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## SECTION 6 SHORELAND ZONING

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**A. 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.

**B. Authority**

This Section has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

**C. Applicability**

This Section applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located beyond the normal high-water line of a water body or within a wetland.

**D. Effective Date**

The provisions of this Ordinance affecting shoreland zoning shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the City's Land Use Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on the provisions affecting shoreland zoning within forty-five (45) days of his/her receipt of said provisions, they shall be automatically approved.

Any application for a permit submitted to the City of Gardiner within the forty-five (45) day period shall be governed by the terms of the provisions affecting shoreland zoning if said provisions are approved by the Commissioner.

**E. Amendments**

Provisions of this Ordinance affecting shoreland zoning may be amended by majority vote of the City Council. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the City of Gardiner within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

**F. Districts and Zoning Map**

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

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

**G. Table of Land Uses**

All land use activities in the Resource Protection District and Shoreland District shall be governed by the uses set in Section 2.F. of this Ordinance and by the dimensional requirements set forth in Section 2.G. of this Ordinance, and shall conform with all of the applicable land use standards in Section 6.H below.

All land use activities in the Central Business Shoreland Overlay District and the Cobbossee Corridor Shoreland Overlay District shall be governed by the uses set forth for the Central Business District in the Table of Land Uses in Section 2.F of this Ordinance and by the dimensional requirements set forth for the Central Business District in Section 2.G. of this Ordinance, and shall conform with all of the applicable land use standards in Section 6.H below.

All land use activities in the Shoreland Overlay Limited Residential District shall be governed by the uses set forth for this District in the Table of Land Uses in Section 2.F of this Ordinance and by the dimensional requirements set forth for this District in Section 2.G. of this Ordinance, and shall conform with all of the applicable land use standards in Section 6.H below

## **H. Land Use Standards**

All land use activities within the Resource Protection District, the Shoreland District and the Shoreland Overlay District shall conform with the following provisions, if applicable.

### **1. Agriculture**

- a. Manure guidelines. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.
- b. Manure storage. 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 a fresh or salt water body, tributary stream, or the upland edge of a wetland. Within five (5) years of the effective date of this Section 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. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.
- c. Soil tillage in excess of 40,000 square feet. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland Zone, shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Section. Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.
- d. Tilling setback. 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, of a river or stream; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this Section (and not in compliance with this Section) may be maintained.

- e. Setbacks-livestock grazing. After the effective date of this Section, 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 a river or stream; nor, within twenty-five (25) feet, horizontal distance, of tributary streams, and 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 soil and water conservation plan.

**2. 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 taken from the Commission prior to rendering a decision on the application.

**3. Campgrounds**

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

- a. Minimum size. 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.
- b. Setbacks. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be setback 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 from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.

**4. Clearing of Vegetation for Development**

- a. Resource protection district prohibition. No site development may occur within seventy-five (75) feet, horizontal distance, from the high water line of any water body or the upland edge of a wetland. Within this area, the soil and ground cover shall remain undisturbed to maintain a naturally vegetated buffer zone.

Trees within this buffer zone may be limbed-up or cut, subject to the cutting limits contained in this Section, but their roots shall be left undisturbed. Elsewhere in the shoreland zone, clearing of vegetation shall be subject to the cutting restrictions in this Section and shall be limited to the minimum necessary for expressly authorized uses.

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

- 1) Cleared opening limit. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Cleared openings legally in existence on the effective date of this Section may be maintained, but shall not be enlarged.
- 2) Selective cutting standard. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" 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 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

<b>Diameter of Tree at 4 ½ Feet Above Ground Level (inches)</b>	<b>Points</b>
<b>2-4 inches</b>	<b>1</b>
<b>&gt;4 – 12 inches</b>	<b>2</b>
<b>&gt;12 inches</b>	<b>4</b>

Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees and other vegetation is defined as maintaining a minimum rating score of 8 per 25-foot square area.

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.

