

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR



MELANIE LOYZIM  
COMMISSIONER

September 24, 2024

Melanie Pendleton  
Town Clerk  
Town of Bremen  
PO Box 171  
Bremen, ME 04551

Subject: Conditional Approval of Bremen's Shoreland Zoning Ordinance

Dear Ms. Pendleton,

The Commissioner of the Department of Environmental Protection (Department) has reviewed the Town of Bremen's Shoreland Zoning Ordinance. We appreciate the hard work that goes into keeping an ordinance up to date.

Please find enclosed Department Order #22-2024 (Order) conditionally approving the Ordinance, as adopted on May 7, 2024, and received by the Department August 7, 2024.

The conditions of the Order are binding on the Town of Bremen's (municipality) and must be administered as part of the Ordinance. Should the Ordinance, be amended in the future to address the deficiencies identified in the Order, the Department can then fully approve the Ordinance and repeal the Order.

If you or any other municipal officials have questions relating to shoreland zoning, you may reach me at 441-7419 or by e-mail [colin.a.clark@maine.gov](mailto:colin.a.clark@maine.gov).

Sincerely,

Colin. A. Clark  
Shoreland Zoning Program  
Bureau of Land and Water Quality  
Department of Environmental Protection

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
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PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
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PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

|                            |                                  |
|----------------------------|----------------------------------|
| TOWN OF BREMEN             | ) MANDATORY SHORELAND ZONING ACT |
| LINCOLN COUNTY             | )                                |
| SHORELAND ZONING ORDINANCE | )                                |
| ORDER # 22-2024            | ) CONDITIONAL APPROVAL           |

Pursuant to the provisions of 38 M.R.S. §§ 435-448, the Mandatory Shoreland Zoning Act (Act), and the Maine Department of Environmental Protection's Guidelines for Municipal Shoreland Zoning Ordinances, 06-096 C.M.R. ch. 1000 (amended January 26, 2015) (Guidelines), the Department of Environmental Protection has considered the request for approval of the Town of Bremen's Shoreland Zoning Ordinance (Ordinance), as amended on May 7, 2024, and FINDS THE FOLLOWING FACTS:

1. The Act requires municipalities to establish zoning controls in areas within 250 feet of the normal high-water line of great ponds and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of the normal high-water line of streams. Such zoning standards must be consistent with or no less restrictive than those in the Guidelines. 38 M.R.S. §§ 435 & 438-A.
2. The Act specifies that before a locally adopted shoreland zoning ordinance, or amendment to that ordinance, is effective, it must be approved by the Commissioner of the Department of Environmental Protection (Commissioner). The Commissioner may approve, approve with conditions, or deny the ordinance or amendment. If denied, or approved with conditions, such action must be preceded by notice to the municipality. If the Commissioner fails to act within 45 days of receipt of the ordinance or amendment, then the ordinance or amendment is automatically approved. 38 M.R.S. § 438-A.
3. On February 14, 2020, the Department approved the Town of Bremen's Ordinance, as amended on December 12, 2019, with conditions in Department Order #02-2020 addressing deficiencies, including:
  - A. Section 12.C.(2) *Non-Conforming Structures* contains language that is inconsistent with the Chapter 1000 Guidelines.
  - B. Section 15.E *Individual Private Campsites* fails to contain language establishing dimensional requirements for an individual private campsite on a lot with an existing principal use from the Chapter 1000 Guidelines.
4. On August 7, 2024, the Town of Bremen submitted the following Ordinance amendments adopted on May 7, 2024, to the Department for review:

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

2  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

- A. Section 12 C *Non-Conforming Structures* was amended to clarify standards throughout this section as well as to add new standards for height of structures when located within a flood zone.
- B. Section 12 D *Non-conforming Uses* was amended to clarify standards throughout this section.
- C. Section 12 E *Non-conforming Lots* was amended to clarify the responsible entity for determining greatest practical extent.
- D. Section 12 F *Conditional Approval* was amended to clarify the responsible entity for adding conditions for approval to a permit.
- E. Section 14 *Table of Land Uses* was amended to clarify the responsible entity for approving certain activities in certain districts, as well as to add a use to the table "Accessory Dwelling Units."
- F. Section 15 **Land Use Standards B** *New Principal and Accessory Structures* was amended to add clarifying language.
- G. Section 15 **Land Use Standards D** *Campgrounds* was amended to document that campgrounds are not allowed within the Shoreland Zone.
- H. Section 15 **Land Use Standards E** *Individual Private Campsites* was amended to standards for when an individual private campsite is located on a lot with a principal structure or use as well as to clarify the amount of vegetation that can be cleared when siting a recreational vehicle, tent or similar shelter Zone and to require a written sewage disposal plan.
- I. Section 15 **Land Use Standards D** *Campgrounds* was amended to document that campgrounds are not allowed within the Shoreland Zone.
- J. Section 15 **Land Use Standards F** *Commercial and Industrial Uses* was amended to add aquaculture to the list of allowed activities.
- K. Section 15 **Land Use Standards T** *Erosion and Sedimentation Control* was amended to determine to whom the written soil erosion and sedimentation control plan is to be submitted.
- L. Section 15 **Land Use Standards W** *Archaeological Site* was amended to identify to whom materials are to be submitted.

