall consist of landscaping, fencing or grading or a combination of some or all of these techniques.

F. No dwelling unit shall have less than 600 square feet of finished living area, exclusive of common hallways, basements and unimproved attic areas.

G. The scale and surface area of parking areas, driveways and paved areas shall be compatible with adjacent structures, must be properly screened and must provide for parking in accordance with the requirements of Sec. 420 of this Ordinance.

H. Open Space. The amount of open space that shall be required shall be at least 50%.

1. This open space shall be usable for recreational, agricultural or other outdoor living purposes and for preserving natural features including, but not limited to, large trees, tree groves, woods, ponds, streams, glens, rock outcrops, natural plant life and wildlife cover, deer yards, and to the greatest extent possible, shall be contiguous open space. The use of any such open space may be further limited or regulated by the imposition of reasonable conditions at the time of final subdivision approval by the Planning Board where necessary to protect adjacent properties or uses, or the open space itself.

2. If any or all of the open space is to be reserved by the individual unit owners as common open space, each unit owner shall own a fractional interest in the common open space and the developer shall be required prior to final subdivision plan approval to incorporate a homeowners' association consisting of the individual unit owners, which incorporation must comply with the following:

   a) Proposed covenants shall be placed in each deed from the developer to the individual unit owner,
which deed covenants shall require mandatory membership in the homeowners' association, and shall set forth the unit owners' rights, interests, privileges and obligations in the association and in the common open space, including the homeowners association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.

b) The homeowners' association shall develop a system to levy and collect annual charges against any and all individual lot owners to defray any expense connected with the maintenance of common open space and any recreational facilities located therein, and this system shall be described in said deed covenant or by some other legal instrument made binding upon the individual unit owner and running with the land.

c) The developer shall maintain control of the common open space and be responsible for its maintenance until 75% of the multiplex dwelling units in the subdivision have been sold, at which time, the homeowners' association shall be responsible for such maintenance, and this obligation shall be described in said deed covenant or by some other legal instrument made binding upon the individual dwelling unit owner and running with the land.

d) All such proposed deed covenants and other legal documents pertaining to common open space shall be reviewed by the town attorney, and, if approved by the planning board, shall be recorded in the Cumberland County Registry of Deeds, and included or referred to in the deed to each unit.

3. At the option of the Town, some or all of the open space may be dedicated to the Town of Chebeague Island, subject to acceptance by the Town Meeting.

4. Some or all of the open space may be dedicated to a non-profit land trust for conservation, passive recreation purposes or active recreation purposes.
5. Any dedication under subsection 407.1.H.3 or 407.1.H.4 above must be made through appropriate legal instruments, reviewed by the Town Attorney.

6. The open space(s) shall be shown on the subdivision plan with appropriate notation on the face thereof to indicate that it shall not be used for future buildings or structures.

7. All legal documents required under this subsection must be submitted with the final subdivision plan application.

Sec. 408 Conversions

408.1 Accessory Apartments
Any single-family dwelling or an existing accessory structure, which is either attached or detached, to the dwelling may be altered or expanded to include one apartment unit subject to the approval of the Board of Adjustment and Appeals as a special exception, and in accordance with the following standards:

A. The unit to be added shall include no more than one bedroom and shall not exceed 40% of the total living area of the building;

B. The board may waive the lot size requirements, provided that the Plumbing Inspector indicates adequate capacity and conformity with the State Plumbing Code; but in no case shall such conversion be allowed on a lot smaller than 20,000 square feet.

C. This provision shall not prohibit the conversion of a single-family dwelling to a duplex or multiplex dwelling or the conversion of a duplex dwelling to a multiplex dwelling, so long as said conversion complies with all district and other zoning standards, including, but not limited to the minimum lot size per dwelling unit.

D. An accessory apartment may be constructed in a detached accessory structure provided that the lot standards, and the setback requirements from the single-family dwelling to the accessory structure, for the district in which it is located cannot be met for each structure. The parcel on which the single-family dwelling and the detached accessory structure are located cannot be split so that each structure is on a separate parcel.
408.2 Manor Houses
Any single family dwelling with no less than 6,000 square feet of living area may be converted to a multi-family structure with the approval of the Board of Adjustment and Appeals as a special exception, subject to the following conditions and any additional conditions imposed by the Board of Adjustment and Appeals to assure that said conversion will have no adverse impact on the neighborhood:

A. The conversion of a manor house, as defined, into a multi-family structure shall be deemed a subdivision and subject to final approval of the Planning Board in accordance with the Subdivision Ordinance, after special exception approval has been granted by the Board of Adjustment and Appeals;

B. The number of units allowed shall be based on the minimum lot size requirement for the district in which it is located, except that the Board of Adjustment and Appeals may reduce the lot size requirement to no less than 20,000 square feet per dwelling unit as a special exception, upon a finding that the conversion will not have an adverse effect upon the neighborhood as a result of traffic circulation, vehicular access, pedestrian circulation, storm drainage, or appearance;

C. No manor house shall be converted to a multi-family structure on a lot less than three acres in size;

D. The minimum floor area for each dwelling unit shall be 1,000 square feet;

E. No dwelling unit shall be created on a third floor or higher, except that a dwelling unit on the second floor may continue on to a third floor;

F. Associated structures of manor houses, such as garages and carriage houses, may be converted to dwelling units, but may not be included in the determination of living area in the manor house.

408.3 Condominium
Any structure or property which is converted to condominium ownership in accordance with the provisions of the Maine Condominium Act, regardless of whether there is any physical change in the structure or property, shall be considered a subdivision and subject to the provisions of the Subdivision Ordinance, unless such structure or property has already been approved under the Subdivision Ordinance.
Sec. 409  **Corner Clearance**

No building, structure, or foliage shall be erected or maintained greater than three and one-half (3 1/2) feet above the curb height within an area defined by a line connecting the points 20 feet distant of the intersection of street lines at intersecting streets and roads.

Sec. 410  **Day Care Centers and Nursery Schools**

410.1  **Purpose:**

It is the intent of these provisions to allow the location of day care centers and nursery schools in healthy and safe environments in a manner that will not be disruptive to neighborhoods. Such uses should be considered integral components of neighborhood life.

410.2  **Standards for Day Care Centers and Nursery Schools:**

In addition to state requirements and the requirements of any other ordinance, including the special exception and site plan review ordinances, the following standards shall apply to the review of day care centers and nursery schools:

A. No Day Care Center or Nursery School shall be located on a lot less than 24,000 square feet in area.

B. Day Care Centers and Nursery Schools shall have at least 1,000 square feet of lot area per child received into the home, including the operator's own children under 16 years of age.

C. Day Care Centers and Nursery Schools shall be subject to the provisions of Sec. 7.15 – Sewage Disposal – of the Town of Chebeague Island Subdivision Ordinance. At a minimum, the applicant must present the approval of the Town's local plumbing inspector that the proposed Day Care Center or Nursery School's sewage disposal system can accommodate the proposed use.

D. There shall be a fifteen-foot setback for outdoor play areas in side and rear yards, which set-back shall be enforced by fencing and/or plantings. Outdoor play areas shall not be permitted in front yards or yards adjacent to a street.

E. There shall be one (1) off-street parking space for each employee and volunteer worker not living at the site, and the parking area shall be designed to provide a safe location for vehicular ingress and egress and for the loading and unloading of children.
F. The Planning Board and/or the Board of Adjustment and Appeals may attach additional conditions directly related to screening and buffering, hours of operation, vehicular access restrictions, off-street parking, traffic volume, wastewater disposal, and barriers and other safety devices.

Sec. 411 Erosion and Sedimentation Control

411.1 Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner to prevent to the maximum extent possible, erosion and sedimentation of surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of *Environmental Quality Handbook Erosion and Sediment Control*, published by the Maine Soil and Water Conservation Commission.

411.2 Erosion and Sedimentation Control in the Shoreland Zone
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.

411.3 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

411.4 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
411.5
Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

A. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

B. Anchoring the mulch with netting, peg and 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.

411.6
Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

Sec. 412
Extraction of Earth Materials

412.1
Top soil, rock, sand, gravel and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after the granting of a one year, annually renewable special permit for such operations as may be issued by the Board of Adjustment and Appeals and under such terms and conditions as may be approved and provided for by the Board and as provided for in this Ordinance.

412.2 Procedure:

A. The applicant shall present a site plan with detailed information of the proposed extraction operation as required under Section 206, Site Plan Review, and a written report describing the method of extraction, duration of the operation, traffic generation, measures to be taken to control erosion and stormwater runoff, and other information requested by the Board of Adjustment and Appeals.
B. The site plan, written report, and fee as required in Sec. 602.4 shall be submitted to the Code Enforcement Officer at least 30 days prior to the next available meeting date of the Board of Adjustment and Appeals, and shall be forwarded to the Planning Board for their review and advisory opinion.

C. After receipt of the advisory recommendations of the Planning Board and all other required materials, the Board of Adjustment and Appeals shall decide whether, and under what conditions, the proposed extraction operation may be permitted consistent with the provisions of Section 412.3, below:

412.3 Standards:

A. The operation shall be shielded from surrounding property by an adequate buffer area of not less than 200 feet from the top of the final grade to the property line, except that the Board of Adjustment and Appeals may reduce the buffer area from the minimum requirement of two hundred (200) feet to a minimum requirement of not less than one hundred (100) feet provided that any excavated property remaining will be left in a condition more useful for some future purpose conforming to the district requirements in which the excavation site is located.

B. An applicant may specifically apply as a part of his application for the excavation and removal of lands to the Board of Adjustment and Appeals for waiver of the requirement of the 200 foot buffer strip when the protective barrier serves only to separate two existing gravel pits. The Board of Adjustment and Appeals may only grant a waiver from this requirement of the Ordinance if (1) the protective buffer zones exist only between two existing gravel pits, (2) the owner of the respective properties mutually and voluntarily consent to the removal of the buffer zone, and (3) the Board of Adjustment and Appeals find that it shall not have a detrimental effect upon adjoining properties.

C. Specific plans shall be established to avoid hazards from excessive slopes and/or standing water. In no case may soils be removed or excavated to closer than within five (5) feet of the seasonal high water table as may be determined by a competent authority. Where an embankment must be left upon the completion of operations, it shall be at a slope of not steeper than one (1) foot vertical to three (3) feet horizontal, except that where the required buffer area has been reduced to
100 feet the slope of the edge of the excavation area shall not exceed one (1) foot vertical to four (4) feet horizontal.

C. No standing water shall be allowed to remain longer than two consecutive calendar weeks unless specifically provided for by the Board of Adjustment and Appeals.

E. In the case of any excavation to a depth of more than 20 feet below the surface there shall be constructed a substantial fence with suitable gates completely enclosing the property or area in which the excavation is located. No portion of such fence shall be located closer than forty feet to the edge of such excavation. However, this condition shall not apply in the case of an excavation or removal of lands adding a slope of one foot vertical to greater than 3 feet horizontal.

F. No excavation shall be extended below the grade of adjacent streets unless a 200-foot buffer strip shall be provided from the edge of the right-of-way except in cases where a specific condition has been made with the consent of the Board of Adjustment and Appeals and other involved parties such as the Town of Chebeague Island Public Works Director and other property owners for the reconstruction of the right-of-way and street at a different level.

G. Provision shall be made for the control of stormwater runoff to prevent on-site erosion, and to ensure that stormwater runoff leaves the site at the same location and is not significantly increased.

H. Sufficient topsoil shall be retained on the site or otherwise provided sufficient to cover all disturbed areas with an average depth of not less than two (2) inches. All disturbed areas resulting from the excavation and removal of lands or soils shall be graded and sloped to conform to the provisions of this Ordinance, reloamed and seeded with grasses indigenous to the area and such trees as the Board of Adjustment and Appeals may require and otherwise restored to a natural condition. In the case of topsoil removal, the upper six inches of topsoil shall be stockpiled and restored to a depth of six (6) inches throughout the site.

I. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load.
J. All access roads leading from the extraction site to public ways shall be treated with stone, calcium or other suitable materials to reduce mud and dust.

412.4
A surety bond shall be posted with the Town Treasurer by the applicant in an amount and form approved by the Board of Adjustment and Appeals with the advice of the Town Administrator sufficient to guarantee performance and conformity with the provisions of this Ordinance and approval of the special permit for the excavation and removal of lands.