Vegetation less than four (4) inches in diameter at four and one half (4 1/2) feet above ground level may be pruned and thinned provided that sufficient numbers of trees and other vegetation are retained to ensure adequate regeneration of the overstory and to retard erosion.

- 3) Vegetative cutting. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath as described in paragraph b.1) above.
- 4) Pruning. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- 5) Replanting. 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.

The provisions contained in paragraph b above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- c. Forty Percent (40%) limitation. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA, or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of a river, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted 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 development, including, but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, twenty five (25) percent of the lot area or ten thousand

(10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to Shoreland Overlay District.

- d. Lawns and fields. Lawns and fields within seventy-five (75) feet of any water body or wetland shall not receive fertilizers and pesticides.
- e. Reverted fields. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

## **5. Commercial and Industrial Uses**

The following new commercial and industrial uses are prohibited within the Resource Protection District and Shoreland Districts:

- a. Auto washing facilities.
- b. Auto or other vehicle service and/or repair operations, 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.

**6. Erosion and Sedimentation Control.**

- a. Soil erosion plan. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall 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:
  - 1) Mulching, revegetation. Mulching and revegetation of disturbed soil.
  - 2) Runoff controls. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - 3) Stabilization structures. Permanent stabilization structures such as retaining walls or riprap.
- b. Topography and soils. 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.
- c. Erosion controls. 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.
- d. Exposed ground area. 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 rip-rap, 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:
  - 1) Mulch. 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.
  - 2) Anchoring. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - 3) Siltation measures. 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.

- e. Protection of drainage ways. 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.

**7. Essential Services**

- a. Location. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- b. Prohibited location. The installation of essential services is not permitted in a Resource Protection or Shoreland District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

**8. Individual Private Campsites**

Individual, private campsites for use for no more than seven (7) months per year and not associated with campgrounds are permitted provided the following conditions are met:

- a. One per lot. One campsite per lot existing on the effective date of this Section, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- b. Setbacks. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet 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 from the normal high-water line of a river or stream, tributary stream, or the upland edge of a wetland.
- c. Foundations prohibited. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

- d. Vegetative clearing. 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.
- e. Sewage disposal plan. 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.
- f. Time restriction. When a recreational vehicle, tent or similar shelter is placed on-site for more than 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.

**9. Mineral Exploration and Extraction**

Mineral exploration and extraction, including sand and gravel extraction, is prohibited in the Resource Protection District and Shoreland District.

**10. Minimum Lot Standards**

Lot size. All lots shall comply with the standards contained in Section 2.G.

- a. Lot size. All lots shall comply with the minimum standards contained in Section 2.G (40,000 square feet).
- b. Exclusions. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- c. Land on opposite sides of a road. 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.
- d. Lot width. 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.

- e. Multiple structures. If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

**11. Parking Areas**

- a. Setbacks. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except that in the Shoreland Overlay District, parking areas shall be set back at least twenty-five (25) feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Shoreland Overlay District may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
- b. Size. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.
- c. Size determination. 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.
  - 3) The Planning Board may reduce parking dimensional standards per Section 3.S.

**12. Piers, docks, wharves, bridges and other structures extending over or beyond the normal high-water line of a water body or within a wetland:**

- a. Appropriate soils. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- b. Beach areas. The location shall not interfere with existing developed or natural beach areas.

- c. Fisheries. The facility shall be located so as to minimize adverse effects on fisheries.
- d. Size. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
- e. Structure prohibition on docks, wharves. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- f. Conversion prohibition on docks, wharves. 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. Structure height on docks, wharves. Except in the Shoreland Overlay District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure. Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.

**13. Principal and Accessory Structures**

- a. Setbacks. All new principal and accessory structures shall meet the setback requirements of Section 2.G.
- b. Exemptions. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- c. Height. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Shoreland and Shoreland Overlay Districts, shall comply with the height limitations of Section 2.G. of this Ordinance.

