

SECTION 13 SHORELAND ZONING

13.1 Purposes

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

13.2 Authority

This Section has been prepared in accordance with the provisions of 38 M.R.S.A. Sections 435-449.

13.3 Applicability

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

This Section 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.

13.4 Effective Date of Ordinance and Ordinance Amendments

This Section, which was adopted by the City Council on September 4, 2019 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of this Section or Section amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Section or Section amendment, within 45 days of his/her receipt of the Section, or Section amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of this Section, or Section amendment, if the Section, or Section amendment, is approved by the Commissioner.

13.5 Amendments

Copies of amendments to this Section attested and signed by the Municipal Clerk shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the City Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of

his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

13.6 Districts and Zoning Map

The area to which this Section is applicable is hereby divided into the following districts as shown on the Official Zoning Map.

1. Resource Protection
2. Shoreland District
3. Shoreland Overlay District
4. Shoreland Overlay Limited Residential District

13.7 Table of Land Uses

All land use activities in the Resource Protection District, Shoreland District, Shoreland Overlay District and Shoreland Overlay Limited Residential District shall be governed by the uses set in the Land Use Table and the dimensional requirements in the Dimensional Requirements Table and shall conform to all of the applicable performance standards in this Ordinance.

All land use activities in the Traditional Downtown, Shoreland Overlay District and the Cobbossee Corridor, Shoreland Overlay District shall be governed by the uses set forth for the Traditional Downtown District and Cobbossee Corridor District in the Land Use Table and the dimensional requirements in the Dimensional Requirements Table and conform to all of the applicable performance standards in this Ordinance.

13.8 Land Use Standards

All land use activities within the Shoreland zone shall conform to the following provisions, if applicable.

13.8.1 Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than 2 lots shall not be included toward calculating minimum lot area.

13.8.2 Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

13.8.3 The minimum width of any portion of any lot within 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.

13.8.4 If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

13.9 Principal and Accessory Structures

13.9.1 All new principal and accessory structures shall be set back at least 100 feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District, the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

13.9.2 The water body, tributary stream, or wetland setback provision shall not apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

13.9.3 All principal structures along Significant River Segments as listed in 38 M.R.S.A. Section 437 shall be set back a minimum of 125 feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

13.9.4 On a nonconforming lot of record on which only a residential structure exists, and where 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 80 square feet in area or 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.

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

13.9.6. The total footprint area of all structures, parking lots and other non-vegetated surfaces within the Shoreland zone shall not exceed 20% of the lot or a portion thereof.

13.9.7 Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of 4 feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

13.10.1 No more than one (1) 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 **7.2**, a second structure may be allowed and may remain as long as the lot is not further divided.

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

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

13.10.4 The facility shall be located so as to minimize adverse effects on fisheries.

13.10.5 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. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.

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

13.10.7 New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

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

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

13.10.10 Vegetation may be removed in excess of the standards in **13.19** 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.

13.10.10.1 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 access way must be restored.

13.10.10.2 Revegetation must occur in accordance with Section 13.21.

13.10.11 A deck over the Kennebec River or the Cobbossee Stream may be exempted from the Shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:

13.10.11.1 The total deck area attached to the structure does not exceed seven hundred (700) square feet;

13.10.11.2 The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;

13.10.11.3 The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;

13.10.11.4 The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in **7.2**, and

13.10.11.5 The construction of the deck complies with all other state and federal laws.

13.11 Campgrounds

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

13.11.1 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.

13.11.2 The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

13.12 Individual Private Campsites

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

13.12.1 One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the Shoreland zone, whichever is less, may be permitted.

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

13.12.3 Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

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

13.12.5 The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

13.12.6 A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner shall be required.

13.12.7 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.

13.13 Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the Shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

13.13.1 Auto washing facilities

13.13.2 Auto or other vehicle service and/or repair operations, including body shops

13.13.3 Chemical and bacteriological laboratories

13.13.4 Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

13.13.5 Commercial painting, wood preserving, and furniture stripping

13.13.6 Dry cleaning establishments

13.13.7 Electronic circuit assembly

13.13.8 Laundromats, unless connected to a sanitary sewer

13.13.9 Metal plating, finishing, or polishing

13.13.10 Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

13.13.11 Photographic processing

13.13.12 Printing

13.14 Parking Areas

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

13.14.2 Parking areas shall be adequately sized for the proposed use in accordance with the requirements of **11.4** 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.

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

13.14.3.1 The size of a parking space shall conform to the standards of **11.4**, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

13.14.3.2 Internal travel aisles shall conform to the standards of **11.4**.

13.15 Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

13.15.1 Roads and driveways shall be set back at least one hundred (100 feet), horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

13.15.1.2 These provisions shall not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with these requirements except for that portion of the road or driveway necessary for direct access to the structure.

13.15.2 Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

13.15.3 New permanent roads are not allowed within the Shoreland zone along Significant River Segments except:

13.15.3.1 To provide access to structures or facilities within the zone; or

13.15.3.2 When the applicant demonstrates that no reasonable alternative route exists outside the Shoreland zone. When roads must be located within the Shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

13.15.4 New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant approval to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

13.15.5 Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion control contained in this section.