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

3  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

- M. Section 16 **Administration** C *Permit Application* was amended to identify to whom permitting materials are to be submitted.
  - N. Section 16 **Administration** D *Procedure for Administering Permits* was amended to clarify standards throughout this section.
  - O. Section 16 **Administration** E *Special Exemption* was amended to clarify standards throughout this section.
  - P. Section 17 **Definitions** was amended to add and define the following terms: Affordable Housing Development, Area Median Income, Attached, Base Density, Centrally Managed Water System, Comparable Sewer System, Comprehensive Plan, Density Requirements, Designated Growth Area, Dwelling, Habitable, Housing, Lot Standards, Low income, Potable, Residential Growth Cap Permit, Restrictive Covenant, Short-Term Rental, Structure, Dwelling Unit, Accessory (ADU), Structure, Permanent, Structure, Temporary, Tent, and Zoning Ordinance. The following terms were amended Building, Campground, Dimensional Requirements, Erosion and Sedimentation Control Plan, Expansion or Enlargement of a Structure, Floor Area, Footprint, Impervious Surface, Individual Private Campsite, Piers, Docks, Wharves, Bridges, and Other Structures, Recreational Vehicle, Dwelling, Multi-Family, Dwelling, Single-Family, Dwelling, Two-Family, Dwelling, Unit/Apartment, Structure, Accessory, Structure, Exempted, and Structure, Height.
5. The Department's review of the Ordinance has revealed the following significant deficiency:
- A. Section 12 **Non-conformance** C *Non-Conforming Structures* 1 Expansions c & d fails to contain the necessary language to be consistent with the Act and the Guidelines.
  - B. Section 12 **Non-conformance** C *Non-Conforming Structures* 3 Relocation fails to contain the necessary language to be consistent with the Guidelines.
  - C. Section 12 **Non-conformance** C *Non-Conforming Structures* 4 Reconstruction and Replacement fails to contain the necessary language to be consistent with the Guidelines.
  - D. Section 12 **Non-conformance** E *Non-Conforming* fails to contain the necessary language to be consistent with the Guidelines.

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

4  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

- E. Section 13 **Establishment of Districts D Stream Protection District** fails to contain the necessary language to be consistent with the Guidelines.
- F. Section 14 **Table of Land Uses** fails remove Item 3 Forest management activities except for timber harvesting & land management roads to share all administration and regulation of all forestry activities with the Bureau of Forestry, are consistent with the minimum requirements of the Chapter 1000 Guidelines. (Option 2).
- G. Section 15 **Land Use Standards A Minimum Lot Standards** fails to contain the necessary language to be consistent with the Guidelines.
- H. Section 15 **Land Use Standards B New Principal and Accessory Structures** fails to contain the necessary language to be consistent with the Guidelines.
- I. Section 15 **Land Use Standards G Parking Areas 1** fails to contain the necessary language to be consistent with the Guidelines.
- J. Section 15 **Land Use Standards H Roads and Driveways** fails to contain the necessary language to be consistent with the Guidelines.
- K. Section 15 **Land Use Standards P Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting 2** fails to contain the necessary language to be consistent with the Guidelines.
- L. Section 15 **Land Use Standards Q Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal** fails to contain the necessary language to be consistent with the Guidelines.
- M. Section 15 **Land Use Standards R Exemptions to Clearing and Vegetation Removal Requirements 5** fails to contain the necessary language to be consistent with the Guidelines.
- N. Section 16 **Administration D Procedure for Administering Permits** fails to contain the necessary language to be consistent with the Guidelines.
- O. Section 16 **Administration E Special Exceptions 5** fails to contain the necessary language to be consistent with the Guidelines.

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

5  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

- P. Section 16 **Administration** H *Enforcement* fails to contain the necessary language to be consistent with the Guidelines.
- Q. Section 17 **Definitions** fails to contain the necessary language to be consistent with the Guidelines.
6. The Town of Bremen was notified by the Department of the above deficiency, and the proposed conditional approval of the Ordinance.

BASED on the above Findings of Fact, the Commissioner makes the following CONCLUSION:

1. The deficiencies noted in paragraph 5 above can be addressed by the Commissioner approving the Ordinance with conditions. This will result in the Ordinance being substantially consistent with the requirements of the Mandatory Shoreland Zoning Act, 38 M.R.S., Section 438-A, and the Guidelines in effect as of the date of this Order.

THEREFORE, the Commissioner APPROVES the Ordinance, as amended on May 7, 2024, SUBJECT TO THE ATTACHED CONDITIONS:

- A. Section 12 **Non-conformance** C *Non-Conforming Structures* 1 Expansions shall be amended in part as follows by adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

- (c) All other legally existing non-conforming principal and accessory structures that do not meet the water body or wetland setback requirements contained in Section 15.B.(1), herein, may be expanded or altered as follows, as long as the provisions of Section 12.C. and all other applicable land use standards contained in this or other municipal ordinances are met.
- (i) For structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, **tributary stream** or upland edge of a wetland: the maximum combined total footprint of all portions of those structures within that 75-foot distance may not be expanded to greater than 1,000 square feet. The maximum height of any portion of any structure within that 75-foot distance may not be made greater than 20 feet or the height of the existing structure within 75 feet, whichever is greater.

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

6  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

- (ii) For structures located less than 100 feet from the normal high-water line of a water body or upland edge of a wetland: the maximum combined total footprint of all portions of those structures within that 100-foot distance may not be expanded to greater than 1,500 square feet. The maximum height of any portion of any structure within that 100-foot distance may not be made greater than 25 feet or the height of the existing structure within 100 feet, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, **tributary stream** or upland edge of a freshwater wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(i), above.
- (iii) For structures located less than 150 feet from the normal high-water line of a water body or upland edge of a wetland: the maximum combined total footprint of all portions of those structures within that 150-foot distance may not be expanded to greater than 2,000 square feet. The maximum height of any portion of any structure within that 150-foot distance may not be made greater than 30 feet or the height of the existing structure within 150 feet, whichever is greater. Any portion of those structures located less than 100 feet from a water body or upland edge of a wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(ii), above; and any portion of those structures located less than 75 feet from a water body, or upland edge of a wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(i), above.
- (iv) In addition, for structures that are located within the Resource Protection District and that are less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland: the maximum combined total footprint of all portions of all structures within that 250-foot distance may not be expanded to greater than ~~1,500~~ 2,000-square feet. The maximum height of any structure within that 250-foot distance may not be made greater than ~~25~~ 30-feet or the height of the existing structure within 250 feet, whichever is greater. Any portion of those structures located less than 100 feet from a water body or upland edge of a wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(ii), above; and any portion of those structures located less than 75 feet from a water body, **tributary stream** or upland edge of a

wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(i), above.