- d. Flood elevation. The first floor elevation or openings of all buildings and structures including basements shall be elevated in accordance with the requirements of Section 8 of this Ordinance.
- e. Non-vegetated surfaces. The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Resource Protection District and Shoreland District, including land area previously developed, except in Shoreland Overlay District, where lot coverage shall not exceed seventy (70) percent.
- f. Stairways. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**14. Roads and Driveways**

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

- a. Setbacks. Roads and driveways shall be at least one-hundred (100) feet from a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet from the normal high-water line of a river or stream, 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 Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. 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 for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

- b. Existing road expansion. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- c. Resource Protection District prohibition. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case 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. Slope. Road 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 subsection 6.
- e. Standards. Road grades shall be no more than ten (10) percent except for short segments of less than two hundred (200) feet.
- f. Buffer strip. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip of at least fifty (50) feet plus two times the average slope in width percentage converted to feet, 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. Road 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. Drainage facilities. 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 in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

- 1) Spacing. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road 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. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
  - 3) Road grade 10% or more. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle down slope from a line perpendicular to the center line of the road.
  - 4) Culverts. 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. Maintenance. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

**15. Septic Waste Disposal**

- a. Installation. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (Rules). The Rules, among other requirements, include:
  - 1) Setback. The minimum setback for new subsurface sewage disposal systems, shall be no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback

distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.

- 2) Replacement systems. Replacement systems shall meet the standards for replacement systems as contained in the Rules. The Rules are available for review at the City Office.

## **16. Signs**

The following provisions shall govern the use of signs in the Resource Protection and Shoreland Districts (signs in the Central Business District are governed by the provisions of Section 3):

- a. On-premise signs. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- b. Name signs. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.
- c. Residential users. 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. Hunting, trespassing. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- e. Public safety. Signs relating to public safety shall be permitted without restriction.
- f. Height. No sign shall extend higher than twenty (20) feet above the ground.
- g. Illumination. Signs may be illuminated only by shielded, non-flashing lights.

## **17. 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

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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.

**18. Storm Water Runoff.**

- a. Minimize runoff. All new construction and development shall be designed to minimize storm water runoff from the 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 storm waters.
- b. Maintenance. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

**19. Timber Harvesting**

- a. Resource protection area. In a shoreland area zoned for resource protection, timber harvesting shall be limited to the following:
  - 1) Limitations. Within the strip of land extending 75 feet inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
    - a) Frozen ground. The ground is frozen;
    - b) Soil disturbance. There is no resultant soil disturbance;
    - c) Removal. The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
    - d) Size limit. There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in

diameter, measured at 4 1/2 feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and

- e) Tree marking. A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
- 2) Beyond 75 feet. Beyond the 75 foot strip referred to in paragraph 1) above, timber harvesting is permitted in accordance with paragraph b. below except that in no case shall the average residual basal area of trees over 4 1/2 inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- b. Standards. Except in areas as described in paragraph a. above, timber harvesting shall conform with the following provisions:
- 1) Selective cutting. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above ground level on any lot in any ten (10) year period is permitted provided that a well-distributed stand of trees and other natural vegetation remains. In addition:
    - a) Clear-cut prohibitions. Within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy five (75) feet, horizontal distance, of the normal high-water line river, stream, tributary stream, or the upland edge of a wetland, or within 100 feet, horizontal distance, of Pleasant Pond, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
    - b) Clear-cut limits beyond 75 feet. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of a river, stream, or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart.

Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

- c) Forty percent (40%) in ten years. Timber harvesting operations exceeding the 40% limitation in any ten (10) year period may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Section. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.
- 2) Slash prohibited. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
  - 3) Use of stream channels. Timber harvesting equipment shall not use stream channels as travel routes except when:
    - a) Frozen water. Surface waters are frozen; and
    - b) Ground disturbance. The activity will not result in any ground disturbance.
  - 4) Water crossings. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
  - 5) Skid trails. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

- 6) Unscarified vegetative strip. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

## **20. 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.

## **21. Shoreland Overlay Limited Residential Building Envelope, Access and Slope Standards**

Building envelope areas in the Shoreland Overlay Limited Residential District (not lot size) shall be a minimum of one hundred by one hundred feet (100' x 100') square foot area with sustained slopes of 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 20% or more. The Shoreland Overlay Limited Residential District includes areas other than those in the Resource Protection District, Shoreland or Shoreland Overlay District. Development within this district must consider a combination of Shoreland Zoning Performance Standards in this Section of the Ordinance and the standards noted In Section 2, Tables 2.F and 2.G.

