

SHORELAND ZONING ORDINANCE

of the Town of Chebeague Island, Maine

Amended 6/10/2023 to add the phrase “and Shoreland Stabilization” on the following pages: ii, 12, 24, 29, and 38. This phrase had, in 2018, been added to the header of section 308; it is added to these other pages for clarity.

Amended 6/10/2023 to require Code Officer permit for Clearing or removal of vegetation for activities other than timber harvesting; currently required in shoreland districts RP and RP/FP; this amendment adds the requirement to districts LR, LC, and CFMA.

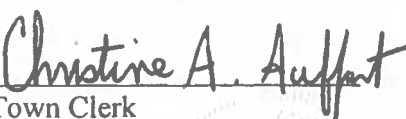
Shoreland Districts are:

- 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)

Adopted by the Town Meeting:
April 7, 2018
Effective April 7, 2018

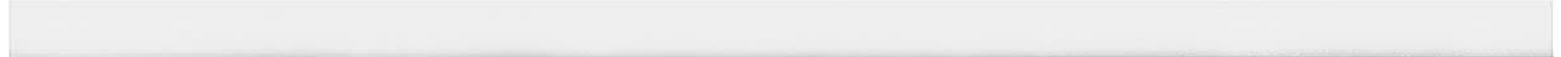
Amended: June 10, 2023

Attest:


Town Clerk

Seal:





Town of Chebeague Island Code of Ordinances
 Chapter 17 – Land Use & Planning
 Article III – Shoreland Zoning Ordinance

TABLE OF CONTENTS

SECTION 100	TITLE, PURPOSE, DEFINITIONS	1
101	Title	1
102	Purpose	1
103	Authority	1
104	Land Use Requirements	1
105	Availability	2
106	Severability	2
107	Conflicts with Other Ordinances	2
108	Definitions	2
SECTION 200	ZONING DISTRICTS	20
201	Zoning Map and Districts	20
202	District Boundaries	20
202.1		21
202.2		21
203	District Objectives	21
203.1		21
203.2		21
204	Shoreland Area Overlay Districts	21
204.1	Definition of Districts	21
204.2	Table of Land Uses in Shoreland Area	23
204.3	Principal and Accessory Buildings and Structures	28
204.4	Commercial and Industrial Uses	31
SECTION 300	GENERAL REGULATIONS	32
301	Agriculture	32
301.1		32
301.2		32
301.3		32
301.4		32
302	Beach Construction	32
303	Campgrounds	32
303.1		32
303.2		33
304	Erosion and Sedimentation Control in the Shoreland Zone	33
304.1		33
304.2		33
304.3		33
304.4		33
304.5		33
304.6		34

Town of Chebeague Island Code of Ordinances
 Chapter 17 – Land Use & Planning
 Article III – Shoreland Zoning Ordinance

306	Essential Services	35
307	Parking Areas in the Shoreland Zone	35
308	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	36
308.1		36
308.2		36
308.3		37
308.4		37
309	Public Utilities in the Shoreland Zone	39
310	Streets, Roads and Driveways in the Shoreland Zone	39
311	Stormwater Runoff	41
312	Clearing and Removal of Vegetation for Activities other than Timber Harvesting	41
313	Archaeological Sites	44
314	Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal	44
315	Exemptions to Clearing and Vegetation Removal Requirements	46
316	Revegetation Requirements	47
317	Signs in the Shoreland Zone	49
318	Soils	50
319	Water Quality Protection	50
320	Individual Private Campsites	51
321	Sanitary Standards	52
SECTION 400	NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS	53
401.1	Non-conforming Structures, Uses, Buildings and Lots in the Shoreland Zone	53
SECTION 500	ADMINISTRATIVE PROVISIONS	60
501	Administering Bodies and Agents	60
502	Permits Required	60
503	Permit Application	61
504	Procedure for Administering Permits	61
505	Special Exceptions	63
506	Expiration of Permit	64
507	Installation of Public Utility Service	64
508	Appeals	64
509	Enforcement	68
510	Changes and Amendments	69
511	Outside Consulting Fees	70
512	Effective Date	71
	Appendices	

SECTION 100 TITLE, PURPOSE, DEFINITIONS

Section 101 Title

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

Section 102 Purpose

The purpose of this Ordinance is 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.