- (d) Notwithstanding the limitations on height imposed under Section 15. B.(8), below, the height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or to 3 4-feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This paragraph applies to structures that:
  - (i) Have been or are proposed to be relocated, reconstructed, replaced or elevated to avoid damage or restriction of use due to sea level rise, or to be consistent with the Bremen floodplain management elevation requirement; and
  - (ii) Are located in an area of special flood hazard.

B. Section 12 **Non-conformance C Non-Conforming Structures 3 Relocation** shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

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

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation **in accordance with Section 15(S)**. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one **native** noninvasive tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- C. **Section 12 Non-conformance C Non-Conforming Structures 4 Reconstruction and Replacement** shall be amended in part as follows adding the **highlighted** **bolded** language and removing the ~~strike through~~ language:

- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, **tributary stream** or upland edge of a wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, **tributary stream** or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so

as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 12.C.(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12.C.(3) above.

Any non-conforming structure which is located less than the required setback from a water body, **tributary stream** or upland edge of a wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with no expansion of the footprint if a permit is obtained from the Planning Board within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider, in addition to the criteria in Section 12.C.(3) above, the physical condition and type of foundation present, if any.

- D. Section 12 **Non-conformance** E *Non-Conforming* fshall be amended in part as follows adding the **highlighted bolded** language and removing the ~~striketrough~~ language:

**E. Non-conforming Lots**

(1) **Non-conforming Lots.** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

(2) **Contiguous Built Lots.** When two or more contiguous lots or parcels are in a single or joint ownership of record on the date of adoption or amendment of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on

each lot, the non-conforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. Sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the date of adoption or amendment of this Ordinance, each may be sold on a separate lot provided that the above-referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

~~(3) Contiguous Lots—Vacant or Partially Built. If two or more contiguous lots or parcels are in single or joint ownership of record and recorded in the Registry of Deeds on the date of adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined or reconfigured to the extent necessary to meet the dimensional requirements or as much as possible.~~

~~If such recombination or reconfiguration results in one or more lots that still do not meet the current dimensional requirements of this Ordinance and the lot(s) can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, the nonconforming lot(s) may be built upon provided:~~

- ~~(a) The lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area;~~
- ~~(b) The proposed use is allowed in the District in which it occurs; and~~
- ~~(c) All other applicable provisions of this Ordinance are met to the greatest practical extent as determined by the Planning Board or Code Enforcement Officer, as applicable. In determining whether the proposed use meets these other requirements to the greatest practical extent, the Planning Board or Code Enforcement Officer shall consider the ability of the applicant to use the land in the manner proposed, the size of the lot(s), the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation retained or proposed.~~

**3. Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on **March 21, 1987** and recorded in the registry of deeds if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

a. Each lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area; or

b. Any lots that do not meet the frontage and lot size requirements of Section

12.E.3.a are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area.

- E. Section 13 **Establishment of Districts D Stream Protection District** shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

**D. Stream Protection District.** The Stream Protection District includes all land areas within seventy five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within ~~another shoreland district associated with a water body or wetland within two-hundred and fifty (250)~~ **feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.**

TOWN OF BREMEN )  
 LINCOLN COUNTY )  
 LAND USE ORDINANCE )  
 ORDER #22-2024 )

12

) MANDATORY SHORELAND ZONING ACT

)

)

) CONDITIONAL APPROVAL

- F. Section 14 **Table of Land Uses** Item 3 Forest management activities except for timber harvesting & land management roads shall be amended in part as follows by removing the ~~striketthrough~~ language:

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

| <u>LAND USES</u> | <u>DISTRICT</u> |           |          |             |
|------------------|-----------------|-----------|----------|-------------|
|                  | <u>SP</u>       | <u>RP</u> | <u>R</u> | <u>CFMA</u> |

|                                                                                                     |                |                |                |                |
|-----------------------------------------------------------------------------------------------------|----------------|----------------|----------------|----------------|
| <del>3. Forest management activities except for timber harvesting &amp; land management roads</del> | <del>yes</del> | <del>yes</del> | <del>yes</del> | <del>yes</del> |
|-----------------------------------------------------------------------------------------------------|----------------|----------------|----------------|----------------|

- G. Section 15 **Land Use Standards** shall be amended in part as follows by removing the ~~striketthrough~~ language:

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

|                                                                                                                                                    | Minimum Lot<br>Area (sq. ft.) | Minimum<br>Shore<br>Frontage (ft.) |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|------------------------------------|
| (1)                                                                                                                                                |                               |                                    |
| (a) Residential per dwelling unit                                                                                                                  |                               |                                    |
| (i) Within the Shoreland Zone<br>Adjacent to Tidal Areas                                                                                           | 80,000                        | 300                                |
| (ii) Within the Shoreland Zone<br>Adjacent to Non-Tidal Areas                                                                                      | 80,000                        | 300                                |
| (b) Governmental, Institutional, Commercial or Industrial per principal structure                                                                  |                               |                                    |
| (i) Within the Shoreland Zone<br>Adjacent to Tidal Areas, Exclusive<br>of those Areas Zoned for<br>Commercial Fisheries and<br>Maritime Activities | 80,000                        | 300                                |
| (ii) Within the Shoreland Zone                                                                                                                     |                               |                                    |