### **I. Shoreland Zoning Administration**

1. 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; nor shall any principal or accessory structure be built, constructed, set, installed, established, expanded, substantially altered, improved or relocated without a permit. Repairs and maintenance do not require a permit.

Shoreland Zoning

2. Road culvert exemption. A permit is not required for the replacement of an existing road culvert as long as the replacement culvert is:
  - a. Size. Not more than one (1) standard culvert size wider in diameter than the culvert being replaced:
  - b. Length. Not more than twenty five percent (25%) longer than the culvert being replaced and not longer than seventy-five (75) feet; and
  - c. Erosion control. Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.
3. Application Fees. All applications shall be accompanied by an application fee made payable by check to the City of Gardiner.
4. Permit Application
  - a. Application. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by municipality, to the Code Enforcement Officer. The Code Enforcement Officer shall refer applications to the Planning Board which require Planning Board approval as set forth in Section 2 of this Ordinance.
  - b. Signed. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information on the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
  - c. Dated. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.
  - d. Septic system permit. If the property is not served by a public sewer, a valid septic system permit or a completed application for a septic system permit, including the site evaluation approved by the plumbing inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface disposal system.

5. Procedure for administering permits. Within thirty-five (35) days of the date of receiving a written application, the Code Enforcement Officer or the Planning Board, as indicated in Section 2, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specific additional material is needed to make the application complete. The Code Enforcement Officer or the Planning Board, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application, or within thirty-five (35) days of the public hearing, if one is held.

Burden of proof. 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.

6. Review Standards. 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:
  - a. Safe conditions. Will maintain safe and healthful conditions;
  - b. Water pollution. Will not result in water pollution, erosion, or sedimentation to surface waters;
  - c. Wastewater. Will adequately provide for the disposal of all wastewater;
  - d. Wildlife. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
  - e. Shore cover. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - f. Archaeological and historic sites. Applicant shall check with the Maine Historic Preservation Commission to verify whether the site contains any identified prehistoric or archaeological site;
  - g. Fishing. Will not adversely affect existing commercial fishing or maritime activities in a Water-dependent Commercial Maritime Activities district;
  - h. Floodplains. Will avoid problems associated with flood plain development and use; and
  - i. Land use standards. Is in conformance with the provisions of Section 3, Land Use Standards and Section 6.H. of this Ordinance.

7. Denial or approval. 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 this Ordinance or any regulation or any State law which the municipality is responsible for enforcing.
8. Conditions. Permits granted under this section may be made subject to reasonable conditions to ensure conformity with the purpose and provisions of this Section.
9. Special Exceptions. In addition to the criteria specified in Section 6.I.6, above, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:
  - a. No other location. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
  - b. Undeveloped lot. 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. Location of improvements. The proposed location of all buildings, sewage disposal systems and other improvements are:
    - 1) Slopes. Located on natural ground slopes of less than twenty percent (20%); and
    - 2) Floodplain. Located outside the floodway of the 100-year floodplain 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 (1) foot above the 100-year floodplain elevation; and the development is otherwise in compliance with this Ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half the width of the 100-year floodplain.
  - d. Square footage. The total ground floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

- e. Setback. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet. 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 and high-value wetlands.
10. Proof of Compliance. After completion of the permitted construction, or land use change, the Code Enforcement Officer of the City shall inspect the premises and if the same conforms to the original permit, issue to the permit holder a certificate of compliance, upon receipt of which said holder may enter upon the intended use of the premises.
  11. Installation of Public Utility Service. No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this Section or any previous Section, has been issued by the Code Enforcement Officer. Following installation of service, the company or district shall forward the written authorization to the City of Gardiner, indicating that installation has been completed.