412.5
The foregoing provisions shall not apply to any lawful use of land for the removal of sand or gravel and the quarrying of stone, existing at the time of adoption of this Ordinance provided, however (a) that no such existing operation shall expand closer to or within two hundred feet to any adjoining property line or to the line of any existing public way, (b) that no such existing operation which may be within two hundred feet to any such adjoining property line or the line of any existing public right-of-way shall be permitted to expand closer to such line or lines, and (c) existing restrictions as may have been previously provided for previous approvals shall continue in full force and effect, and (d) further provided the Board of Adjustment and Appeals shall have the authority to approve applications for the expansion of such existing pits or quarries into such areas, under the same terms and conditions as it may approve applications for new gravel pits and quarries for the excavation and removal of lands pursuant to the provisions of this ordinance.

412.6
This subsection shall not apply to (a) extraction necessarily incidental to construction, alteration, excavation, or grading for which a building permit has been issued, (b) to extraction from one portion of a lot for use on another portion of the same lot, or contiguous lot of the same owner, or (c) removal of topsoil from a site that is less than one acre in area during a one-year period.

412.7
Violations of this section of the Ordinance shall be punishable by a fine as established by order of the Board of Selectmen. Each day such violations are permitted to continue to exist shall constitute a separate violation.

412.8 Extraction of Earth Materials in the Shoreland Zone

A. 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 excavation, 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.

B. Extraction of earth materials within Shoreland Areas 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 412.8.B.4 below.

2. No part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any 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. When gravel pits must be located within shoreland areas, 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 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.

Sec. 413  **Guest Houses**

A guest house may be constructed provided the lot standards and setback requirements for the district in which it is located are met for each guest house.

Sec. 414  **Height Regulations**

Height limitations for all districts shall be 35 feet, except that the Board of Adjustment and Appeals may allow a greater height as a variance upon a finding that the proposed height will not adversely affect other property in the same district and neighborhood, that the granting of such approval by the Board will not substantially depart from the intent and purposes of this ordinance where it is consistent with the objectives of the Comprehensive Plan, and is in a scale with its environs. These regulations shall not apply to silos for the storage of feed crops, nor to steeples.

Sec 415  **Home Occupations and Home-Based Occupations**

415.1  
Any home occupation or home-based occupation may be approved as a special exception by the Board of Adjustment and Appeals if:

A. The occupation is owned or operated by a member of the family residing within the dwelling unit, and;

B. In the case of a home occupation, no more than two employees who are not members of the family are employed in the occupation, and;

B. In the case of a home-based occupation, the number of non-family employees is limited to three, provided that off-street
parking is available for all employees, in addition to parking provided for customers, [amended Sept. 13, 2008] and;

C. Objectionable or unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond the property limits, and;

E. No traffic in substantially greater volumes than would be normally expected in the neighborhood will be generated, and;

F. Off-street parking spaces are provided in an amount to be determined by the Board to avoid street congestion, and;

G. Exterior displays, exterior storage of materials, and exterior indications of the home occupation or home-based occupation, including signs, are inconspicuous.

A home occupation or home-based occupation does not require approval as a special exception if the seven (7) conditions above are met and it does not result in any exterior indications (including, without limitation, any visual, sound, odor, or traffic indications outside of the dwelling or accessory structure) of the existence of the home occupation or home-based occupation, and does not pose any potential threat to public health, safety, or welfare.

415.2
The granting of a special exception approval for a home occupation or home-based occupation shall apply to the applicant only while the applicant resides at the property.

Sec. 416 Junk Yards

Before granting special exception approval for a junk yard, the Board of Adjustment and Appeals shall find that the following conditions have been met:

416.1
The proposed junk yard is shown to have no detrimental effect on adjacent land uses;

416.2
The proposed junk yard site is not visible from a public road or street;

416.3
The proposed junk yard shall be entirely enclosed by a solid wall or fence with access only through solid gates, and such fence or wall shall be kept in good repair and neatly painted;
416.4
The contents of the proposed junk yard shall not be placed higher than the fence or wall herein required;

416.5
The proposed junk yard is in conformance with the Ordinance and any other ordinances of the Town of Chebeague Island pertaining to the protection of the quality of surface and ground water.

Sec. 417 Manufactured Housing

Manufactured housing as defined and allowed under this Ordinance to be placed or erected on individual house lots on undeveloped lots where single family dwellings are allowed shall be required to meet the following design standards.

417.1
There shall be a pitched roof having a pitch of 4 in 12 or greater covered with roofing shingles;

417.2
The exterior walls shall be covered with materials similar to traditional site-built houses. These materials may include clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles or shakes or similar materials, but shall not include smooth, ribbed or corrugated metal or plastic panels;

417.3
The minimum horizontal dimension shall be 14 feet and the minimum floor area shall be 750 square feet;

417.4
The house will be anchored on a permanent frost wall foundation;

417.5
Any fuel storage tanks shall be enclosed. Fuel storage tanks may not be buried [amended Sept. 13, 2008];

417.6
All plumbing and utility connections shall comply with local, State and National codes.
417.7
The unit shall be sited on the lot so that it is within 30 degrees of being parallel to the front property line of the lot (or the chord connecting the two points where the side lot lines meet the front line if the front property line is curved). This requirement shall not apply if the width of the front building face is more than 24 feet. The width of the front building face shall include the width of the manufactured housing unit plus the width of any permanent addition; all such additions shall meet the following criteria:

A. The addition is of a similar architectural design and constructed of similar materials as the manufactured housing unit;

B. The addition is permanently attached to the unit to create one integral structure; and

C. The addition is placed on a permanent frost wall foundation.

417.8
All disturbed areas of the site, not otherwise revegetated, shall be loamed, fertilized and seeded.

417.9
All exterior doors shall be provided with steps of a suitable design and construction to provide all-season access.

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to adverse impact on adjacent properties.

Sec. 418 Mobile Home Parks

418.1
Except as otherwise provided below, mobile home parks shall comply with all applicable State laws and municipal ordinances and regulations and shall meet the requirements of the subdivision law. In addition to any other reviews that may be required, any proposed mobile home park development, expansion or amendment shall be reviewed by the Planning Board for compliance with the requirements of this section. No mobile home park development shall be permitted unless the Planning Board finds it will be in compliance with this section.

418.2 Lot size, width and density.
Notwithstanding the dimensional requirements in Sec. 204 of this ordinance, lots in a mobile home park shall meet the following lot size, width and density requirements.
A. Lots served by individual subsurface waste disposal systems:
   1. Minimum lot size 20,000 square feet
   2. Minimum lot width 100 feet

B. Lots served by a central subsurface waste water disposal system approved by the Maine Dept. of Human Services:
   1. Minimum lot size 12,000 square feet
   2. Minimum lot width 75 feet

C. The overall density of any mobile home park served by a central subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 square feet of total mobile home park area.

D. Mobile home park lots located within a shoreland zoning district shall meet the dimensional requirements for that district.

E. The overall area of a mobile home park shall be no greater than the combined area of its mobile home park lots plus:
   1. The area required for road rights-of-way;
   2. The area required for buffer strips, if any;
   3. The area within any setbacks required in the shoreland zoning districts.

**418.3 Lot setbacks**
Notwithstanding the setback requirements in Sec. 204 of this ordinance, lots in a mobile home park shall meet the following lot setback requirements:

A. For lots 12,000 square feet in area or larger, structures shall meet the following setbacks:
   1. Front setback: 20 feet;
   2. Side setback: 20 feet;
   3. Rear setback: 10 feet.

B. Notwithstanding sections 418.3.A.1 and 4183.A.2 above, structures on a mobile home park lot that is adjacent to a public road shall be set back from the public road the same distance applicable to other residential developments.
C. Notwithstanding 418.3.A and 418.3.B above, mobile home park lots located within a shoreland zoning district shall meet the setbacks for that district.

D. A minimum twenty (20) foot separation shall be maintained between all manufactured homes in all directions.

418.4 Lot coverage:

A. All structures on the lot, including manufactured housing and accessory structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

418.5 Buffering:

A. A fifty (50) foot wide buffer strip shall be provided along any mobile home park boundary that abuts land used for residential use if the per-acre density of homes within the mobile home park is at least two times greater than:

1. The density of residential development on immediately adjacent parcels of land, or

2. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable municipal ordinances or State law.

B. No structures, streets or utilities may be placed in the buffer strip, except that utilities may cross the buffer strip to provide services to the mobile home park.

418.6 Roads:

A. Streets within a mobile home park that are to be dedicated to the Town for acceptance as town ways shall be designed and constructed in accordance with the standards contained in Sec. 8 of the Town's Subdivision Ordinance;

B. Streets within a mobile home park that are to be privately owned roads shall be built according to acceptable engineering standards, shall be designed by a professional engineer registered in the State of Maine, and shall meet the following design standards:

1. Right of way width, 23 feet
2. Width of paved traveled way, 20 feet
3. Privately owned roads within a mobile home park that intersect with public ways adjacent to the mobile home park shall meet the following standards:

   a) The desired angle of intersection shall be 90 degrees, and the minimum angle of intersection shall be 75 degrees.

   b) The maximum permissible grade within 75 feet of the intersection shall be 2%.

   c) The minimum sight distance shall be 10 feet for every mile per hour of posted speed limit on the existing public way. Sight distances shall be 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 3 1/2 feet above the pavement and the height of object 4 1/4 feet. Where the Planning Board finds it necessary, the mobile home park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.

   d) The centerline of any privately owned road within a park intersecting an existing public way shall be at least 125 feet from the centerline of any other street intersecting that public street.

C. On-street parking shall be prohibited on privately owned roads in a mobile home park.

D. No mobile home park lot shall have direct vehicular access onto an existing public way.

E. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public ways.

F. The Planning Board shall require a traffic impact analysis if the mobile home park will generate more than 500 trips per day.

418.7 Utilities: 
The Planning Board shall not require electrical utilities and telephone lines to be located underground within a mobile home park. A developer may install utilities anywhere within the mobile home park.
418.8 Lighting:

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to adverse impact on adjacent properties.

418.9 Storage:

At least 300 cubic feet of enclosed tenant storage shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

418.10 Administration:

A. Mobile home park lots must be designated on the subdivision plan for the proposed mobile home park.

B. A person proposing development or expansion of a mobile home park has the burden of proving that development will not pollute a public water supply or aquifer or violate any State law relating to land development, subdivision or use.

1. Ground water impact assessment. Accompanying the application for Planning Board approval of any mobile home park, which is not served by public sewer, shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydrogeologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, and shall contain at least the following information:

   a) A map showing the basic soils types.
   b) The depth to the water table at representative points throughout the mobile home park.
   c) Drainage conditions throughout the mobile home park.
   d) Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.
   e) An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of 1000 feet from potential contamination sources, which ever is a shorter distance. For mobile home parks within the
watershed of a lake, projections of the developments impact on groundwater phosphate concentrations shall also be provided.

f) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.


a) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

b) No mobile home park shall result in existing groundwater quality exceeding 50% of the physical, biological, chemical and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations pursuant to 22 M.R.S.A. ~ 2601 et seq. If existing groundwater quality is inferior to Maine State Drinking Water Regulations, the applicant shall not degrade the water quality any further. This criteria shall apply to the property boundaries existing and proposed water supply wells and springs. If groundwater assessment under Section 2.a above shows that the effect of the development or use of land will be to exceed whichever of these groundwater quality standards applies, that will be the basis for denial of the application.

3. No mobile home park approved under this section may be converted to another use without Planning Board approval and without meeting the appropriate district dimensional and setback requirements. The subdivision plan for the mobile home park development, expansion or amendment shall include the following note:

"This subdivision plan is approved solely as a 'mobile home park' as defined in 30-A M.R.S.§ 4358; the area of each lot of this subdivision is lawfully less than the minimum lot size otherwise required under the Town's Zoning Ordinance solely because of its status as a lot within a mobile home park. If any or all of the lots depicted upon this subdivision plan cease to be used as a mobile home park as so defined, this subdivision plan must first be revised to comply with the Town's then-current land use ordinances."
Sec. 419  **Outdoor Swimming Pools**

**419.1**  
An outdoor swimming pool shall be any artificially confined body of water greater than twenty-four (24) inches in depth in any portion which may or may not require recirculation and filtering equipment for the maintenance of water quality.

**419.2**  
Any swimming pool which is not located entirely within a building shall comply with the following requirements:

A. The pool shall not encroach upon the setback or yard requirements of the District in which it is located. For the purposes of this regulation, this shall not include aprons or approaches to the swimming pool but shall include all filtering facilities and buildings accessory to the swimming pool as well as the swimming pool itself.

B. The pool shall be completely enclosed by a fence or a wall not less than four feet in height, with appropriate doors and/or gates, and so constructed as to reasonably prohibit the unsupervised entrance of young children. The wall of a building or the pool itself may be used as a part of such an enclosure. This regulation shall apply to below ground and above ground pools.