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

13  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

- |                                                                                      |        |     |
|--------------------------------------------------------------------------------------|--------|-----|
| Adjacent to Tidal Areas Zoned<br>for Commercial Fisheries and<br>Maritime Activities | 10,000 | 50  |
| (iii) Within the Shoreland Zone<br>Adjacent to Non-Tidal Areas                       | 80,000 | 300 |
- (c) Public and Private Recreational Facilities
- |                                                                        |        |     |
|------------------------------------------------------------------------|--------|-----|
| (i) Within the Shoreland Zone Adjacent<br>to Tidal and Non-Tidal Areas | 80,000 | 300 |
|------------------------------------------------------------------------|--------|-----|
- (d) Public and Private Water Access
- |                                                               |        |    |
|---------------------------------------------------------------|--------|----|
| (i) Within the Shoreland Zone Adjacent<br>to Tidal Areas only | 10,000 | 50 |
|---------------------------------------------------------------|--------|----|
- (2) 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.
- (3) Lots located on opposite sides of a public or private road shall be considered each a legally existing, separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971, or unless one or more of the lots are non-conforming and the parcels were described as one lot on the recorded deed at the time of the adoption of this Ordinance.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) ~~Except for an Accessory Dwelling Unit, as defined herein,~~ 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.
- (6) On lots created or used for private water access in accordance with Section 15.A.(1)(d), above, the only structures allowed are a pier or dock with a ramp and float and a single, non-residential building with a footprint of one thousand

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

14  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

(1,000) square feet or less located either on land or a pier/dock. Both a pier or dock and a non-residential building are allowed on the lot.

- (7) The Planning Board may approve clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.
- (8) Lots of record as of the date of enactment of this revision or amendment of this Ordinance which do not meet the dimensional requirements as set forth above may not be subdivided.
- (9) Lots that do not meet the dimensional requirements as set forth above and that are part of a subdivision containing no more than six (6) parcels, all of which are beyond the shoreland zone, may be approved as a common lot with a common pier or dock for the benefit of the other lots within the subdivision provided the common lot meets the applicable frontage and area requirements for a residential lot containing one dwelling unit. A single, non-residential building with a footprint of one thousand (1,000) square feet or less with no bathroom or indoor cooking facilities may be located on the lot. All other shoreland zone conditions, including water body/wetland setbacks, shall apply to any such common lot.
- (10) Conforming lots that meet or exceed the dimensional requirements as set forth above, may not be divided so as to create a lot with non-conforming dimensions.
- (11) Lots created or used for private water access in accordance with Section 15.A.(1)(d), above, shall be used only for purposes of commercial fishing. A deed restriction for the lot describing this restriction must be recorded at the Registry of Deeds by the applicant within ninety (90) days of approval of such use by the Planning Board. The recorded restriction must include a copy of the Planning Board approval.

H. Section 15 **Land Use Standards B New Principal and Accessory Structures** shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~strickthrough~~ language:

**B. New Principal and Accessory Structures**

(1) In the Residential District:

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

15  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

- (a) All new principal and accessory structures shall be set back at least one hundred fifty (150) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland. ~~However, if a paved, State-owned road is located between the proposed development and the protected resource, the minimum setback shall be seventy-five (75) feet, horizontal distance, from the protected resource.~~
  - (b) All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of tributary streams.
- (2) In the Stream Protection District all new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of a stream.
  - (3) In the Commercial Fisheries/Maritime Activities District there shall be no minimum setback except that residential structures shall be setback at least 150 feet, horizontal distance, from the highest annual tide level.
  - (4) 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.
  - (5) The water body or wetland setback provisions shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
  - (6) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place a new accessory structure meeting the required water body or wetland setbacks, the Planning Board may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height and shall be located as far from the shoreline or upland edge of a wetland as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations.
  - (7) The Planning Board may increase the required setback of a proposed structure as a condition to permit approval, if necessary, to accomplish the purposes of this Ordinance. Instances where a greater setback may be appropriate include

but are not limited to areas of steep slope, shallow or erodible soils, or where an adequate shoreline buffer does not exist.

- (8) ~~Except for an Accessory Dwelling Unit, as defined Herin~~ new principal or accessory structures and expansions of existing, conforming structures which are permitted in the Resource Protection, Stream Protection and Residential Districts shall not exceed thirty-five (35) feet in height. ~~A detached Accessory Dwelling Unit shall not exceed a maximum height of thirty (30) feet. An Accessory Dwelling Unit created by expanding an existing conforming structure shall not exceed thirty (30) feet or the height of the existing structure, whichever is greater.~~ This provision shall not apply to structures such as transmission towers, windmills, steeples, flag poles, chimneys, antennas, and similar structures having no floor area.
- (9) The lowest floor elevation or openings of all buildings and structures, including basements, shall meet the standards of the Town of Bremen Floodplain Management Ordinance, if applicable.
- (10) The total footprint area of all structures, parking lots, and other non-vegetated surfaces within the shoreland zone shall not exceed twenty (20) percent of the portion of the lot located within the shoreland zone, including land area previously developed, except for structures in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent of **the lot located within the shoreland zone**. Residential structures in the Commercial Fisheries/Maritime Activities District are restricted to a total footprint area not to exceed twenty (20) percent of the portion of the lot located within the shoreland zone.
- (11) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill, provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

- (d) The maximum height of the wall(s) is no more than 24 inches;
- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established and maintained within 25 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch;
  - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (iii) Only noninvasive, native species may be used to establish the buffer area;
  - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland; and
  - (v) A footpath not to exceed the standards in Section 15.P.(2)(a), may traverse the buffer.