Section 103 Authority

This Ordinance has been prepared in accordance with the provisions of 38 M.R.S. §§435-449.

The shoreland area 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

Section 104 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.

Section 105 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.

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.

Section 106 Severability

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

Section 107 Conflicts with Other Ordinances

Except as otherwise specifically stated herein, whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

Section 108 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.

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

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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

vegetables and ornamental green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture

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

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.

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.

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, which 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 . Coastal wetlands may include portions of coastal sand dunes. All areas below the Highest Astronomical Tide elevation 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.

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.

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.

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.

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. 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.

Excavation contractor- an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

Expansion of a Structure

Expansion of a Structure shall mean an increase in the footprint or height 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 five (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.

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.

Forested Wetland

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

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. Often (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 cannot 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 aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and 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.

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.

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.

Height of Structure

Structure 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.

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.

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.

Individual Private Campsite

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

Industrial

The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional

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

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.

Licensed Forester

A forester licensed under 32 M.R.S. Chapter 76.

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.

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.

Multi-unit residential

A residential structure containing three (3) or more residential 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.

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.

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.

Permitted Use

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

Person

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

Piers, Docks, Breakwaters, Causeways, Floats, Marinas, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-water Line or Within a Wetland, and Shoreland Stabilization

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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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

Principal structure

A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use

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

Public Facility

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

Recent 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.

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.

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.

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.

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

Shore Frontage

The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines.

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, trademarks 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.

Storm-damaged tree

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

Stream

The confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure

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

Substantial Start

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

Subsurface Sewage Disposal System

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

Sustained Slope

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

Tidal Waters

All waters affected by tidal action during the Highest Astronomical Tide.

Timber Harvesting

The cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 312 of this Ordinance.

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.

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 area 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

Upland Edge of a Wetland

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the Highest Astronomical Tide, 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 Shoreland 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.

A variance shall 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.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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.

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

Section 201 Zoning Map and Districts

The zoning map officially entitled "Town of Chebeague Island Zoning Map" dated April 7, 2018 (Appendix A), 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 zoning map on file 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 Shoreland Zoning Overlay 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)

The Town of Chebeague Island 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.

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

If amendments, in accordance with Section 510, are made in the district boundaries or other matter portrayed on the Town of Chebeague Island Zoning Map, such changes shall be made on the Town of Chebeague Island Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

Section 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:

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 Overlay Districts on the Town of Chebeague Island 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 204.1 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 Town of Chebeague Island Zoning Map the on-site measurement shall control, unless the official zoning map indicates that the zone boundary shall follow an existing property line. Where uncertainty exists as to the exact location of district boundary lines, the Board of Adjustments and Appeals shall be the final authority as to location.

Section 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 400.

Section 204 Shoreland Area Overlay Districts

204.1 Definition of Districts

A. Resource Protection Overlay District (RP)

The Resource Protection Overlay 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 area, 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.

1. 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W as of May 1, 2006.
2. Floodplains adjacent to tidal waters defined by the one hundred (100) year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
 3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
 4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
 5. 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.
- B. Resource Protection/Floodplain Overlay District (RP/FP)
Areas of one hundred (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).
- C. 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 that are used less intensively than those in the Limited Commercial Overlay District, or the Commercial Fisheries/Maritime Activities Overlay District.
- D. Limited Commercial Overlay District (LC)
The Limited Commercial Overlay District includes areas of mixed, light commercial and residential. 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.
- E. Commercial Fisheries/Maritime Activities District (CFMA)
The Commercial Fisheries/Maritime Activities Overlay 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:

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

1. Shelter from prevailing winds and waves;
2. Slope of the land within two hundred fifty (250) feet, horizontal distance, of the shoreline;
3. Depth of the water within one hundred fifty (150) feet, horizontal distance, of the shoreline;
4. Available support facilities including utilities and transportation facilities; and
5. Compatibility with adjacent upland uses.