C. These requirements shall not apply to so-called farm ponds or fire ponds.

**419.3**  
No outdoor swimming pool shall be constructed until a building permit has been issued by the Code Enforcement Officer.

Sec. 420  **Parking and Loading**

**420.1 Parking:**  
Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any use is established.

<table>
<thead>
<tr>
<th>USE</th>
<th>PARKING SPACES REQUIRED (MINIMUM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Accommodations</td>
<td>1.2 for each lodging unit</td>
</tr>
<tr>
<td>Residential</td>
<td>2.5 per dwelling unit</td>
</tr>
<tr>
<td>Church and School</td>
<td>1 per 3 seats in principal assembly room</td>
</tr>
</tbody>
</table>
Private Club or Lodge
1 per 4 members
Theater
1 per 4 seats
Residential Care Facilities
See Sec. 424.3.F.
Professional Offices &
Business services, medical
clinics and retail business in
Commercial Districts
1 for every 250 square feet of gross leasable area
Retail Businesses & Personal
Service Establishment
1 for each 180 square feet of gross leasable sales
area
Eating & drinking estab.
1 for every 3 seats
Industrial
1 for each 1.2 employees, based on the highest
expected average employee occupancy
Funeral Homes
1 for each 75 square feet of floor in slumber rooms,
parlors, and individual service rooms
Bed and Breakfast Inn
Residential parking space requirement and 1 per
guest bedroom
Day Care Center and Nursery
See Sec. 410.2.E.
School

420.2 The use of any land in a residential district for a parking lot, with or
without charge, for the purpose of serving a public beach or other area
open to the public may be permitted as a special exception by the Board of
Adjustment and Appeals. The Board shall impose such restrictions
concerning hours of operation, lighting, landscaping, buffering and traffic
circulation so as not to cause undue adverse effect on the use of the other
property in the area.

420.3 Off-Street Loading:
Logically and conveniently located space for bulk pick-ups and deliveries,
scaled to delivery vehicles expected to be used, and accessible to such
vehicles when required off-street parking spaces are filled, shall be
provided for all commercial and industrial uses. Required off-street
loading space is not to be included as off-street parking space in
computation of required off-street parking space. Off-street loading shall
not face residential uses on abutting property without provision for a 100
ft. visual buffer measured from the edge of the access area of dense
vegetation sufficient to substantially screen the loading area or a buffer of
not less than 50 ft. when a solid fence is to be used.

420.4 Parking Areas in the Shoreland Zone

A. Parking areas shall meet the shoreline and tributary stream
setback requirements for structures for the district in which
such areas are located, except that in the Commercial
Fisheries/Maritime Activities District parking areas shall be set
back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial Fisheries/Maritime Activities Districts 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.

B. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

C. In determining the appropriate size of proposed parking facilities, the following shall apply:

1. 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.
2. Internal travel aisles: Approximately twenty (20) feet wide.

Sec. 421 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreland Stabilization

421.1 The purpose of this section is to protect traditional public access to, and use of the shore. Also to minimize adverse impacts on fisheries, the environment and public enjoyment of the shoreline, including visual and navigational impacts.

421.2 This section pertains to construction of, or alteration and repairs to, piers, wharves, docks, bridges, floats and other structures and uses extending over or below the mean high water line of a water body, submerged lands, or wetlands. These are referred to simply as “piers, wharves, docks, bridges, floats and other structures” in the sections below.

Piers are platforms built with pilings for support; wharves are solid structures built of granite blocks and/or contiguously placed materials; the term docks refers to (1) the docking space alongside or between piers and wharves as well as (2) the piers and wharves themselves (the more common usage). Other structures include, but are not limited to items such as ramps, marine rails and cribbing.
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 storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigational aids, basins and channels, retaining walls, 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.

421.3
All applications shall be reviewed by the Coastal Waters Commission. The Coastal Waters Commission shall provide the Planning Board a written advisory recommendation regarding all applications related to Section 421 of the Town of Chebeague Island Zoning Ordinance. Applications shall include sufficient information for the Commission to determine if the Ordinance conditions are met. Applications shall include, but shall not be limited to structure elevations, high and low water elevations, building materials to be used, soil substrates, habitat types, and property boundary surveys.

421.4
The following standards shall apply to all piers, docks, floats, wharves, bridges, and other structures and uses extending over and beyond the normal high water line of a body of water, submerged lands or wetland:

No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 204.2.C a second structure may be allowed and may remain as long as the lot is not further divided.

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

B. The location shall not interfere with existing developed or natural beach areas.

C. The facility shall be located so as to minimize adverse effects on fisheries.
D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.

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

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

G. Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

H. Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

Public and Commercial facilities shall submit a lighting plan for review by the Planning Board for safety and compatibility with the proposed use.

All lighting shall be in conformance with all Federal, State, and local standards including Coast Guard Regulations for lighting of piers or wharves where applicable.

I. Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling and navigation. This may require accommodations such as steps or pier elevations that would allow passage over or beneath a structure.

J. Where a waterfront structure is proposed that will serve more than one property, the property owners shall submit to the Town of Chebeague Island a proposed easement demonstrating
that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town of Chebeague Island.

K. Before any construction or site preparation begins, the applicant must obtain all Federal, State and local permits, as required, including but not limited to a Code Enforcement Officer permit, permits from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S.A. § 480-C as subsequently amended, the Army Corps of Engineers, and a Wharfing-Out permit issued by the Selectmen under 38 M.R.S., Ch. 9, as subsequently amended.

L. Vegetation may be removed in excess of the standards in Section 427.5 of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

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

2. Revegetation must occur in accordance with Section 427.9.

M. The Town of Chebeague Island shall notify all property owners within 1500 feet of the proposed project. In addition, the Town of Chebeague Island shall place Public Notices in four (4) locations to maximize notification of the affected citizenry and shall place Public Notices in two local papers.

**Sec. 422 Private Airports and Private Heliports**

422.1 Recognizing the growing development of and need for private aircraft service in the Town of Chebeague Island, it has been deemed appropriate to adopt provisions which provide for the safe and orderly development of Private Airports and Private Heliports within designated zones of the Town.
422.2
Private Airports and Private Heliports, as defined herein, shall be allowed at locations where permitted under this ordinance, subject to approval by the Planning Board under Site Plan Review and subject to the following provisions:

A. The private airport or private heliport shall be limited to the basing of only one (1) aircraft which shall be owned by and registered to or leased by the airport or heliport owner;

B. No commercial operations or activities shall be permitted on or from the airport or heliport;

C. No more than three (3) aircraft shall be permitted at the airport or heliport at any one time;

D. Flight activities shall be prohibited from one-half hour prior to sunset to one-half hour after sunrise;

E. Guest usage shall not be considered occasional if the guest aircraft utilizes the airport or heliport for more than seven days in any one month or twelve days in any calendar year;

F. The minimum runway length of the airstrip shall be 1,500 feet;

G. Operations at airports and heliports shall be restricted to aircraft of gross weights not exceeding 3,000 pounds and rotorcraft of gross weights not exceeding 3,500 pounds;

H. The minimum setbacks required for parcels containing an airport shall be 400 feet minimum setbacks to either side of the center line of the runway, and 750 foot minimum setback from either end of the runway;

I. Heliports shall require designated landing areas of 50 feet by 50 feet, with setbacks from all sides of the designated landing area of not less than 150 feet from the property perimeter;

J. Temporary landing areas for rotorcraft in use for three (3) days or less in any calendar year are exempt from the provisions of this Ordinance;

K. The Planning Board may request an evaluation of the air safety aspects of the site plan from the Division of Aeronautics of the Maine Department of Transportation;
L. No airport or heliport, other than a private airport for personal use or a private heliport for personal use, shall be permitted.

Sec. 423 Public Utilities

423.1 Nothing in this Ordinance shall be deemed to prevent erection, construction, alteration or maintenance in any district of distribution lines of any utility, such as electrical and telephone lines, within the limits of a public way and all necessary statutory permits and licenses have been obtained, and further provided that such transmission or distribution lines, if located in a subdivision requiring the approval of the Planning Board shall be subject to the Subdivision Ordinance as now enacted or as hereafter amended. For the purposes of this section, a telecommunications facility is not considered a public utility.

423.2 No underground transmission lines, not located in a public way, shall be permitted in any district unless allowed by the Board of Adjustment and Appeals as a special exception. In addition to the other criteria contained in this ordinance to be followed by said Board in granting or denying requests for special exceptions, the Board shall take into consideration the effect of the location of the underground lines upon other development in the area, the materials used in the construction of such lines, the size thereof, and the proposed treatment of the surface of the land within the work limits and/or the right of way for such lines.

423.3 No above ground transmission lines, not located in a public way, shall be permitted in any district unless allowed by the Board of Adjustment and Appeals as a special exception. In addition to the other criteria contained in this Ordinance to be followed by said Board in granting or denying requests for special exceptions, the Board shall take into consideration the effect the location of the above ground lines upon other development in the area, the materials used in the construction of such lines, the size thereof, and the proposed treatment of the surface of the land within the work limits and/or the right of way for such lines, and also any proposed screening of such above-ground facilities by plantings or otherwise to minimize the distracting visual effects upon users of any public ways in the area and on the users of residential properties in the area.

423.4 Accessory structures, including power substations and standpipes, but excluding sewer pumping stations, may be permitted in any district as special exceptions by the Board of Adjustment and Appeals, with review requirements as listed in the district requirements. These structures shall
further be subject to site plan review by the Planning Board. District dimensional requirements as regard lot sizes, setback and lot coverage shall not apply to said accessory structures except that as a part of the special exception review, the Board of Adjustment and Appeals shall assure that said facilities are located on a site of sufficient size to provide any screening or other necessary buffering from any residential neighborhood.

423.5 Primary, non-accessory buildings of a public utility, including those designed for the production or generation or relay of the service offered by the utility may be permitted in any district where the same is listed as a special exception by the Board of Adjustment. Business offices of a public utility shall not be subject to the provisions of this subsection, but shall be subject to the general requirements of this Ordinance applying to Professional Offices.

423.6 Public Utilities in the Shoreland Zone

A. In the shoreland zone, where feasible, the installation of public utilities shall be limited to existing public ways and existing service corridors.

B. The installation of public utilities, other than road-side distribution lines, is not allowed in a Resource Protection Overlay 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.

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

Sec. 424 Residential Care Facilities

Residential care facilities as defined herein shall be allowed where permitted under this ordinance, subject to the following conditions:

424.1 Review Procedures:

All residential care facilities shall be subject to approval by the Planning Board under the Site Plan Review provisions of this Ordinance. In addition, all residential care facilities, except for Community Living Uses and for Boarding Care Facilities with eight (8) or fewer residents, must meet the submissions requirements and review standards contained in the
Town of Chebeague Island Subdivision Ordinance under Sections 1, 3, 5, 6, 7 (except for Sec. 7.8 and 7.9), 8, 9, 10, and Appendix D; provided, however, such subdivision submissions and review standards may be waived by the Planning Board if otherwise addressed under the Site Plan Review Ordinance. For the purposes of this ordinance, the words "residential care facility" should be substituted for "subdivision" when referring to the Subdivision Ordinance provisions listed above.

A. Review Fees: Residential care facilities subject to review under the Subdivision Ordinance provisions above shall be assessed review fees as specified by order of the Board of Selectmen.

424.2 Density and Living Area:
Except in the Shoreland Zone, the minimum lot size of the zoning district in which the residential care facility is proposed shall apply to the facility as a whole and not to dwelling units, beds, or residents. The maximum size of a facility for a given site shall instead be limited by the requirements contained in Sec. 424.3 below and by applicable Special Exception, Subdivision and/or Site Plan Review standards. Residential care facilities shall in all events provide at least sufficient living area per resident to comply with applicable State licensing or certification requirements.

424.3 Site and Building Requirements:

A. Minimum Lot Size: The minimum lot size shall be that required for the zoning district in which the facility is proposed.

B. Site Coverage: The facility, as measured by the area of the building footprint of all structures, shall not cover more than 10% of any site's gross acreage. This limitation on site coverage applies only to structures and does not apply to drives, parking areas, walkways, and gardens.

C. Open Space: At least 50% of the gross site acreage shall be devoted to vegetated open space. The open space may include lawn areas, forest areas, areas with a vegetative cover, and gardens. Open space shall not include areas covered by structures, parking areas, drives, walkways, swimming pools, tennis courts, or similar improvements.

D. Setbacks: The setbacks below shall apply to new structures upon which construction commences after the effective date of this amendment, additions thereto, additions to structures upon
which construction commenced prior to the effective date of this amendment, parking areas, swimming pools, tennis courts and similar improvements.