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**NOTE:** If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body or coastal wetland, a permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection.

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- (12) 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

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

18  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

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.

- I. Section 15 **Land Use Standards G Parking Areas** shall be amended in part as follows adding the **highlighted bolded** language:

(1) Parking areas shall meet the structure setback requirements for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the highest annual tide level. The setback requirement for parking areas serving public boat launching facilities in districts other than the Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the protected resource if the Planning Board finds that no other reasonable alternative exists further from the protected resource, **shoreline or tributary stream**.

- J. Section 15 **Land Use Standards H Roads and Driveways** shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

(1) Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance, from streams, tributary streams and at least one-hundred fifty (150) feet, horizontal distance, from all other water bodies, **tributary streams, or the upland edge of a wetland** ~~and wetlands~~ 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 vegetated buffers, settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, **tributary stream** or wetland. In the Commercial Fisheries/Maritime Activities District, the minimum setback shall be no less than twenty-five (25) feet.

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

Section 15.H.(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the protected resource due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15.H.(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (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 protected resource**.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection 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.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15.T.
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering protected resources, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, **tributary stream** or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(7) 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:

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

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

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

(d) 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.

(8) 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.

K. Section 15 **Land Use Standards P** *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting* 2 shall be amended in part as follows adding the **highlighted bolded** language:

(2) Except in the Resource Protection District, and except to allow for the development of permitted uses, within a strip of land extending one hundred fifty (150) feet, horizontal distance, inland from the normal high-water line of Biscay, McCurdy, Pemaquid and Webber Ponds and the waterways that flow

between them, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) 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.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. A "well-distributed stand of trees" adjacent to Biscay, McCurdy, Pemaquid and Webber Ponds and the waterways that flow between them, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

| Diameter of Tree at 4-1/2 feet<br>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 Biscay, McCurdy, Pemaquid and Webber Ponds and the waterways that flow between them, if a 25-foot by 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:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

“Other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4-1/2) 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 can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4-1/2 feet above ground level may be removed in any ten (10) year period.

- (b) 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.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, hazard, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 15.Q. below, unless existing new tree growth is present.
- (f) 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 Section 15.P.(2).

L. Section 15 **Land Use Standards Q Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal** shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~striketrough~~ language:

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer ~~extending seventy-five (75) feet, horizontal distance,~~ from the normal high-water line of a protected resource, 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 (4-1/2) 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. ~~If stumps are to be removed, in order to minimize storm water runoff and resulting erosion and sedimentation in excess of natural conditions, the root systems must remain in place to the greatest practical extent.~~
  - (b) Outside of the shoreline buffer as defined in Section 15.Q.(1)(a), above, 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 (4-1/2) 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 (4-1/2) 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 (4-1/2) feet above the ground level.

- (c) 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 ~~if removing stumps, root systems must remain in place~~ **stumps are not removed.** For the purposes of this provision, dead trees are those trees that contain no foliage during the growing season.
  - (d) **The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.**
  - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4-1/2) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer as defined in Section 15.Q.(1)(a), above, 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) ~~If removing stumps, root systems must remain in place~~ **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.

- (b) Outside of the shoreline buffer as defined in Section 15.Q.(1)(a), above, 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 (4-1/2) 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.

- M. Section 15 **Land Use Standards R Exemptions to Clearing and Vegetation Removal Requirements** 5 shall be amended in part as follows adding the **highlighted bolded** language:

(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 the Commercial Fisheries/Maritime Activities District or other equivalent zoning district approved by the Commissioner of the Department of Environmental Protection that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A Section 343-E, and that is located along a coastal wetland or a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

- N. Section 16 **Administration D Procedure for Administering Permits** shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

**D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as appropriate, 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~~ 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 ~~35~~ 50-days after the first available date on the Planning Board's agenda following receipt of the completed application, or within ~~35~~ 50-days of a public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

- O. Section 16 **Administration** E *Special Exceptions* 5 shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~strikethrough~~ language:

E. **Special Exceptions.** In addition to the criteria specified in Section 16.D. above, **excepting except for** structure setback requirements, the Planning Board may recommend approval of 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.
- (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.

P. Section 16 **Administration** H *Enforcement* shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~striketrough~~ language:

**F. Enforcement**

- (1) Nuisances: Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) Code Enforcement Officer:

(a) It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he/she shall notify in writing by certified mail the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be retained by the Town as a permanent public record.

(b) **The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.**

(c) **The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.**

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

(4) Fines: Any person, **including but not limited to a landowner, a landowner's agent or a contractor, who continues to violate any provisions or requirements of this Ordinance after receiving notice of such violation shall be penalized in accordance with 30-A, M.R.S.A. section 4452. may be liable for civil penalty of a maximum of \$5,000.00 for each violation.**

**Current penalties include fines of not less than \$100 nor more than \$5000 per violation for each day that the violation continues.** However, the maximum penalty for each violation in the Resource Protection District of the shoreland zone shall be \$10,000.00 per violation. Each day the violation continues shall constitute a separate violation as referenced in Title 30-A M.R.S.A., Section 4452. The violator liable for each offence may be ordered to correct or abate a violation, and may be liable for the Town's attorney's fees, witness fees and costs.

Q. Section 17 **Definitions** shall be amended in part as follows adding the **highlighted bolded** language and removing the ~~strike through~~ language:

**Expansion of or Enlargement of Use: The addition of one or more months to a use's operating season,** any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, or land area occupied by a particular use. Increases that are required to meet the requirements of the ADA and the State Fire Code are not considered to be enlargements or expansions of use.

