| **DEP Chapter 1000** | **Bremen Shoreland Zoning Ordinance** |  |
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| **16. Administration****A. Administering Bodies and Agents**(1) **Code Enforcement Officer**. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.(2) **Board of Appeals**. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.(3) **Planning Board**. A Planning Board shall be created in accordance with the provisions of State law.**B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed. (1) A permit is not required for the replacement of an existing road culvert as long as:(a) The replacement culvert is not more than 25% longer than the culvert being replaced;(b) The replacement culvert is not longer than 75 feet; and(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.1. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer’s level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

(3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.*The text of Sec. 16 (A) and (B) are identical in DEP Model and Bremen’s ordinance except that Bremen’s Ordinance lacks (2.) enumeration before the text in the second subparagraph under B.* |
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| **C. Permit Application**1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.

(2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.(3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.(4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.***NOTE****: If a municipality intends to take independent enforcement actions related to the contractor certification requirements of 38 M.R.S.A. Section 439-B, they should insert the following into the application requirements of their ordinance:*(5) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment. | **C. Permit Application** Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.(2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct. (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.(4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system. |  |
| **D. Procedure for Administering Permits.** Within **35 days** of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within **35 days** of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within **35 days** after the first available date on the Planning Board's agenda following receipt of the completed application, or within **35 days** of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use: | **D. Procedure for Administering Permits.** Within **50 days** of the date of receiving a written application, the Planning Board, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within **50 days** of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within **50 days** after the first available date on the Planning Board's agenda following receipt of the completed application, or within **50 days** of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use: |  |
| (1) Will maintain safe and healthful conditions;(2) Will not result in water pollution, erosion, or sedimentation to surface waters;(3) Will adequately provide for the disposal of all wastewater;(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;(5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;(6) Will protect archaeological and historic resources as designated in the comprehensive plan;(7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;(8) Will avoid problems associated with floodplain development and use; and(9) Is in conformance with the provisions of Section 15, Land Use Standards. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality. |  |
| **E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:(1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.(3) All proposed buildings, sewage disposal systems and other improvements are:(a) Located on natural ground slopes of less than 20%; and(b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain. |  |
| 4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance. | (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance. |  |
| (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands. |  |
| 1. **Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility. |  |
| **H. Appeals** |  |  |
| **I. Enforcement** |  |  |
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| **DEP Chapter 1000** | **Bremen Shoreline Zoning Ordinance** |  |
| **17. Definitions[[1]](#endnote-1)** | **17. Definitions** |  |
|  | Bed & Breakfast – a home occupation in an owner-occupied dwelling or accessory building on the same lot, in which 4 or less sleeping rooms are, for a fee, occupied by travelers and other transient guests staying for a limited duration (less than two weeks). The floor area devoted to the *Bed and Breakfast* may not exceed 50% of the total floor area of the dwelling unit or 1500 square feet of an accessory building. Breakfasts or other meals may be served only to guests. There shall be no separate ownership of rooms. A *Bed and Breakfast* must also meet all the requirements of a home occupation.  |  |
|  | Coastal Bluff - a steep shoreline slope formed in sediment (loose material such as clay, silt, sand and gravel) that has three feet or more vertical elevation just about the high-tide line.  |  |
| **Coastal wetland** - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.***DEP NOTE****: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.* | Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows. Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.” |  |
|  **Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls. | Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. |  |
|  **Footprint** - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks. |  |  |
| **Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger. |  |  |
|  **Non-conforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. |  |  |
| **Non-native invasive species of vegetation** - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.  |  |  |
|  | Operational Necessity - structure, road, or other construction required for the operation of a commercial fishing or other marine-related business, or for a public  |  |
| **Outlet stream -** any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland. |  |  |
|  **Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined. | Road – a currently regularly used and maintained route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing construction material constructed for or created by the repeated passage of motorized passenger vehicles and which is currently used regularly by repeated passage of motorized passenger vehicles to access from public roads three or more parcels of land or dwelling units separately owned or noncontiguous parcels if commonly owned but not including access ways used primarily for forest management activities and/or agricultural activities |  |
| **Sapling -** a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level. |  |  |
| **Seedling -** a young tree species that is less than four and one half (4.5) feet in height above ground level.  |  |  |
|  **Significant River Segments** - See Appendix A or 38 M.R.S.A. section 437.**[[2]](#endnote-2)** |  |  |
| **Skid Road or Skid Trail** - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation. |  |  |
| **Storm-damaged tree** - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event. |  |  |
| **Tree -** a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity. |  |  |

1. Only terms that differ in definition or are defined in only the DEP SZO or the Bremen SZO are included in this table. [↑](#endnote-ref-1)
2. There are no “Signficant River Segments” in Bremen. [↑](#endnote-ref-2)