<table>
<thead>
<tr>
<th>Total Square Footage of All Structures, Existing and Proposed New Structures and any Additions, added Together</th>
<th>Greater than 10,000 Square Feet</th>
<th>5,000 to 10,000 Square Feet</th>
<th>Less than 5,000 Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>100 feet</td>
<td>75 feet</td>
<td>Same as otherwise required under Sec. 204 “District Regulations”</td>
</tr>
<tr>
<td>Rear</td>
<td>75 feet</td>
<td>75 feet</td>
<td></td>
</tr>
<tr>
<td>Each Side</td>
<td>100 feet</td>
<td>75 feet</td>
<td></td>
</tr>
</tbody>
</table>

In cases involving expansions of or additions to existing structures which result in an increase in the square footage of a residential care facility sufficient to cause the facility as a whole to become subject to an increased setback requirement pursuant to the foregoing schedule, the existing structure, if in compliance with the applicable setback requirement at the time of its construction, shall be deemed to conform to the setback schedule. The addition or expansion shall be subject to the increased setback requirement except that the Planning Board in a site plan review may grant approval to permit the setback requirement applicable to the original structure to apply to the addition on finding that compliance with the increased setback requirement would cause undue hardship and that the proposed addition or expansion will not result in any noise, glare, dust, fumes, storm water runoff, air or water pollution or similar condition having a detrimental effect on adjoining properties. The Board may, as a condition of such approval, require buffering or screening sufficient to protect the privacy of residents of the facility and adjoining properties.

E. Height: The maximum building height shall not exceed that which is permitted for residential construction in accordance with the provisions of this ordinance.

F. Parking: Off-street parking spaces shall be provided in the amount of a minimum of one parking space for each residential unit, except that for nursing homes one parking space for every four beds and for hospitals one for every three beds shall be provided. In addition, employee parking spaces that equal the
highest number of employees on duty during any one shift shall be provided.

G. Buffering: Adequate landscaping and screening shall be provided in accordance with the standards for landscaping and buffering contained in the Site Plan Review section of this ordinance and, if required under Section 431.1 above, in the applicable sections of the Subdivision Ordinance.

424.4 Wastewater Disposal: 
All proposed residential care facilities shall be subject to the submission requirements and standards contained in Sec. 7.15--Sewage Disposal of the Town of Chebeague Island Subdivision Ordinance.

424.5 Occupancy Guarantee and Conversions:
All residential care facilities shall be licensed or certified by the State of Maine and shall be restricted to occupancy by elderly, handicapped, or ill persons as specified by the license or certification. The conversion of a residential care facility to another use shall require site plan review and approval in addition to any other applicable provisions of this ordinance.

424.6 Reserved Units:
A proposed residential care facility shall be required to reserve at least 10% of its units for lower income people. "Lower income" is defined as the full range of incomes at or below 80% of the median household income as determined by the Department of Economic and Community Development. Any applicant seeking a variance from the requirement of this subsection must, in addition to the other variance standards under this ordinance, demonstrate that the Town has achieved a level of 10% or more of new residential development, including units in residential care facilities, based on the most recent five-year historical average of residential development in the Town, which meets the definition of housing for lower income persons as defined herein.

Sec. 425 Street Construction

425.1 Private Streets
Private streets meeting the following standards, as determined by the Code Enforcement Officer, may be used to satisfy the lot frontage requirement for residential uses.

A. In the IR and IB zones, an applicant shall submit to the Code Enforcement Officer an application for a private right-of-way required to provide access to a structure located within that zone. The application shall specify the location of the proposed right-of-way, the proposed width, the materials to be
utilized in the construction of the road, grades, provisions for drainage, and sight distances at any turning radius. The Code Enforcement Officer shall approve any plan that makes adequate provision for these items, provided that the Fire Chief approves the application for sufficiency of access for emergency vehicles.

425.2 Streets, Roads and Driveways in the Shoreland Zone
The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

A. Roads and driveways shall be set back at seventy-five (75) feet, horizontal distance, from the normal high-water line of there water bodies, tributary steams, 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 425.2.A. 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 Sec. 425.2.A. except for that portion of the road or driveway necessary for direct access to the structure.

B. 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.
C. New roads and driveways are prohibited in a Resource Protection Overlay 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 Overlay 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 Overlay 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.

D. 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 411 (Erosion and Sedimentation Control).

E. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

F. 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.

G. 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 follow shall apply:

1. 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:

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
</tbody>
</table>
2. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

3. 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.

4. 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.

H. 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.

Sec. 426 Sanitary Standards

426.1 All subsurface sewage disposal systems shall be constructed in conformance with the State of Maine Subsurface Waste Disposal Rules, except where the requirements of this section differ from the Rules, the requirements of this section govern.

426.2 The minimum setback for underground sewage disposal facilities from the normal high water mark of a waterbody shall be no less than 100 horizontal feet. Where daily sewage flow exceeds 2000 gallons, the minimum setback shall be 300 feet from any shoreline. All other setback requirements of the Subsurface Waste Disposal Rules shall be met in full. Setbacks from shorelines for all subsurface sewage disposal facilities shall not be reduced by variance.

426.3 The following soils are unsuitable for construction of subsurface sewage disposal systems due to their very severe limitations of drainage, flooding and organic nature: Chocorua, Whately, Sebago, Saco-Limerick, Borohemists, Borosaprist, Sulfihemists.
§ 426.4
Except for a lot of record in the Cumberland County Registry of Deeds created before May 26, 1987, the minimum separation between any subsurface sewage disposal system and a dug well or spring shall be 200’. An applicant may obtain a waiver of the 200’ separation from the Town Plumbing Inspector, if the applicant demonstrates by appropriate engineering data that the proposed action will not adversely affect water quality, but in no event shall separation be less than 100’. For purposes of this section, "not adversely affecting water quality" shall mean that no development or use of land shall result in existing groundwater quality exceeding 50 percent of the physical, biological, chemical and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S. § 601. If existing groundwater quality is inferior to the State Drinking Water Regulations, the developer or land owner will not degrade the water quality any further. This criterion shall apply to any existing or proposed water supply source. As a minimum, the direction and rate of groundwater movement shall be determined and a projection made by analytical methods of groundwater quality at any well location. Where necessary in order to demonstrate compliance with the above waiver standard, the investigation shall include: soil borings, installing groundwater observation wells, measurement of groundwater elevation at wells, estimation of the rate and direction of groundwater movement, measurement of existing groundwater quality, and identification of existing water supply wells or springs on abutting properties. If the hydrogeologic evaluation and projection of groundwater and/or surface water quality show that the effect of the development or use of land will be to exceed the above groundwater quality standards, that will be the basis for denial of the waiver.

§ 426.5
In the shoreland zone 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

§ 426.6
A holding tank is not allowed for a first-time residential use in the shoreland zone.

Sec. 427  Shoreland Areas
427.1 Principal and Accessory Buildings and Structures

A. All new principal and accessory buildings and structures shall be set back at least seventy-five (75) feet from the normal high-water line of tributary streams, or the upland edge of a wetland, except that in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection and Resource Protection/Floodplain Overlay Districts 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:

1. 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.

2. 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 (Appendix 3). 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.

3. 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.

B. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Overlay 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.

C. 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. Since the Town of Chebeague Island participates 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.

D. With the exception of Commercial Fisheries/Maritime Activities Districts, 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 Commercial Fisheries/Maritime Activities District, 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 nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.
E. 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:

1. The site has been previously altered and an effective vegetated buffer does not exist;

2. 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;

3. 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;

4. The total height of the wall(s), in the aggregate, is/are no more than 24 inches;

5. Retaining walls are located outside of the 100-year floodplain on coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps (Appendix 4), or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

6. 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

7. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

   a) 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;
b) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

c) Only native species may be used to establish the buffer area;

d) 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;

e) A footpath not to exceed the standards in Section 427.5.B.1 may traverse the buffer;

F. 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. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

Piers, Docks and Wharves, see section 421.

Campgrounds, see section 405.

427.2 Commercial and Industrial Uses
The following new commercial and industrial uses are prohibited within the shoreland zone

A. Auto washing facilities
B. Auto or other vehicle service and/or repair operation, including body shops
C. Chemical and bacteriological laboratories
D. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
E. Commercial painting, wood preserving, and furniture stripping
F. Dry cleaning establishments
G. Electronic circuit assembly
H. Laundromats, unless connected to a sanitary sewer
I. Metal plating, finishing, or polishing
J. 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
K. Photographic processing
L. Printing

Parking Areas, see section 420.

Roads and Driveways, see section 405.

427.3 Stormwater Runoff

A. All new construction and development shall be designed to minimize stormwater runoff from site in excess of the natural pre-development 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 stormwaters.

B. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

Essential Services, see public utilities, section 423.

Mineral Exploration and Extraction, see section 412.

Agriculture, see Section 401.

427.4 Reserved

427.5 Clearing or Removal of Vegetation for Activities other than Timber Harvesting

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

B. Except in areas as described in Paragraph A, above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
1. 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.

2. 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 this section a "well-distributed stand of trees" adjacent to a wetland or tributary stream shall be defined as maintaining a rating score of 16 or more in each 25-foot by 50-foot rectangle (1250 square feet) area as determined by the following rating system.

<table>
<thead>
<tr>
<th>Diameter of Tree at 4 ½ Feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - &lt;4 in.</td>
<td>1</td>
</tr>
<tr>
<td>8 - &lt;12 in.</td>
<td>2</td>
</tr>
<tr>
<td>4 – &lt;8 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

Note: As an example, adjacent to the upland edge of a coastal wetland, 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, and three trees between 8 and 12 inches 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 20 points \((36 - 16 = 20)\) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

a) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
b) Each successive plot must be adjacent to, but not overlap a previous plot;

c) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by the Ordinance;

e) 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 422.5.B.2 “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.

3. 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 paragraphs 427.5.B and 427.5.B.1 above.

4. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

5. 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 427.9, unless existing new tree growth is present.
The provisions contained in paragraph B. above does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

6. 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 requirement of section 427.5.B.

C. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any 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, lawns, driveways 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 or Commercial Fisheries/Maritime Activities Overlay Districts.

D. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

E. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section

Erosion and Sedimentation Control, see section 411.

Soils, see section 425.
Water Quality, see section 435.

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

427.7 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

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

1. 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.

2. 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.

3. 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.

4. 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.

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

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

1. 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:

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

   b.) Stumps from the storm-damaged trees may not be removed;

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

   d.) 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.

2. 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.

427.8. Exemptions to Clearing and Vegetation Removal Requirements
The following activities are exempt from the clearing and vegetation removal standards set forth in Section 427.5 provided that all other applicable requirements of
this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

A. 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 427.5 apply;

B. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 427.1 are not applicable;

C. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

D. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 401 are complied with;

E. 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 coastal wetland.

F. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

1. 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;

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

3. 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.

G. 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.

**427.9 Revegetation Requirements.**

When revegetation is required in response to violations of the vegetation standards set forth in Section 427.5 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.

A. 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.

B. 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:

C. 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.

D. Revegetation activities must meet the following requirements for trees and saplings:

1. All trees and saplings removed must be replaced with native noninvasive species;

2. Replacement vegetation must at a minimum consist of saplings;

3. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
4. No one species shall make up fifty (50%) percent or more of the number of trees and saplings planted;

5. 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

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

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

1. 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;

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

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

4. No one species shall make up fifty (50%) percent or more of the number of planted woody vegetation plants; and

5. 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.

F. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

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

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

3. 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.

Sec. 428  Signs
Purpose: It is the intent of these regulations to provide for attractive, coordinated, informative and efficient signs with the express purpose of protecting property values, and enhancing the physical appearance of the town.

428.1 Permits and Fees:

A. No sign or outdoor display structure shall be erected, attached, suspended or altered, until a permit has been issued by the Code Enforcement Officer to the person or owner in control of the sign. This Ordinance does not apply to temporary or permanent State or municipal signs, historical designation signs, contractor's signs, and temporary signs for the sale of a single-family residence nor to signs relating to or controlling the use of private property. Except as otherwise provided in this Ordinance, a "temporary" sign is one that is erected for six (6) months or less and a "historic designation" sign is a sign that gives notice that a property is of an historic nature as determined by a State, federal or local government agency.

B. A person who wishes to erect or have erected a sign within the Town shall make application on a prescribed application and submit same to the Town Office for each location where a sign is desired. A fee as established by order of the Board of Selectmen per sign shall be submitted with each application, except as indicated in Section 428.3.H.

C. The Code Enforcement Officer shall approve the application within two weeks if it meets the requirements of this Ordinance, otherwise the application shall be denied with a statement of the reason given.