204.2. Table of Land Uses in Shoreland Area

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 300. The district designation for a particular site shall be determined from the Town of Chebeague Island 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

Town of Chebeague Island Code of Ordinances
 Chapter 17 – Land Use & Planning
 Article III – Shoreland Zoning Ordinance

TABLE 1. LAND USES IN THE SHORELAND ZONE

Land Uses	DISTRICT				
	RP	RP/FP	LR	LC	CFMA
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails and snowmobiling	Yes	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting and land management roads	Yes	Yes	Yes	Yes	Yes
4. Timber harvesting ³	MFS	MFS	MFS	MFS	MFS
5. Clearing or removal of vegetation for activities other than timber harvesting ³	CEO	CEO	CEO	CEO	CEO
6. Fire prevention activities	Yes	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes	Yes
8. Soil and water conservation practices ³	Yes	Yes	Yes	Yes	Yes
9. Mineral exploration ³	CEO	CEO	Yes ¹	Yes ¹	Yes ¹
10. Mineral extraction including sand and gravel extraction ³	PB ²	PB ²	PB	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes	Yes
13. Agriculture ³	PB	PB	Yes	Yes	Yes
14. Aquaculture	PB	PB	PB	Yes	Yes
15. Principal structures and uses ³					
A. One and two family residential, including driveways ³	No ⁹	No	CEO	CEO	No
B. Commercial ³	No	No ⁴	No ⁴	PB	PB ⁵
C. Industrial ³	No	No	No	No	PB ⁵
D. Governmental and institutional ³	No	No	PB	PB	PB ⁵
E. Small non-residential facilities for educational, scientific, or nature interpretation purposes ³	PB	PB	CEO	CEO	PB ⁵
16. Structures accessory to allowed uses ³	PB ⁶	PB	CEO	CEO	Yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland ³ , and Shoreland Stabilization	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰	CEO ¹⁰
A. Temporary					
B. Permanent	PB	PB	PB	PB	PB ⁵

Town of Chebeague Island Code of Ordinances
 Chapter 17 – Land Use & Planning
 Article III – Shoreland Zoning Ordinance

18. Conversions of seasonal residences to year-round residences ³	LPI	LPI	LPI	LPI	No
19. Home occupations	PB	PB	PB	CEO	Yes
20. Private sewage disposal systems for allowed uses.	No	No	LPI	LPI	LPI
21. Essential services ³					
A. Roadside distribution lines (34.5kV and lower)	CEO ⁷	CEO ⁷	Yes ¹¹	Yes ¹¹	Yes ¹¹
B. Non-roadside or cross-country distribution lines involving ten poles or less in the Shoreland zone	PB ⁷	PB ⁷	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the Shoreland zone	PB ⁷	PB ⁷	PB	PB	PB
D. Other essential services accessory to permitted uses	PB ⁷	PB ⁷	PB	PB	PB
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 ³	PB	PB	PB	CEO	CEO ⁵
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds ³	No	No	PB	PB	No
26. Road construction ³	No ⁸	No ⁸	PB	PB	PB ⁵
27. Land management roads ³	PB	PB	Yes	Yes	Yes
28. Parking facilities ³	PB	No	PB	PB	PB ⁵
29. Marinas ³	PB	No	PB	PB	PB
30. Filling and earth moving of <10 cubic yards ³	CEO	CEO	Yes	Yes	Yes
31. Filling and earth moving of >10 cubic yards ³	PB	PB	CEO	CEO	CEO
32. Signs	Yes	Yes	Yes	Yes	Yes
33. Uses similar to allowed uses ³	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit ³	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 one hundred (100) square feet of surface area, in total, is disturbed.

²In Resource Protection 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 Adjustments and Appeals.

⁷See further restrictions in Section 309

⁸Except as provided in Section 310

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 505, 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.

Land Use Standards

All land use activities within the Shoreland area shall conform with the following provisions, if applicable.

Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, 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 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, and shoreland stabilization, 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 B). 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 Adjustments and 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.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- 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 one hundred (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 has 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 non-vegetated 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;

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

2. The wall(s) is(are) at least twenty-five (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 C), 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 twenty-five (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 312.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:

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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.

204.4

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

SECTION 300 GENERAL REGULATIONS

Section 301 Agriculture

- 301.1** 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.
- 301.2** 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.
- 301.3** There shall be no new tilling 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.
- 301.4** 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.

Section 302 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.

Section 303 Campgrounds

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

- 303.1** 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.

303.2 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.

Section 304 Erosion and Sedimentation Control

304.1 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.

304.2 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.

304.3 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.

304.4 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.

304.5 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:

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- 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.

304.6 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.

Section 305 **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 305.8.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.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 (2½:1) 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.

Section 306 Essential Services

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

Section 307 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.