TOWN OF BREMEN  
LINCOLN COUNTY  
LAND USE ORDINANCE  
ORDER #22-2024

29  
) MANDATORY SHORELAND ZONING ACT  
)  
)  
) CONDITIONAL APPROVAL

**Setback, Shoreline:** The nearest horizontal distance from the normal high-water line of a water body, **tributary stream** or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area. See Land Use Ordinance for definitions of **Setback, Front; Setback, Side; and Setback, Rear.**

**Timber Harvesting:** The cutting and removal of timber and related activities for the primary purpose of selling or processing forest products, including the construction and maintenance of roads used primarily for timber harvesting. The State of Maine regulates timber harvesting in Bremen's shoreland zone. Timber harvesting does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. ~~Such cutting or removal of trees is regulated pursuant to Section 15-P.~~ **The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.**

**CONDITIONS of Department Order #02-2020 are hereby REPEALED.**

DONE AND DATED AT AUGUSTA, MAINE, THIS 20<sup>TH</sup> DAY OF SEPTEMBER, 2024.

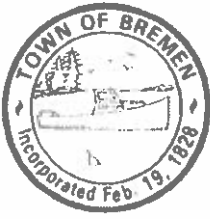
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:

  
For: Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

**FILED**  
September 20<sup>th</sup>, 2024  
State of Maine  
Board of Environmental Protection



**TOWN OF BREMEN**

PO BOX 171, 208 WALDOBORO RD

BREMEN, MAINE 04551

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**SHORELAND ZONING ORDINANCE  
FOR THE TOWN OF BREMEN, MAINE  
*As amended May 7, 2024***

Certified by:

**Melanie L. Pendleton**

**Town Clerk**

COPY

**Shoreland Zoning Ordinance  
for the Town of Bremen, Maine  
as Amended May 7, 2024**

**TABLE OF CONTENTS**

|                                                                                                                                                                    | Page |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| 1. Purposes .....                                                                                                                                                  | 1    |
| 2. Authority .....                                                                                                                                                 | 1    |
| 3. Applicability .....                                                                                                                                             | 1    |
| 4. Effective Date .....                                                                                                                                            | 1    |
| 5. Availability .....                                                                                                                                              | 1    |
| 6. Severability .....                                                                                                                                              | 2    |
| 7. Conflicts with Other Ordinances .....                                                                                                                           | 2    |
| 8. Amendments .....                                                                                                                                                | 2    |
| 9. Districts and Zoning Map .....                                                                                                                                  | 2    |
| A. Official Shoreland Zoning Map .....                                                                                                                             | 2    |
| B. Scale of Map .....                                                                                                                                              | 2    |
| C. Certification of Official Shoreland Zoning Map .....                                                                                                            | 2    |
| D. Changes to the Official Shoreland Zoning Map .....                                                                                                              | 2    |
| 10. Interpretation of District Boundaries .....                                                                                                                    | 3    |
| 11. Land Use Requirements .....                                                                                                                                    | 3    |
| 12. Non-conformance .....                                                                                                                                          | 3    |
| A. Purpose .....                                                                                                                                                   | 3    |
| B. General .....                                                                                                                                                   | 3    |
| C. Non-conforming Structures .....                                                                                                                                 | 3    |
| D. Non-conforming Uses .....                                                                                                                                       | 8    |
| E. Non-conforming Lots .....                                                                                                                                       | 9    |
| F. Condition of Approval .....                                                                                                                                     | 10   |
| 13. Establishment of Districts .....                                                                                                                               | 11   |
| A. Resource Protection District .....                                                                                                                              | 11   |
| B. Residential District .....                                                                                                                                      | 12   |
| C. Commercial Fisheries/Maritime Activities District .....                                                                                                         | 12   |
| D. Stream Protection District .....                                                                                                                                | 12   |
| 14. Table of Land Uses .....                                                                                                                                       | 13   |
| 15. Land Use Standards .....                                                                                                                                       | 15   |
| A. Minimum Lot Standards .....                                                                                                                                     | 15   |
| B. New Principal and Accessory Structures .....                                                                                                                    | 17   |
| C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending<br>Over or Below the Normal High-Water Line of a Water Body or Within a<br>Wetland ..... | 20   |
| D. Campgrounds .....                                                                                                                                               | 21   |
| E. Individual Private Campsites .....                                                                                                                              | 22   |
| F. Commercial and Industrial Uses .....                                                                                                                            | 22   |

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1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to conserve and protect the rural character of Bremen; to protect fish spawning grounds, aquatic life, bird life, wildlife, and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing, other maritime and agricultural activities; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve and enhance shore cover; to acquire and improve visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; to conserve and protect the traditional shoreland uses; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
  - normal high-water line of Biscay, McCurdy, Pemaquid and Webber Ponds, and waterways that flow between them,
  - upland edge of a coastal wetland, including all areas affected by tidal action, and
  - upland edge of a freshwater wetland;

and all land areas 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 below the normal high-water line of a water body or within a wetland.

4. **Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on May 7, 2024, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

11. **Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

12. **Non-conformance**

A. **Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. **General**

(1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

(2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

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**NOTE:** See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

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C. **Non-Conforming Structures**

(1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the applicable water body or wetland setback requirements contained in Section 15.B.(1). A non-conforming structure may be added to or expanded following the receipt, review and approval of an application by the reviewing authority, and a permit is issued by the Code Enforcement Officer, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (c) through (e) below.