D. Any person aggrieved by the decision regarding an application may appeal to the Board of Adjustment and Appeals which shall consider said appeal within 30 days or at their next regularly scheduled meeting, whichever event occurs later, and the Board of Adjustment and Appeals decision shall be final.
428.2 General regulations:

A. No sign shall be painted upon or otherwise directly affixed to any rock, ledge, or other natural feature except for signs reading "No Trespassing", "No Hunting", or other signs of similar import relating to controlling the use of private property.

B. No sign shall be erected at any location where, by reasons of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic, or which may be confused with any other traffic signs, signal, or device.

C. Permanent signs, other than municipal shall not be erected within the right-of-way of any street or approved sight easements, nor shall any sign, including temporary signs, be located so as to constitute a traffic hazard.

D. All signs and their supporting structures shall be properly maintained to prevent rust, rot, peeling, or similar deterioration.

E. Whenever a sign shall become structurally unsafe or endanger the safety of a building or the public, the Building Inspector shall order such sign to be made safe or removed. Such order shall be complied with within ten (10) days of the receipt thereof by the person owning or using the sign, or by the owners of the building or premises on which such sign is affixed or erected.

F. Any sign which advertises, identifies or pertains to an activity no longer in existence shall be removed by the owner of the sign or the property or person otherwise responsible within 30 days from the time the activity ceases existence. This provision does not apply to seasonal activities during the regular periods in which they are closed.

Where due written notification has been given by the Building Inspector and compliance has not been made within the required thirty (30) day period, the town may cause removal of such sign and charge the cost of such removal to the owner.

G. No sign shall have visible moving parts or have blinding, moving or glaring illumination or consist of banners, pennants, ribbons, streamers or similar devices.
H. No animated, flashing, apparently moving, or portable signs shall be permitted.

I. Signs attached to a principal structure shall not extend above the roof line or the parapet.

J. No sign shall be closer than fifteen (15) feet to any lot line, or five (5) feet from the edge of any public way as may be determined by a lawful authority or otherwise encroach over in the airspace of any public right-of-way.

K. No advertising or identification sign, whether permanent or temporary, shall be erected on any premises other than the premises where the activity to which the sign pertains is located, other than those permitted under Section 428.3.B or Section 428.2.O.

L. A sign may be illuminated provided it identifies the premises on which it is displayed. Illuminated signs may only be lighted during the daylight hours or those hours during which the premises may be opened to the public.

M. In all residential districts the source of light of an illuminated sign shall be shielded or concealed. In all other districts the use of an illuminated sign with unshielded light shall be subject to a finding by the Board of Adjustment and Appeals that such a sign will not adversely affect adjacent properties.

N. Signs which are not visible from a public way are not subject to this Ordinance.

O. Signs advertising the sale of fresh fruit and vegetable crops are allowed as permitted by 23 M.R.S. § 1913-2-F as amended from time to time.

428.3 Standards:

A. The number of permanent or temporary identification signs which may be displayed on any lot in any zone must not exceed three (3).

B. The number of permanent or temporary advertising signs which may be displayed on any lot only in the Island Business zone must not exceed four (4). Advertising signs in all other zones are prohibited except for signs advertising the sale of real estate and except as may be specifically provided for by the
Board of Adjustment and Appeals in its granting of a use and of a corresponding temporary advertising sign by special exception. Signs associated with home occupations or one day sales such as yard/garage/tag sales are permitted in all zones. Such specific provisions shall not violate the intent and purpose of this Ordinance.

C. No individual sign shall contain more than twenty-five (25) square feet.

D. No individual sign shall have a height greater than twenty-five (25) feet above the ground level of land upon which it is located and as may be measured from the highest point on the sign.

E. The top of free-standing signs shall not exceed the height limit of principal structures in the zone where located or twenty-five (25) feet, whichever is less.

F. The area surrounding free-standing signs shall be kept neat, clean and landscaped.

G. A temporary sign used to provide directional instructions to a single-family residence that is for sale shall not exceed four (4) square feet in size, shall be limited to four (4) in number at any one time relative to a single house, and shall be so located as not to interfere with traffic or otherwise cause a public nuisance. Temporary signs for the sale of real estate other than a single-family residence shall not exceed twenty-five (25) square feet in area and a renewal permit shall be required after the expiration of the first six (6) months that such a sign is posted; such renewal permit shall be valid for up to six (6) months.

H. Temporary political campaign signs which do not individually exceed sixteen square feet may be erected in any zone provided they conform with the conditions of this Ordinance and only after obtaining a permit for the display of such signs from the Code Enforcement Officer and payment of a refundable application fee as established by order of the Board of Selectmen. Applications for such political campaign signs shall be made on forms provided for by the Code Enforcement Officer. If following the election the Code Enforcement Officer finds that all such political advertising signs pertaining to an individual applicant have been removed, he may refund the application fee. No temporary political campaign signs may be
erected more than thirty (30) days prior to the election for which such signs pertain. All such temporary political campaign signs shall be removed within 7 days following the election or the deposit fee shall be forfeited to the Town.

428.4 Signs in the Shoreland Zone
The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential, and Limited Commercial Overlay Districts;

A. 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 Overlay 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.

B. 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.

C. 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.

D. 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.

E. Signs relating to public safety shall be allowed without restriction.

F. No sign shall extend higher than twenty (20) feet above the ground.

G. Signs may be illuminated only by shielded, non-flashing lights.

428.5 Violations:
Any violation of this Ordinance shall constitute a nuisance and the owner, person or firm having control or use of any premises or sign violating any provisions hereof shall be fined as established by order of the Board of Selectmen for each day such violation is permitted to exist after notification in writing from the Town.
428.6 **Minimum Requirements:**
The provisions of this Ordinance are minimum requirements. Whenever the requirements of this Ordinance are at a variance with the requirements of any other lawfully adopted statute, rule, regulation, ordinance, deed restriction or covenant, the most restrictive or that imposing the highest standard shall govern.

Sec. 429 **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.

Sec. 430 **Telecommunication Facilities**

430.1 **Purpose**
The purpose of this Section is to provide a uniform and comprehensive set of performance standards and requirements to be used by the Planning Board during the site plan review process when it reviews an application for the placement and construction of wireless telecommunication facilities. These standards and requirements are intended to regulate the location and installation of such facilities in order to:

A. Protect and promote public health safety and welfare from potential problems examples of which are falling ice, telecommunication wave interference and attractive nuisance of towers to children.

B. Protect and preserve the aesthetic quality of the Town of Chebeague Island as set forth in the goals, policies and objectives of the adopted Comprehensive Plan, examples of which are the protection of scenic vistas, rural character and important historical areas, and the regulations of the Town of
Chebeague Island Zoning Ordinance, including but not limited to buffering requirements, by carefully regulating siting and design of wireless telecommunication facilities.

C. Protect adjacent properties from potential damage from tower failure and falling ice through careful siting regulations and engineering requirements:

D. Facilitate and encourage the managed development of telecommunications infrastructure while at the same time not unduly restricting the development of needed telecommunications facilities, including important amateur radio installations and

E. Encourage co-location on existing and future wireless telecommunication towers and maximize the use of existing and approved towers and other existing structures such as utility poles, water towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of new towers needed to serve the community's needs.

430.2 Exemptions
The following uses are exempt from these regulations:

A. A ground, building or tower-mounted antenna, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, which is no higher than thirty-five (35) feet in height, and is not licensed or used for any commercial purpose. The Code Enforcement Officer may permit additional height up to a maximum of seventy-five (75) feet only if, a) engineering documentation substantiating the need for the excess height is submitted to and is acceptable to the Code Enforcement Officer, and b) the CEO determines that a height in excess of thirty-five (35) feet is technically necessary to successfully engage in this activity.

B. Radio or television satellite dish antenna for the sole use of the resident occupying a residential parcel on which the satellite dish is located.

C. A single ground or building-mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located, with an antenna height not exceeding thirty-five (35) feet.
D. A ground or building-mounted citizens band radio or two-way FM antenna including any mast, if the height (post, and antenna and support structure is not on the ground) does not exceed thirty-five (35) feet.

E. A municipal, public safety or public works wireless telecommunication facility up to a minimum height of 100 feet, the 100 feet height limitation shall not include the height of any building that the TCF may sit upon.

430.3 Submission Requirement
In addition to all of the relevant site plan review submission requirements listed in Sec. 206, the following submissions shall be required unless waived by the Planning Board.

A. A report from a Registered Professional Engineer in the State of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s), and volume(s) of antenna(s) that it can accommodate and the basis for the calculation of capacity.

B. Written approval by all applicable state and federal agencies, including but not limited to the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC), including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.

C. A letter of intent that commits the tower owner and his or her successors in interest to:

   1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant.
   
   2. negotiate in good faith for shared use by third parties that have received an FCC license or permits:
   
   3. allow shared use if an applicant agrees in writing to pay reasonable charges.

D. Proof of financial capacity to build, maintain, and remove the proposed tower.

E. An inventory of all of the provider's existing and approved towers, antennas or sites within the Town of Chebeague Island and locations in surrounding communities where wireless
telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.

F. Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties.

G. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.

H. Elevation drawings, cross-sectional area or silhouette of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. The submission shall reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

I. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.

J. A visual analysis, which may include photo montage, field mock up, or other techniques, which identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including but not limited to the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communication service.

K. Identify any other telecommunication facilities existing or proposed on the site.
L. Details of all accessory structures including buildings, parking areas, utilities, gates, access roads, etc.

M. Structural requirements:

1. Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*.

2. The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/TIA-222 for Cumberland County relative to wind and 1/2" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.

3. For towers or antennas placed on buildings or alternative tower structures (ATS), the applicant shall also provide written certification that the building or ATS itself is structurally capable of safely supporting the tower or antennas and their accompanying equipment.

**430.4 Space And Bulk Standards**

A. Tower Height

Towers shall not exceed a height of one hundred (100) feet. In the Island Business district, where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed 175 feet.

B. Antennas

1. Height

Installing antennas on alternative tower structures is permitted, provided the resulting alternative tower structure height does not exceed 150 feet.

2. Mounting and dimensions
The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:

a) Whip antennas shall not exceed 20' in length for an individual antenna and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.

b) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24'', with no single dish being more than 8'' in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.

c) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8’ in length nor 2’ in width.

C. Lot Area
A new wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

D. Setbacks

1. All wireless communications towers shall be set back from any lot lines a distance equal to at least 125% of the tower height.

2. Equipment facilities shall meet the required District setbacks.

3. If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.

4. Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of July 1, 2007 may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower’s height as of July 1, 2007 but only if that additional height
430.5 Co-Location Requirements

A. On existing towers

1. Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town utilizing existing towers and alternative tower structures and to owners of such towers and alternative structures within a one (1) mile search radius of the proposed tower, stating their needs and/or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence shall be documentation from a qualified and licensed professional engineer that:

a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and planned use of those towers and alternative tower structures, and the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

b) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure,
and the interference cannot be prevented at a reasonable cost:

c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment place or approved; or

d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.

2. Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.

3. Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or alternative tower structure, each tower or alternative tower structure so determined is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines after additional information is provided, that new technology or other considerations enables the existing or approved tower or alternative tower structure to accommodate the equipment.

4. The Planning Department will maintain a list of existing and approved towers and alternative tower structures, including the name and address of owner(s), within the Town of Chebeague Island.

B. Construction of new towers

A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section 430.4 on Tower Height).

Prior to the issuance of any building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer
executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

430.6 Interest Of Telecommunication Entity
A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities which are contracted to locate on the tower must join as applicants.

430.7 Design Standards

A. Wireless communication facilities:

1. Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but not be limited to, having a galvanized finish, being painted "flat" blue gray or in a skytone above the top of surrounding trees and earhtone below treetop level.

2. Equipment facilities shall be adjacent to the tower base unless an alternate location will be less visually obtrusive or topographic considerations require an alternative location.

3. Equipment facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.

4. No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

5. Manually operated or motion detecting security lighting is permitted.

6. The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g.), proximity to historic or aesthetically significant structures, views and/or community features).
7. Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility as needed, to reduce the potential for trespass and injury.

B. Antenna arrays
Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

430.8 Location

A. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. For purposes of this section high visibility shall mean areas with no visual clutter such as trees and buildings. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.

B. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

430.9 Additional Standards And Criteria

A. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.

B. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.

C. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.
430.10 Waiver Provision
The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section 430.3 of this ordinance when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an alternative tower structure be increased to more than 250'.

430.11 Amendments
Any change to existing, previously approved and proposed towers requires site plan approval as noted in the definitions of major and minor development. Changes include, but are not limited to, modifications to approved height and to approved attachments such as antennas and dishes as well as requests for additional attachments.