13.15.6 Road and driveway grades shall conform to the standards of Section 11.

13.15.7 In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

13.15.8 Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

13.15.8.1 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:

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

13.15.8.2 Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent (10%) or less.

13.15.8.3 On sections having slopes greater than ten percent (10%), ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.

13.15.8.4 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.

13.15.9 Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

13.16 Septic Waste Disposal

13.16.1 All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

13.16.1.1 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

13.16.1.2 A holding tank shall not be allowed for a first-time residential use in the Shoreland zone.

13.17 Agriculture

13.17.1 All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4214).

13.17.2 Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland zone shall be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

13.17.3 Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the Shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

13.17.4 There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

13.17.5 Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which is not in conformance with the above setback provisions, may continue provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

13.18 Timber Harvesting

The Maine Forest Service will be responsible for enforcement of the rules for timber harvesting and related activities in Shoreland areas beginning October 20, 2015.

13.19 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

13.19.1 In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees. Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

13.19.2 Except in areas as described above, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and or within a strip of land extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

13.19.2.1 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.

13.19.2.2 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 Section **13.19.2.2** a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of twenty-four (24) or more in each 25-foot by 50-foot rectangular area (1250 square feet) as determined by the following rating system.

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

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

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

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

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

The following shall govern in applying this point system:

13.19.2.2.1 The 25-foot by 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;

13.19.2.2.2 Each successive plot shall be adjacent to, but not overlap a previous plot;

13.19.2.2.3 Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by this Section;

13.19.2.2.4 Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance.

13.19.2.2.5 Where conditions permit, no more than fifty percent (50%) of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of Section 13.19.2.2, “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover, and retaining at least five (5) saplings less than two (2) inches in diameter at 4 ½ feet above ground level for each 25-foot by 50-foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter shall be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level, shall be removed in any 10-year period.

13.19.2.3 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.

13.19.2.4 Pruning of tree branches on the bottom 1/3 of the tree shall be allowed.

13.19.2.5 In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

13.19.2.6 In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of this section.

13.19.3 At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any 10-year period, selective cutting of not more than forty percent (40%) of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

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

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

13.19.5 Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 13.19.

13.20 Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 13.19, provided that all other applicable requirements of this section are complied with, and the removal of vegetation is limited to that which is necessary:

13.20.1 The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 13.19 apply;

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

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

13.20.4 The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 13.17 are complied with;

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

13.20.5.1 A coastal wetland; or

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

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

13.20.6.1 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;

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

13.20.6.3 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.

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

13.21 Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 13.19, 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.

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

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

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

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

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

13.21.4.2 Replacement vegetation must at a minimum consist of saplings;

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

13.21.4.4 No one species shall make up 50% or more of the number of trees and saplings planted;

13.21.4.5 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

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

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

13.21.5.1 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;

13.21.5.2 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;

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

13.21.5.4 No one species shall make up 50% or more of the number of planted woody vegetation plants; and

13.21.5.5 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.

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

13.21.6.1 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;

13.21.6.2 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

13.21.6.3 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.

13.22 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.

13.23 Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

13.24 Archaeological Site

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

13.25 Shoreland Overlay, Limited Residential Building Envelope, Access and Slope Standards

13.25.1. Building envelope areas in the Shoreland Overlay Limited Residential District (not lot size) shall be a minimum of (100' x 100') square feet with sustained slopes of twenty percent (20%) or less. Building envelope area does not refer to building footprint or lot size. Access roads and drives to building envelopes shall not traverse terrain with sustained slopes of twenty percent (20%) or more. The Shoreland Overlay Limited Residential District includes areas other than those in the Resource Protection, Shoreland, or Shoreland Overlay Districts. Development within this district shall consider a combination of Shoreland Zoning Performance Standards in this Section of the Ordinance and the land use table and dimensional requirements of this Ordinance.

13.26 Special Exceptions

In addition to the criteria specified in this Section, 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:

13.26.1 There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

13.26.2 The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

13.26.3 All proposed buildings, sewage disposal systems and other improvements are:

13.26.3.1 Located on natural ground slopes of less than twenty percent (20%); and

13.26.3.2 Located outside the floodway of the 100-year floodplain 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.

13.26.3.2.1 All buildings, including basements, are elevated at least one (1) foot above the 100-year floodplain elevation; and the development is otherwise in compliance with the Floodplain Management Section.

13.26.3.2.2 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 floodplain.

13.26.4 The total ground-floor area, 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.

13.26.5 All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 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 floodplain, and its proximity to moderate-value and high-value wetlands.

13.27 Installation of Public Utility Service

A public utility, water district, sanitary district or any utility company of any kind shall 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.

13.28 Storm Water Runoff

13.28.1 All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwater.

13.28.2 Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

13.29 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

13.29.1 Hazard trees in the Shoreland zone may be removed without a permit after consultation with the Tree Warden if the following requirements are met:

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

13.29.1.2 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.

13.29.1.3 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.

13.29.1.4 The Tree Warden 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.

13.29.1.5 The Tree Warden 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.

13.29.2 Storm-damaged trees in the Shoreland zone may be removed without a permit after consultation with the Tree Warden if the following requirements are met:

13.29.2.1 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:

- (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- (ii) Stumps from the storm-damaged trees may not be removed;
- (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

13.29.2.2 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.