Section 308 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

308.1 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.

308.2 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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.

308.3 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 308 of the Town of Chebeague Island Shoreland 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.

308.4 The following standards shall apply to all piers, docks, floats, wharves, bridges, and other structures, and shoreland stabilization 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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. §480-C as subsequently amended, the Army Corps of Engineers, and a Wharfing-Out permit issued by the Selectmen under 38 M.R.S. §§1021 - 1027, as subsequently amended.
- L. Vegetation may be removed in excess of the standards in Section 312 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 316.

- M. The Town of Chebeague Island shall notify all property owners within one thousand five hundred (1,500) 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.

Section 309 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.

Section 310 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 water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 310.A above 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

providing access to permitted structures within the setback area shall comply fully with the requirements of Section 310.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 304 (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 following 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:

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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

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.

Section 311 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.

Section 312 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, within a strip of land extending seventy-five (75) feet, horizontal distance, from any other water

Town of Chebeague Island Code of Ordinances
 Chapter 17 – Land Use & Planning
 Article III – Shoreland Zoning Ordinance

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 two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree 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 sixteen (16) or more in each 25-foot by 50-foot rectangle (1250 square feet) area as determined by the following rating system.

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

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;

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- 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 this 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 312.B.2 “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining five (5) saplings less than two (2) inches in diameter at four and one half (4½) 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 4½ 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 312.B and 312.B.1 above.
- 4. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

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 314, 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.

- 5. 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 312.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 4½ 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

Section 313 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.

Section 314 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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:

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- 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.

Section 315 Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 312 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 312 apply;
- B. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 204.3 are not applicable;
- C. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- D. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 301 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. §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.

Section 316 Revegetation Requirements.

When revegetation is required in response to violations of the vegetation standards set forth in Section 312 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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:

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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.

Section 317 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.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- 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.

Section 318 **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.

Section 319 **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.

Section 320 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.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

Section 321 Sanitary Standards

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

SECTION 400 NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS

Section 401 Non-conforming Structures, Uses, Buildings and Lots in the Shoreland Zone

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:

401.1 Non-conforming Structures, Uses, Buildings and Lots

A. 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 204.3. 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 if any portion of a structure within 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 401.1.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 401.1.C.1 or Section 401.1.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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 401.1.C.1.b.i and Section 401.1.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. 401.1.C.3, Relocation, below.
3. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 316. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
 - b. 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.
 - c. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
4. **Reconstruction or Replacement:** Any non-conforming 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.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 401.1.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 401.1.C.3 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 401.1.C.3 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 401.1.C.3 above, the physical condition and type of foundation present, if any.

D. 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.

E. 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 401.1.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 401.1.D above.

F. 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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 December 10, 1991, (when the Town of Cumberland first adopted shoreland zoning) 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 one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of Section 401.3.F.3.a are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty-thousand (20,000) square feet of lot area.

SECTION 500 ADMINISTRATIVE PROVISIONS

Section 501 Administering Bodies and Agents

- A. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- B. Board of Adjustments and Appeals. A Board of Adjustments and Appeals shall be created in accordance with the provisions of 30-A M.R.S. §2691.
- C. Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

Section 502 Permits Required.

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- A. A permit is not required for the replacement of an existing road culvert as long as:
 - 1. The replacement culvert is not more than 25% longer than the culvert being replaced;
 - 2. The replacement culvert is not longer than seventy-five (75) feet; and
 - 3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- B. 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.
 - 1. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

Section 503 Permit Application

- A. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 204.2.
- B. 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.
- C. 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.
- D. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- E. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

Section 504 Procedure for Administering Permits

- A. Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 204.2, 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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty (30) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty (30) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty (30) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

- B. 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. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
 - 1. Will maintain safe and healthful conditions;
 - 2. Will not result in water pollution, erosion, or sedimentation to surface waters;
 - 3. Will adequately provide for the disposal of all wastewater;
 - 4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - 5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - 6. Will protect archaeological and historic resources as designated in the comprehensive plan;
 - 7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
 - 8. Will avoid problems associated with floodplain development and use; and
 - 9. Is in conformance with the provisions of Section 204, Zoning Districts, and Section 300, General Regulations.
- D. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an

unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

Section 505 Special Exceptions

In addition to the criteria specified in Section 504 above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- A. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- B. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- C. All proposed buildings, sewage disposal systems and other improvements are:
 1. Located on natural ground slopes of less than 20%; and
 2. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- D. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of one thousand five hundred (1,500) square feet. This limitation shall not be altered by variance.
- E. 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 seventy-five (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.