- (iii) For structures located less than 150 feet from the normal high-water line of a water body or upland edge of a wetland: the maximum combined total footprint of all portions of those structures within that 150-foot distance may not be expanded to greater than 2,000 square feet. The maximum height of any portion of any structure within that 150-foot distance may not be made greater than 30 feet or the height of the existing structure within 150 feet, whichever is greater. Any portion of those structures located less than 100 feet from a water body or upland edge of a wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(ii), above; and any portion of those structures located less than 75 feet from a water body or upland edge of a wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(i), above.
- (iv) In addition, for structures that are located within the Resource Protection District and that are less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland: the maximum combined total footprint of all portions of all structures within that 250-foot distance may not be expanded to greater than 2,000 square feet. The maximum height of any structure within that 250-foot distance may not be made greater than 30 feet or the height of the existing structure within 250 feet, whichever is greater. Any portion of those structures located less than 100 feet from a water body or upland edge of a wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(ii), above; and any portion of those structures located less than 75 feet from a water body or upland edge of a wetland must also meet the footprint and height limits in Section 12.C.(1)(c)(i), above.
- (d) Notwithstanding the limitations on height imposed under Section 15. B.(8), below, the height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or up to 4 feet above the FEMA base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This paragraph applies to structures that:
  - (i) Have been or are proposed to be relocated, reconstructed, replaced or elevated to avoid damage or restriction of use due to sea level rise, or to be consistent with the Bremen floodplain management elevation requirement; and

shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body or upland edge of a wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced following the receipt, review and approval of an application by the Planning Board and a permit is issued by the Code Enforcement Officer within eighteen (18) months of the date of said damage, destruction, or removal. Such reconstruction or replacement shall comply with the water body or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 12.C.(1) above, as determined by the non-conforming footprint and height of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12.C.(3) above.

Any non-conforming structure which is located less than the required setback from a water body or upland edge of a wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with no expansion of the footprint or height if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

## E. Non-conforming Lots

- (1) **Non-conforming Lots.** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots.** When two or more contiguous lots or parcels are in a single or joint ownership of record on the date of adoption or amendment of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. Sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the date of adoption or amendment of this Ordinance, each may be sold on a separate lot provided that the above-referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) **Contiguous Lots - Vacant or Partially Built.** If two or more contiguous lots or parcels are in single or joint ownership of record and recorded in the Registry of Deeds on the date of adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined or reconfigured to the extent necessary to meet the dimensional requirements or as much as possible.

If such recombination or reconfiguration results in one or more lots that still do not meet the current dimensional requirements of this Ordinance and the lot(s) can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, the nonconforming lot(s) may be built upon provided:

- (a) The lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area;
- (b) The proposed use is allowed in the District in which it occurs; and

### 13. Establishment of Districts

**A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria of the Commercial Fisheries/Maritime Activities District need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph, "wetlands associated with great ponds and rivers" shall mean areas characterized by the non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (3) Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (5) Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

14. **Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

**Key to Table 1:**

- Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)  
No - Prohibited  
PB - Allowed with an application to, review and approval by the Planning Board, followed by a permit issued by the Code Enforcement Officer. Where PB is indicated in the following Table of Land Uses, the Planning Board is the reviewing authority.  
CEO - Allowed with an application to, review and a permit issued by the Code Enforcement Officer. Where CEO is indicated in the following Table of Land Uses, the Code Enforcement Officer is the reviewing authority.  
LPI - Allowed with permit issued by the Local Plumbing Inspector.

**Abbreviations:**

- RP - Resource Protection  
R - Residential  
CFMA - Commercial Fisheries/Maritime Activities  
SP - Stream Protection

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

|                                                                                                                                                      | <b>Minimum Lot<br/>Area (sq. ft.)</b> | <b>Minimum<br/>Shore<br/>Frontage (ft.)</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|---------------------------------------------|
| (1)                                                                                                                                                  |                                       |                                             |
| (a) Residential per dwelling unit*                                                                                                                   |                                       |                                             |
| (i) Within the Shoreland Zone<br>Adjacent to Tidal Areas                                                                                             | 80,000                                | 300                                         |
| (ii) Within the Shoreland Zone<br>Adjacent to Non-Tidal Areas                                                                                        | 80,000                                | 300                                         |
| * See the definition of <b>Dwelling Unit, Accessory</b> under <b>Structural Terms</b> in Section 17 for an exemption for an Accessory Dwelling Unit. |                                       |                                             |
| (b) Governmental, Institutional, Commercial or Industrial per principal structure                                                                    |                                       |                                             |
| (i) Within the Shoreland Zone<br>Adjacent to Tidal Areas, Exclusive<br>of those Areas Zoned for<br>Commercial Fisheries and<br>Maritime Activities   | 80,000                                | 300                                         |
| (ii) Within the Shoreland Zone<br>Adjacent to Tidal Areas Zoned<br>for Commercial Fisheries and<br>Maritime Activities                               | 10,000                                | 50                                          |
| (iii) Within the Shoreland Zone<br>Adjacent to Non-Tidal Areas                                                                                       | 80,000                                | 300                                         |

- (8) Lots of record as of the date of enactment of this revision or amendment of this Ordinance which do not meet the dimensional requirements as set forth above may not be subdivided.
- (9) Lots that do not meet the dimensional requirements as set forth above and that are part of a subdivision containing no more than six (6) parcels, all of which are beyond the shoreland zone, may be approved as a common lot with a common pier or dock for the benefit of the other lots within the subdivision provided the common lot meets the applicable frontage and area requirements for a residential lot containing one dwelling unit. A single, non-residential building with a footprint of one thousand (1,000) square feet or less with no bathroom or indoor cooking facilities may be located on the lot. All other shoreland zone conditions, including water body/wetland setbacks, shall apply to any such common lot.
- (10) Conforming lots that meet or exceed the dimensional requirements as set forth above, may not be divided so as to create a lot with non-conforming dimensions.
- (11) Lots created or used for private water access in accordance with Section 15.A.(1)(d), above, shall be used only for purposes of commercial fishing. A deed restriction for the lot describing this restriction must be recorded at the Registry of Deeds by the applicant within ninety (90) days of approval of such use by the Planning Board. The recorded restriction must include a copy of the Planning Board approval.