430.12 Removal Of Abandoned Wireless Communication Facility

A. The owner of a telecommunication facility (TCF) shall notify the Town Administrator of the date of cessation of use of the facility or any component(s) thereof within one month from the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.

B. Any TCF or component thereof that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of abandoned TCF or component thereof shall remove it within ninety (90) days of receipt of notice from the Code Enforcement Officer of determination of abandonment.

All above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible.
C. At the time of approval, the applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond, an irrevocable letter of credit, or an escrow account in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Such performance guarantee shall be satisfactory to the Town Administrator as to the issuer, form, sufficiency, surety and manner of execution. All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum 30 day notice of cancellation or non-renewal be sent by certified mail to the Town of Chebeague Island.

D. If there are two or more users of a single tower or TCF, then this provision shall not apply until all users cease using the tower or TCF.

E. If all antennas above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within six (6) months.

F. The replacement of all or portions of a TCF previously removed requires a new site plan approval.

430.13 Inspections

A. Inspection of towers by a Registered Professional Engineer in the State of Maine shall be performed to insure structural integrity, such inspections shall be performed as follows:

1. Monopole towers - at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

2. Self-supporting towers - at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.

3. Guyed towers - at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.
B. The inspection report shall be submitted to the Town Engineer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, upon recommendation by the Town Engineer, may require repair or demolition of the tower.

C. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the Code Enforcement Officer and agreement by the Town Engineer for safety reasons.

D. Failure to provide required inspection reports in the required time schedule shall be deemed primae facie evidence of abandonment.

Sec. 431  Temporary Sawmill Operations
The Board of Adjustment and Appeals before granting special exceptions in Districts where a temporary sawmill operation is permitted as a special exception shall first determine that the proposed operation will meet the following requirements:

431.1
It shall not be located within 500 feet of any dwelling, school or religious institution.

431.2
The operators thereof shall file with the Town of Chebeague Island a bond in an amount to be determined by the Board of Adjustment and Appeals sufficient to ensure that upon conclusion of the operation the appearance of the area will not have an adverse effect upon neighboring properties by reason of abandoned piles of sawdust and/or other debris and ruination of vegetation to cause excessive soil erosion.

431.3
The operation of a temporary sawmill shall be completed within a twelve-month period.

431.4
The Board may impose such other restrictions as it deems necessary to protect the health, safety, and welfare of the public and adjoining properties.

Sec. 432  Temporary Structures
Temporary structures including mobile units used in conjunction with construction work shall be permitted only during the period that construction work is in progress. Permits for temporary structures may be issued by the Building Inspector for up to a six month period. Fees for the permit shall be set by order of the Board of Selectmen. The basement of a structure shall not be used for residential purposes before the completion of the total structure. Sanitary facilities shall be provided in construction facilities and shall be completely self-contained with holding tanks.

Sec. 433  Timber Harvesting

No timber shall be harvested for commercial purposes from an area greater than three (3) acres until a permit has been issued by the Code Enforcement Officer and a fee of $25.00 has been paid. Such permit shall be valid for a period of one year and may be renewed.

All timber harvesting operations shall be managed in accordance with the following standards:

433.1  All timber harvesting operations shall be conducted in accordance with the provisions of Sec. 409 regarding control of erosion and sedimentation;

433.2  No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water mark of any pond, river, or salt water body as defined. At distances greater than fifty (50) feet from the normal high water mark of such waters, and extending to the limits of the area covered by this Ordinance, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground.

433.3  Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of any pond, river, or salt water body as defined. The width of this strip shall vary according to the average slope of the land as follows:

<table>
<thead>
<tr>
<th>Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (percent)</th>
<th>Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of Ground)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>25</td>
</tr>
</tbody>
</table>
10 45
20 65
30 85
40 105
50 125
60 145
70 165

433.4
Harvesting activities within 250 feet of the shoreline shall not create single openings greater than seven thousand five hundred (7,500) square feet in the forest canopy, and shall remove not more than forty (40) percent of the volume of trees in any ten (10) year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and conditions, to be identifiable as a homogeneous and distinguishable unit.

Sec. 434 Water Extraction and Storage
Ground water or spring water may be pumped, extracted and/or bulk stored for wholesale commercial purposes at locations where permitted under this ordinance, subject to the approval of the Board of Adjustment and Appeals. Notwithstanding the provisions of Sec. 206.1, the Board of Adjustment and Appeals shall receive the recommendations of the Planning Board under Site Plan Review, and shall grant final approval if it finds that the proposal with any reasonable conditions, will conform with the additional requirements of Sec. 434.1, below.

434.1 Conditions of approval:

A. The quantity of water to be taken from ground water sources will not substantially lower the ground water table to the detriment of public and private wells on adjacent properties, cause salt water intrusion, cause undesirable changes in ground water flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten years.

B. The proposed facility will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.

C. Safe and healthful conditions will be maintained at all times within and about the proposed use.

D. The proposed use will not cause sedimentation or erosion.
E. The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.

F. The operator shall make monthly operating records of the quantity of water extracted, stored and removed from the site available to the Board of Selectmen or its designee.

434.2 The application together with site plan shall include the following additional information:

A. Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;

B. A letter from the Maine Department of Health and Human Services approving the facility as proposed;

C. Where appropriate, letters from the Maine Department of Transportation when access approval is required, and from the Department of Environmental Protection when the site location law is applicable or a discharge permit is required;

D. Applicants shall present a written report of a hydrogeologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions; this spring enhancement will not increase the combined spring's catchment capacity by removing more than four (4) cubic yards of earth and not increase this spring's depth by more than four (4) feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and where other improvements do not threaten ground water levels. This report shall include the following information:

1. A map of the aquifer tributary to the spring(s) or well(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
2. The results of the investigation shall establish the aquifer characteristics, the rates of draw down and rebound, the sustainable yearly, monthly (by month), and daily extraction rates, the cone of depression which may develop about the proposed facility, and other impacts on the water table in the tributary aquifer and such other private or public wells within 1000 feet of the proposed extraction facilities shall be assessed.

434.3
Nothing in this procedure, and no decision by the Board of Adjustment and Appeals shall be deemed to create ground water rights other than those rights which the applicant may have under Maine Law.

Sec. 435 Water Quality Protection
No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters including any water body, tributary stream or wetland, so as to impair designated uses or the water classification of the water body, contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

Sec. 436 Individual Private Campsites
Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

A. 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.

B. 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.

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

D. 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.

E. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.

F. 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.

G. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.
SECTION 500 NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS

Sec. 501 The use of any building, structure or land which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued subject to the following provisions:

501.1 Non-conforming Buildings

A. Repairs and Alterations: A nonconforming building or structure may be repaired, altered, improved, or reconstructed. A non-conforming building or 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 or expand the area of a non-conforming use. The number of square feet of floor area devoted to the nonconforming use may not be increased, unless the Board of Adjustment and Appeals finds that the proposed expansion of the nonconforming use will not adversely affect other property in the same district and neighborhood and that the granting of such approval by the Board will not substantially depart from the intended purposes of this ordinance.

B. Rebuilding: A nonconforming building or structure, damaged or destroyed by fire, explosion, or act of God may be rebuilt, provided the rebuilding is begun within twelve (12) months of the disaster. The number of square feet of floor area devoted to nonconforming use shall not be increased, unless in the opinion of the Board of Adjustment and Appeals, such increase will not be detrimental to adjacent properties.

501.2 Non-conforming Uses

A. Extension of Use: A nonconforming use of a building or structure shall not be extended, nor shall a nonconforming use of a part of a building or structure be extended to other parts of the building or structure unless those parts were manifestly arranged or designed for such use prior to the enactment of this Ordinance or of any amendment making such use nonconforming, provided, however, that non-conforming residential uses may be expanded within existing residential buildings or structures or with expansions of such structures that have been permitted under Section 501.3.C.1.

3 Non-conforming lots, not in the Shoreland Zone, are covered in sec. 205.
B. Where a non-conforming structure is added to or expanded as permitted by Section 501.1.A of this Ordinance, a non-conforming use may not be extended into the area of such addition or expansion. A non-conforming use of land may not be extended.

C. Change of Use: A nonconforming use of a building or structure or piece of land may be changed to another nonconforming use only when the Board of Adjustment and Appeals finds that the new use is not objectionable or detrimental to adjacent properties; provided, however, that a non-conforming use of a building or structure or piece of land located within the shoreland areas may be changed to another non-conforming use only upon a determination by the Board of Adjustment and Appeals that the proposed use has no greater adverse impact upon the subject and adjacent properties and resources than does the existing use, with such determination of "no greater adverse impact" to be made upon the criteria listed in Section 501.3.F.

D. Abandonment: The nonconforming use of any building, structure, or piece of land, which has been abandoned shall not thereafter be resumed. A nonconforming use shall be considered abandoned:

1. When it has been replaced by a conforming use;

2. When it has been discontinued for a period of one year; or, upon the death of the owner when it has been discontinued for eighteen (18) months; or

3. When it has been changed to another nonconforming use pursuant to the approval of the Board of Adjustment and Appeals.

501.3 Non-conforming Structures, Uses, Buildings and Lots in the Shoreland Zone

A. Notwithstanding Sections 501.1.A and 501.1.B, transfers of ownership, repair, maintenance, expansions, relocations and reconstruction or replacement of non-conforming buildings or structures in shoreland areas are governed by the following:

B. General
1. Transfer of Ownership. Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

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

C. Non-conforming Structures

1. Expansions: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 427.1.A. A non-conforming building or 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, provided further that:

   a) Expansion of any portion of a structure is less than twenty-five (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 twenty-five (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 501.3.C.1.

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than eight hundred (800) square feet or thirty (30%) percent 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 fifteen (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 501.3.C.1. or Section 501.3.C.1.a., above.

(i) For structures located less than seventy-five (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 one thousand (1,000) square feet or thirty (30%) percent 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 twenty (20) feet or the height of the existing structure, whichever is greater.

(ii) In addition to the limitations in subparagraphs (i) for structures that are legally nonconforming due to their
location within the Resource Protection District when located at less than two hundred fifty (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 one thousand five hundred (1,500) square feet or thirty (30\%) percent 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 twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than seventy-five (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 501.3.C.1.b.i and Section 501.3.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 ninety (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 building or 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, basing its decision on the criteria specified Sec, 501.3.D, Relocation, below. If
(1) the completed foundation does not extend beyond the exterior dimensions of the building or structure except for expansion in conformity with section 501.3.C.1.a;

(2) the foundation does not cause the building or structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure..

3. No building or structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

D. 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 building or structure be relocated in manner that causes the structure to be more non-conforming.

In determining whether the building or structure 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 buildings and 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 427.9. In addition, the area from which the relocated structure was
removed must be replanted with vegetation. Replanting shall be required as follows:

1. 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.

2. 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.

E. Reconstruction or Replacement:

Any non-conforming building or 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 fifty percent (50%) of the market value of the building or 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 building or 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 501.3.C.1 above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of 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 501.3.D above.

Any non-conforming building or structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by fifty percent (50%) or less of the market value of the building or 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 or structure reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 501.3.D above, the physical condition and type of foundation present, if any.

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 501.3.D above, the physical condition and type of foundation present, if any.

F. Change of Use of a Non-conforming Structure:
The use of a non-conforming building or 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 each of the criteria listed herein and shall determine whether the proposed use has a greater adverse impact upon the 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 maritime
activities, and other functionally water-dependent uses than the existing use.

G. 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 501.3.C.1.a 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, including water dependent uses in the CFMA district, 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 501.3.F above.

H. 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. §§ 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 two (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 501.3.H.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.
SECTION 600 - ADMINISTRATIVE PROVISIONS

Sec. 601 Code Enforcement Officer

601.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. The Selectmen and Town Administrator shall assist the Code Enforcement Officer by reporting to him any new construction or use of land, and apparent violations of this Ordinance.

601.2 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.

601.3 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.

601.4 The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including application submitted, shoreland zoning permits granted or denied, variances granted or denied, revocation actions, revocation of shoreland zoning permits, appeals, court actions, violations investigated, violations found, and fees collected. On an biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

Sec. 602 Permits and Fees

602.1 Building Permit: No building or part thereof shall be erected, structurally altered, enlarged, or moved unless a building permit for such action has been issued by the Code Enforcement Officer.

A. Application for a building permit shall be accompanied by a fee as established by order of the Board of Selectmen.
B. Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all buildings, yards, and parking spaces, existing and proposed. The intended use or uses of land and building shall be indicated clearly.

602.2 **Use Permit:**
The fee for a use permit shall be established by order of the Board of Selectmen. It shall be paid by the applicant unless a fee for a building permit has previously been paid.