Section 506 Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

Section 507 Installation of Public Utility Service

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

Section 508 Appeals

A. Powers and Duties of the Board of Adjustments and Appeals.

The Board of Adjustments and Appeals shall have the following powers:

1. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Adjustments and Appeals.
2. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

B. Variance Appeals. Variances may be granted only under the following conditions:

1. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
3. The Board of Adjustments and Appeals shall not grant a variance unless it finds that:
 - a. The proposed structure or use would meet the provisions of Section 204 and Section 300 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - b. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - i. That the land in question cannot yield a reasonable return unless a variance is granted;
 - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - iii. That the granting of a variance will not alter the essential character of the locality; and
 - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
4. Notwithstanding Section 508.B.3.b above, the Board of Adjustments and Appeals, or the Codes Enforcement Officer if authorized in accordance with 30-A M.R.S. §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Adjustments and Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 508.B.6 and 508.D.2.d below.
5. The Board of Adjustments and 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.

6. 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 Adjustments and Appeals. Any comments received from the Commissioner prior to the action by the Board of Adjustments and Appeals shall be made part of the record and shall be taken into consideration by the Board of Adjustments and Appeals.

C. Administrative Appeals

When the Board of Adjustments and Appeals reviews a decision of the Code Enforcement Officer the Board of Adjustments and Appeals shall hold a “de novo” hearing. At this time the Board of Adjustments and Appeals may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Adjustments and Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Adjustments and 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 Adjustments and 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 Adjustments and Appeals may receive and consider written or oral arguments. If the Board of Adjustments and Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Adjustments and Appeals may remand the matter to the Planning Board for additional fact finding.

D. Appeal Procedure

1. Making an Appeal

- a. An administrative or variance appeal may be taken to the Board of Adjustments and 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 508.A above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- b. Applications for appeals shall be made by filing with the Board of Adjustments and Appeals a written notice of appeal which includes:
 - i. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - ii. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - c. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Adjustments and Appeals all of the papers constituting the record of the decision appealed from.
 - d. The Board of Adjustments and 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.
2. Decision by Board of Adjustments and Appeals
- a. A majority of the full voting membership of the Board of Adjustments and Appeals 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 of Adjustments and Appeals 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 Adjustments and Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board of Adjustments and Appeals. The Board of Adjustments and Appeals 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 of Adjustments and Appeals' decision. Copies of written decisions of the Board of Adjustments and Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

- E. Appeal to Superior Court
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 Adjustments and 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.
- F. Reconsideration
In accordance with 30-A M.R.S. §2691(3)(F), the Board of Adjustments and Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board of Adjustments and Appeals 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 of Adjustments and Appeals 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 of Adjustments and Appeals 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.

Section 509 Enforcement

509.1 Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

509.2 Code Enforcement Officer

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- B. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- C. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or

denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

509.3

Legal Actions

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

509.4

Fines

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

Section 510 Changes and Amendments

510.1

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.

510.2

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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

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.

510.3 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 Section 102.

510.4 Proposals for change of zone shall include a site plan for the proposed use drawn in compliance with 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.

Section 511 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 one hundred (100%) percent of its costs for outside engineering, planning, legal and similar professional consulting services. Such fees shall be subject to the following limitations:

511.1 They must be expressly provided by ordinance;

511.2 The ordinance must require review which is beyond the expertise of Town staff members;

511.3 They must be reasonable in amount based upon the time involved and the complexity of the review;

511.4 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;

511.5 They shall be assessed for the privilege of review and so be payable without regard to their results or the outcome of the application;

511.6 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 ten (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

Town of Chebeague Island Code of Ordinances
Chapter 17 – Land Use & Planning
Article III – Shoreland Zoning Ordinance

forward unless the applicant has paid or otherwise made satisfactory provision therefore, and no portion of the project review may go forward; and

511.7

Where the amount of such fee may exceed one thousand (\$1,000.00) dollars, reasonable provision must be made in advance to guarantee payment. If the balance in the special account shall be drawn down by seventy-five (75%) percent, 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 seventy-five (75%) percent 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.

Section 512 **Effective Date**

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.