A. No building or part thereof that has been erected, altered, enlarged or relocated, shall be occupied or used unless a use permit has been issued by the Code Enforcement Officer;

B. A temporary use permit may be issued by the Code Enforcement Officer for a period of six months during the completion of work, provided that such temporary permits may require such conditions and safeguard as will protect the health, safety, and welfare of the occupants and the public;

C. The establishment of an office or home occupation within a dwelling shall require a use permit.

602.3 **Demolition Permits:**
The fee for a permit for the demolition of a building or structure shall be established by order of the Board of Selectmen. No permit shall be issued until notice of the application has been posted in the Town Office for at least ten (10) days.

Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building such as water, electric, gas, sewer, and other connections.

602.4 **Excavation of Land and Removal of Earth Products:**
An application to the Board of Adjustment and Appeals for a permit to excavate land or remove earth products shall be accompanied by a fee as established by order of the Board of Selectmen. Outside consulting fees shall be charged in accordance with Section 608. Upon annual renewal of the application for the excavation of land and the removal of earth products, such application shall be accompanied by an application fee as established by order of the Board of Selectmen.
602.5 **Shoreland Zoning**

**A. Shoreland Zoning Permits Required**

1. After the effective date of this Article no person shall engage in any activity or use of land; construct a building; expand, change or replace an existing use or structure; or renew a discontinued nonconforming use in a shoreland area district without first obtaining a shoreland zoning permit as required.

2. 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.

3. 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.

4. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

**B. Shoreland Zoning Permit Applications**

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 Code Enforcement Officer or the Planning Board as appropriate.

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 local plumbing inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

5. If the property appears to be in the Resource Protection/Floodplain (RP/FP) Overlay District, applications for uses which are specifically prohibited in the RP/FP overlay district but permitted in the adjacent shoreland area must include an approved Letter of Map Amendment as issued by the National Flood Insurance Program. The application then will be considered as one for the requested use and the CEO shall deem the property to be located in the adjacent shoreland district.

6. A filing fee of as established by order of the Board of Selectmen must accompany all applications for Shoreland Zoning permits requiring Planning Board approval. Outside consulting fees shall be charged in accordance with Section 608. At the time of application, the applicant also may, at the discretion of the Planning Board establish an escrow account. This escrow account shall be used to pay the cost of review of the application by outside consultants. Money remaining in the escrow account at the time of the Planning Board's final decision on the application shall be returned to the applicant within thirty (30) days after the Planning Board's final decision; provided, however, that where the cost of outside consultants exceeds the amount of monies in the escrow account the applicant shall pay to the Town prior to the Planning Board's final decision the amount by which the actual cost of the outside consultants review exceeds the amount of monies in the escrow account.

C. Procedure for Reviewing Shoreland Zoning Permit Applications

1. Permits issued by the Code Enforcement Officer in accordance with Sec. 204.2. Within thirty-five (35) days of
the date of receiving a written application, the code enforcement officer 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 Code Enforcement Officer, shall approve, approve with conditions, or deny all shoreland zoning permit application in writing within thirty-five (35) days of receiving a completed application unless the applicant and the code enforcement officer have agreed in writing to an enlargement of this time.

2. Permits issued by the Planning Board in accordance with Sec. 204.2 –

   a) Within thirty-five (35) days of the date of filing a written application to the Planning Board, the Planning Board 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.

   b) The Planning Board, shall approve, approve with conditions, or deny all shoreland zoning permit applications in writing within thirty-five (35) days of receiving a completed application unless the applicant and the Planning Board have agreed in writing to an enlargement of this time. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the planning board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, unless the applicant and the Planning Board have agreed in writing to an enlargement of this time.

   c) A completed application must be filed no less than 14 days prior to the meeting at which it is to be considered.

   d) The Planning Board may require other information in addition to that required in the application form and may request an evaluation of specific aspects of the application from the Town staff or other outside consultants.
e) Prior to taking final action on a Shoreland Zoning permit application, the Planning Board, shall hold a public hearing to afford the public the opportunity to comment on the application. Written notice of the nature of the application and of the date, time and place of the public hearing shall be mailed to property owners within 500 feet of the property on which the proposed project involved, to the general public in a newspaper of general circulation in the Town, and by being posted publicly at the Town Office. The Planning Board may, at its discretion, hold any additional public hearings as it deems appropriate. Failure of any property owner or any member of the public to receive a notice of the public hearing shall not necessitate another public hearing and shall not invalidate the action of the Planning Board.

f) Shoreland zoning permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

g) 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.

C. Criteria for Review

1. After the submission of a complete application to the Code Enforcement Officer or the Planning Board, the Code Enforcement Officer or the Planning Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

a) Will maintain safe and healthful conditions;

b) Will not result in water pollution, erosion, or sedimentation to surface waters;

c) Will adequately provide for the disposal of all wastewater;

d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
e) Will conserve shoreland vegetation;

f) Will conserve shore cover and visual as well as actual points of access to inland and coastal waters;

g) Will protect archaeological and historic resources as designated in the Comprehensive Plan;

h) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/ Maritime Activities Overlay District;

i) Will avoid problems associated with flood plain development and use; and

j) Is in conformance with the provisions of this Article.

k) Is not in a floodplain adjacent to tidal waters (RP/FP Overlay District), and that an approved Letter of Map Amendment has been issued by the National Flood Insurance Program.

2. If a shoreland zoning 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 building or structure if the building or structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any statute administered by the municipality.

E. Expiration of Shoreland Zoning Permit

Shoreland zoning 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.

602.6 Any other application for a building permit, and any application for a use permit, shall be accompanied by a description of the intended use or uses of the land and buildings and such further details as the Code Enforcement Officer may reasonably require for a clear understanding of the case.
602.7  
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.

602.8  **Installation of Public Utility Service**
No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Article, has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

602.9  **Belated Permits:**
In addition to the cost of a permit, all belated permits will be subject to a fine as established by order of the Board of Selectmen.

**Sec. 603  Board of Adjustment and Appeals**

603.1  
There is hereby created a Board of Adjustment and Appeals to assist in the administration of this Ordinance. Such Board shall serve as a Board of Appeals pursuant to 30-A M.R.S. § 2691, and may perform such other functions as may be delegated to it by other ordinances.

1. The Board shall consist of five (5) members appointed by the Board of Selectmen. They shall serve without compensation. Appointments to the Board shall be for terms of three years, provided, however, that initial appointments to the Board shall be as follows: two members shall be appointed for terms of three years each, two members for two year terms and one member for a one year term. The Board shall elect annually a Chairman and Secretary from its membership. When there is a vacancy on the Board, the Board of Selectmen shall appoint a person to serve for the balance of the unexpired term.

2. Neither a Selectman, a member of the Planning Board, nor his or her spouse may be a member of the Board.

3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting
thereon shall be decided by a majority vote of the members, except the member who is being challenged.

4. Vacancies may occur by reason of resignation, death or removal from the Town, and, when certified to the Council by a majority of the members of the Board, by failure to attend at least 75% of the Board meetings, regular or special, during any 12 month period. A member may also be removed for cause, after notice and hearing, by the Board of Selectmen. Vacancies shall be filled by the Board of Selectmen for the unexpired term

5. Three members of the Board shall constitute a quorum for the hearing of appeals. If less than a quorum be present, the hearing may be adjourned for a period not exceeding two weeks at any one time, and the clerk to the Board shall in writing notify all members of the next date of the hearing to be rescheduled. Any hearing at which a quorum is present may also be adjourned in like manner by a majority of those present for such time or upon such call as is determined by vote with the same written notification by the clerk. The clerk shall also give notice of adjourned hearing to all other interested parties as shall be directed in the vote of adjournment.

6. The Board shall be guided in its procedures by the provisions of 30-A M.R.S. § 2691, and 1 M.R.S. §§ 401, et seq.

603.2 The Board shall have the following powers and duties:

A. Interpretation. Upon appeal by from a decision of the Code Enforcement Officer 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 the Board shall determine whether the decisions of the Code Enforcement Officer are in conformity with the provisions of this Ordinance, and interpret the meaning of the Ordinance in cases of uncertainty.

B. Variances

1. Upon appeal from a decision of the Code Enforcement Officer, the Board shall have the power to vary the dimensional requirements of this Ordinance that relate to size and height of structures, setback distances, and size of signs. A variance shall only be granted where such variance will not be contrary to public health, safety or
general welfare. Except in the shoreland zone, the Board
can only grant those variances related to lot coverage, lot
frontage or setback requirements if the Board finds that
strict application of the ordinance to the petitioner would
cause practical difficulty. For any sign or height variance,
the Board must find that a literal enforcement of this
Ordinance would result in unnecessary and undue hardship,
and that such hardship arises out of conditions peculiar to
the property and is not the result of any action of the
applicant or a prior owner. A variance shall not be granted
for the establishment or expansion of a use otherwise
prohibited. The presence of other non-conformities in the
neighborhood or zoning district shall not constitute grounds
for a variance.

2. Disability Variance. The Board may grant a variance to an
owner of a 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 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 the time that the person
with the disability lives in the dwelling. For the purposes
of this subsection, a disability has the same meaning as a
physical or mental handicap under 5 M.R.S.A. § 4553, and
the term “structures necessary for access to or egress from
the dwelling” is defined to include railing, wall or roof
systems necessary for the safety or effectiveness of the
structure.

C. Special Exception
The Board shall have the power and duty to approve, deny or
approve with conditions special exceptions only where such
approval is specifically required. Where an advisory report
from the Planning Board is required, the Code Enforcement
Officer shall refer the application to the Planning Board for its
review and recommendations at least 30 days prior to the
meeting of the Board of Adjustment and Appeals; however,
where site plan or subdivision review is required, the applicant
shall apply to the Board of Adjustment and Appeals for special
exception approval prior to the submission of a detailed site
plan for Planning Board approval, but any conditions imposed
by the Board of Adjustment and Appeals shall be binding upon
the applicant and upon the Planning Board. The applicant shall have the burden of proving that his application is in compliance with the requirements of this Ordinance. After the submission of a complete application, the Board shall approve a special exception application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use, with any conditions attached, meets the following standards:

1. The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles and the visibility afforded to pedestrians and the operators of motor vehicles;

2. The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result;

3. The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;

4. The proposed use will be compatible with the uses that are adjacent to and neighboring the proposed location, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures and the scale and bulk of any new structures for the proposed use shall be compatible with structures existing or permitted to be constructed on neighboring properties;

5. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or restrict access of light and air to neighboring properties;

6. The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;

7. The proposed use has no unusual characteristics atypical of the generic use in the neighborhood, which proposed use
will depreciate the economic value of surrounding properties;

8. If located in a shoreland zone, the proposed use

   a) will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
   b) will conserve shoreland vegetation;
   c) will conserve visual points of access to waters as viewed from public facilities
   d) will conserve actual points of access to waters;
   e) will conserve natural beauty and
   f) will avoid problems associated with flood plain development and use.

D. Other Permits
The Board shall also have the power and duty to pass upon the issuing of certain permits or approvals where expressly authorized by this Ordinance.

E. Conditions for Approval
In granting appeals or special exception approvals under this Section, the Board of Adjustment and Appeals may impose such conditions as it deems necessary in furtherance of the intent and purpose of this Ordinance, to assure that there will be no adverse effects on adjacent properties, and to assure that the proposed use or modification will be compatible with other uses in the neighborhood or district. Such conditions for approval may be imposed based upon the following factors:

1. The location of buildings, drives, parking areas, lighting, signs, and other outdoor storage areas;

2. Access to the site for vehicular and pedestrian traffic, and emergency access;

3. Sight distance at access points;

4. Fences, screening and buffering;

5. Landscaping and storm drainage;

6. Garbage storage and snow storage areas;
7. Any other factors relating to the impact of the proposed use on neighboring properties or on the public health, safety and welfare.

The concurring votes of at least three members of the Board shall be required for the approval of any appeal or application.

603.3 Hearings:

A. For all appeals from decisions of the Code Enforcement Officer, and for the consideration of all applications for variances, special exceptions, or other permits requiring approval of the Board, the Board shall hold a public hearing as prescribed herein. At least seven days before the hearing, the clerk of the Board of Adjustment and Appeals shall notify by mail the owners of properties located within 500 feet of the lot line of the property for which the appeal or application shall be made. In addition to the notice by mail, the clerk to the Board of Adjustment and Appeals shall also post the notice publicly at the Town Office, and cause it to be published, at least seven days before the hearing, in a newspaper of general circulation in the Town, a notice summarizing the nature of the appeal and the time and place of the hearing.

B. Failure of a property owner to receive notice by mail shall not invalidate actions taken by the Board. Property owners as listed on the assessor's records shall be deemed to be the persons to whom such notice should be mailed.

C. The Code Enforcement Officer, unless prevented by illness or absence from the State, shall attend all hearings and shall present to the Board all plans, photographs, or other factual materials which are appropriate to an understanding of matters before the Board.

D. Written notice of the decision of the Board shall be sent to the appellant and to the Code Enforcement Officer within 7 days of the date of the hearing in accordance with 30-A M.S.R. § 2691.

603.4 Appeal Procedure:

A. Any person with standing or equity aggrieved by a decision of the Code Enforcement Officer, may appeal such decision to the Board of Adjustment and Appeals within thirty (30) days inclusive of the date of such decision.
B. Within 30 days of the date of the decision of the Code Enforcement Officer, the appeal shall be entered at the Office of the Town Clerk upon forms to be approved by the Board of Adjustment and Appeals. The appellant shall set forth on said form the ground of his appeal and shall refer to the specific provisions of the Zoning Ordinance, Building Code, State Regulation, Private or Special Law, Case law Statute and Amendments thereto whichever may be involved. The appellant in such case shall pay a fee as established by order of the Board of Selectmen. Outside consulting fees may be assessed as provided in Section 608 only where necessary to protect the public health, safety or welfare.

C. Following the receipt of any appeal, the Town Clerk shall notify the Code Enforcement Officer and the Chairman of the Board of Adjustment and Appeals of the appeal. The Chairman shall then fix the date for a hearing within thirty (30) days of the appeal. The notice to the Board shall be in order for hearing at a meeting of the Board following by at least seven (7) days any publication of notice and the mailing of notices as prescribed above.

D. An aggrieved party may appeal from the decision of the Board to the Superior Court, as provided for by Statute.

603.5 Successive Appeals:
After a decision has been made by the Board of Adjustment and Appeals, a new appeal of similar import concerning the same property shall not be entertained by the Board until one year shall have elapsed from the date of said decision, except that the Board may entertain a new appeal if the Chairman believes that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if he believes that a change has taken place in some essential aspect of the case sufficient to warrant a reconsideration of the appeal.

603.6 Expiration of Rights:
Rights granted by the Board of Adjustment and Appeals shall expire if the work or change authorized is not begun within six months or substantially completed within one year of the date of vote by the Board.

603.7 Appeals of Shoreland Zoning Decisions

A. Administrative Appeals in the Shoreland Zone
1. When the Board of Appeals reviews a decision of the Code Enforcement Officer 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, 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. 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.

2. 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.

B. Variance Appeals in the Shoreland Zone

1. Variances in the shoreland zone 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:
(1) The proposed structure or use would meet the provisions of Section 400 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:

(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.

(3) In the shoreland zone, notwithstanding Section 603.4.B.2 above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
2. 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.

3. 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.

C. Procedures for Appeals in the Shoreland Zone

1. 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 603.7.A.1 under the Shoreland Zoning provision of this Ordinance. Such appeal shall be taken within (30) days of the date of the official, written decision appealed from, and not otherwise, and such appeal shall be governed by Sections 603.4.A and B except as additionally modified herein.

2. Notwithstanding Section 603.4.B, a variance under this Article also may be granted for percent of lot coverage, lot width, lot area, water setbacks, substantial expansions, and water frontage requirements.

3. 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.
4. Upon receiving an application for an administrative appeal or a request for 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.

5. 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.

603.8 **Special Exceptions in the Shoreland Zone**

A. In addition to the criteria specified in Section 602.5.4 above, 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 Overlay District on December 10, 1991.

3. All proposed buildings, sewage disposal systems and other improvements are

   Located on natural ground slopes of less than 20%; and

   b) Located 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.

603.9 Decision by Board of Appeals for the Shoreland Zone

A. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

B. The person filing the appeal shall have the burden of proof.

C. 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.

D. 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.

603.10 Appeal to Superior Court for cases in Shoreland Zone

Except as provided by 30-A M.R.S. § 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.

603.11 Reconsideration of cases in Shoreland Zone
In accordance with 30-A M.R.S. §§ 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.

603.12 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.

603.13 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. § 4452. Each day that a violation continues is a separate violation.

Sec. 604 Savings Clause
If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and to this end the provisions of the Ordinance are hereby declared to be severable.

Sec. 605 Changes and Amendments

605.1 Amendments to this Ordinance may be initiated by the Planning Board, the Board of Selectmen, by any landowner or his authorized agent or by a person having a written agreement to purchase the property, and submitted to Town Meeting.

605.2 Any proposed amendment or change, unless initiated by the Planning Board, shall be submitted to the Planning Board for public hearing and advisory recommendation; public notice of such hearing shall be given by posting at the Town office and publication in a newspaper of general circulation within the Town at least ten days prior to the date thereof, except that public notice of a Planning Board public hearing on a contract or conditional rezoning agreement shall comply with the requirements set forth in 30-A M.R.S. § 4352(8) or its successor.

605.3 Amendments to the text or the zoning map shall be consistent with the adopted Comprehensive Plan, if any, and shall be consistent with the purpose of this Ordinance as stated in Sec. 102.

605.4 Proposals for change of zone shall include a site plan for the proposed use drawn in compliance with Sec. 206, Site Plan Review, and shall also include a location map showing the existing and proposed zone classification and zone boundaries. If a petitioner fails to begin construction in a substantial manner in accordance with an approved plan within one year from the effective date of the rezoning, the Planning Board shall initiate rezoning to the original zone classification. No request for change of zone shall be considered within one year from the date of any Town Meeting denial of the same request.

605.5 Attested copies of amendments to any of the Shoreland Zoning provisions of this Ordinance shall be submitted to the DEP by certified mail, return receipt requested. Any such amendment shall not become effective unless approved or deemed approved by the Commissioner of the Department of Environmental Protection. Notwithstanding any ordinance or charter
provision to the contrary, upon approval by the Department of Environmental Protection, any such amendment shall become effective retroactively upon the date it is received by the Department of Environmental Protection. The Town shall maintain as a permanent record a file of return receipts from mailings of any such amendments.

605.6
If amendments are made in the Shoreland Zoning district boundaries or other Shoreland Zoning matter portrayed on the zoning map, such changes shall be made on the zoning map within thirty (30) days after the amendment has been approved by the DEP.

Sec. 606  Contract Zoning

606.1
In consideration of a request for change in zoning classification for a particular property or group of properties under the provisions of Sec. 605, the Town, at Town Meeting, may impose certain restrictions on the use of the property where it finds that such conditions are necessary to protect the public health, safety, and general welfare, and to advance desired land use objectives consistent with the Comprehensive Plan.

606.2  Standards:

A. Any zone change adopted pursuant to this section shall be subject to a contractual agreement executed by authorized representatives of both the property owner and the Town, providing for the implementation and enforcement of the conditions of the agreement;

B. The agreement shall only include conditions which relate to the physical development or operation of the property;

C. Any zone change permitted under this section shall be consistent with the Comprehensive Plan of the Town and shall establish a rezoned area that is consistent with the existing and permitted uses within the original zones.

D. The proposed contract zoning agreement shall clearly describe the extent of variation (if any) from the lot standards and permitted uses for the zone in which the parcel is located.
606.3 **Conditions:**
In formulating recommendations to the Town for conditions for approving a zone change under these provisions, the Board of Selectmen may consider the following factors:

A. Limitations of the number and type of permitted uses of the property;
B. The height and lot coverage of any structure;
C. The setback of any structure;
D. The lot standards.
E. The hours of operation for the proposed use.
F. The installation, operation and maintenance of physical improvements such as parking lots, traffic control devices, fencing, shrubbery and screening;
G. The creation of open space areas or buffer zones;
H. The dedication of property for public purposes, such as streets, parks, utility systems, and conservation easements.

606.4 **Notice Requirements and Procedures**

A. In accordance with 30-A M.R.S. § 4352(8) for contract rezoning, the Planning Board shall hold a public hearing in the manner prescribed by this ordinance, shall send a notice of the public hearing to the property owners and all abutters within a 500’ radius and shall post the notice at the Town Office.

The notice shall include a map of the property and all the proposed terms, conditions and restrictions of the contract zoning proposal.

B. The Planning Board shall make a recommendation to the Board of Selectmen and Town on the proposal and its conformance with the Town’s Comprehensive Plan and land use goals.

C. The Board of Selectmen shall hold a public hearing, and following the hearing may recommend that the contract or conditional rezoning application be denied, approved, or approved with modifications at Town Meeting.
D. The recommendations of the Planning Board and Board of Selectmen are advisory in nature; the Town, at Town Meeting, may act independently of said recommendations.

E. The term of the contract or conditional rezoning agreement shall be set forth in the contract agreement. Any violation of a rezoning agreement shall be considered a violation of the Town’s Zoning Ordinance and shall be subject to enforcement under the provisions of 30-A M.R.S. § 4452. The rezoning agreement may include additional provisions concerning enforcement of specific provisions of the agreement.

Sec. 607 Violations

607.1 Warning
It shall be the duty of the Code Enforcement Officer to warn any person, firm, or corporation of violations of this Ordinance by them. The Code Enforcement Officer shall notify in writing the party responsible for such violation, indicating the nature of the violation, ordering the action necessary to correct it, and informing the party of their right to seek a variance or other relief from the Board of Adjustment and Appeals.

607.2 Enforcement Actions
When the above action does not result in the correction or abatement of the violation, the Board of Selectmen, upon notice from the Code Enforcement Officer, shall institute or cause to be instituted in the name of the Town, any and all actions legal and equitable, that shall be appropriate or necessary for the enforcement of 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 and attorney’s fees 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.

607.3 Penalties
Any person, firm or corporation, having been issued a building permit for, or being the owner or occupant of, or having control or the use of, or being engaged in the construction, alteration or repair of, any building or land or part thereof, found to violate any of the provisions of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, shall be
punished by a fine as established by order of the Board of Selectmen. Each day such violation is permitted to exist after notification thereof by the Code Enforcement Officer shall constitute a separate offense.

Sec. 608  **Outside Consulting Fees**

Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise specified by law, the Town shall assess a fee to cover 100 percent of its costs for outside engineering, planning, legal and similar professional consulting services. Such fees shall be subject to the following limitations:

608.1  
They must be expressly provided by ordinance;

608.2  
The ordinance must require review which is beyond the expertise of Town staff members;

608.3  
They must be reasonable in amount based upon the time involved and the complexity of the review;

608.4  
The results shall be available for public review, but shall be deemed to have been made solely for the benefit of the Town and shall remain its property;

608.5  
They shall be assessed for the privilege of review and so be payable without regard to their results or the outcome of the application;

608.6  
Any dispute, regarding the application of this section or the amount required to be paid either in advance or upon completion, may be appealed in writing within 10 days to the Town Administrator who may, after due notice and investigation and for good cause shown, affirm, modify or reverse the disputed decision or reduce the amount assessed. Until the Town Administrator has resolved the dispute, no portion of the project review for which the consulting fee is in dispute may go forward unless the applicant has paid or otherwise made satisfactory provision therefore, and no portion of the project review may go forward; and

608.7  
Where the amount of such fee may exceed $1,000, reasonable provision must be made in advance to guarantee payment. If the balance in the special account shall be drawn down by 75%, the Town shall notify the
applicant, require that an additional amount be deposited to cover the remaining work, and no portion of the project review, for which the additional consulting fee is required, may go forward unless the applicant has paid or otherwise made satisfactory provision therefore. The Town shall continue to notify the applicant and require an additional amount be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any excess amount deposited in advance shall be promptly refunded after final action on the application.

This section shall be administered initially by the Town employee or board responsible for enforcing the ordinance under which review is sought. If any person, or any entity or corporation in which said person is a principal owes the Town any amount for fees assessed under this section for any project under this ordinance or the Subdivision Ordinance, such person shall not be issued any building permit or certificate of occupancy, or have a subdivision plat released for any other building or development in Town until all such outstanding amounts have been paid in full. An appeal under this section may be brought to the Board of Adjustment and Appeals. No building permit or certificate of occupancy may be issued, nor subdivision plat released for recording until all fees hereunder have been paid in full.

Sec. 609 Effective Date

Except for Section 204.2 – Shoreland Zoning, this Ordinance shall take effect immediately upon its adoption by the Town Meeting, unless otherwise provided at said Town Meeting.

Section 204.2 – Shoreland Zoning in this Ordinance shall be deemed to have been effective and to have continued to be effective after December 10, 1991, when the Town of Cumberland first adopted shoreland zoning applicable to land and waters now located within the boundaries of the Town of Chebeague Island.