**B. New Principal and Accessory Structures**

- (1) In the Residential District:
  - (a) All new principal and accessory structures shall be set back at least one hundred fifty (150) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland. However, if a paved, State-owned road is located between the proposed development and the protected resource, the minimum setback shall be seventy-five (75) feet, horizontal distance, from the protected resource.
  - (b) All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of tributary streams.
- (2) In the Stream Protection District all new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of a stream.

- (10) The total footprint area of all structures, parking lots, and other non-vegetated surfaces within the shoreland zone shall not exceed twenty (20) percent of the portion of the lot located within the shoreland zone, including land area previously developed, except for structures in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent. Residential structures in the Commercial Fisheries/Maritime Activities District are restricted to a total footprint area not to exceed twenty (20) percent of the portion of the lot located within the shoreland zone.
- (11) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill, provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - (d) The maximum height of the wall(s) is no more than 24 inches;
  - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;
  - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  - (g) A vegetated buffer area is established and maintained within 25 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
    - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch.

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

- (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.
- (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*.
- (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.
- (9) Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- (10) Vegetation may be removed in excess of the standards in Section 15.P. of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, following the receipt, review and approval of an application by the Planning Board and a permit is issued by the Code Enforcement Officer. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
  - (a) 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.
  - (b) Revegetation must occur in accordance with Section 15.S.

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**NOTE:** New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S.A. Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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- D. Campgrounds.** Campgrounds, as defined in this Ordinance, are not allowed in the Shoreland Zone.

- (b) Finfish and shellfish processing;
- (c) Fish-related storage and retail and wholesale fish marketing facilities;
- (d) Aquaculture;
- (e) Boatyards and boat building facilities;
- (f) Marinas;
- (g) Excursion/sight-seeing operations;
- (h) Uses dependent upon water-borne transportation; and
- (i) Uses similar to the above uses.

**G. Parking Areas**

- (1) Parking areas shall meet the structure setback requirements for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the highest annual tide level. The setback requirement for parking areas serving public boat launching facilities in districts other than the Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the protected resource if the Planning Board finds that no other reasonable alternative exists further from the protected resource.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body or wetland and, where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) 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.
  - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

- (6) In order to prevent road and driveway surface drainage from directly entering protected resources, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body 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.
- (7) 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:
- (a) 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:

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) 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.
- (8) 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.

- I. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, and Residential Districts:

five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland; and

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

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**NOTE:** The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

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#### **L. Essential Services**

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

#### **M. Mineral Exploration and Extraction**

No mineral exploration or extraction is allowed in the Shoreland Zone.

#### **N. Agriculture**

- (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 4201-4209).
- (2) Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, from streams and tributary streams, and one hundred fifty (150) feet, horizontal distance, from the normal high-water line of all other water bodies or the upland edge of a wetland. 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.
- (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. Non-conformance

- (2) Except in the Resource Protection District, and except to allow for the development of permitted uses, within a strip of land extending one hundred fifty (150) feet, horizontal distance, inland from the normal high-water line of Biscay, McCurdy, Pemaquid and Webber Ponds and the waterways that flow between them, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) 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.

- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. A "well-distributed stand of trees" adjacent to Biscay, McCurdy, Pemaquid and Webber Ponds and the waterways that flow between them, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

| <b>Diameter of Tree at 4-1/2 feet<br/>Above Ground Level (inches)</b> | <b>Points</b> |
|-----------------------------------------------------------------------|---------------|
| 2 - < 4 in.                                                           | 1             |
| 4 - < 8 in.                                                           | 2             |
| 8 - < 12 in.                                                          | 4             |
| 12 in. or greater                                                     | 8             |

Adjacent to other water bodies 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 Biscay, McCurdy, Pemaquid and Webber Ponds and the waterways that flow between them, if a 25-foot by 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.

native tree species in accordance with Section 15.Q. below, unless existing new tree growth is present.

- (f) In order to maintain 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 Section 15.P.(2).
- (3) At distances greater than one hundred fifty (150) feet, horizontal distance, from Biscay, McCurdy, Pemaquid and Webber Ponds and the waterways that flow between them; and seventy-five (75) feet, horizontal distance, of any other water body or a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Commercial Fisheries/Maritime Activities District except for those lots containing residential and accessory structures.

- (4) Legally existing non-conforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance or as otherwise required as a condition of permit approval under Section 12.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

#### **Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer extending seventy-five (75) feet, horizontal distance, from the normal high-water line of a protected resource, 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

- (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
  - (ii) If removing stumps, root systems must remain in place.
  - (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.
- (b) Outside of the shoreline buffer as defined in Section 15.Q.(1)(a), above, 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 ( $4\frac{1}{2}$ ) 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.

#### **R. Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15.P., provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (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, unless otherwise prohibited by the Planning Board as a condition of a permit approved in accordance with Section 12.C. 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 15.P. apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 15.B. are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (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.
- (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.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
  - (a) All trees and saplings removed must be replaced with noninvasive species;
  - (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) 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 saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

- (3) 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.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
  - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) 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.

#### **U. 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.

#### **V. 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 or wetland.

- (b) The replacement culvert is no 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.
- (2) 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.

### **C. Permit Application**

- (1) Every applicant for a permit shall submit a written application to the Planning Board or Code Enforcement Officer, as indicated in Section 14, 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) 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.
- (5) An applicant for a development within the shoreland zone shall provide to the reviewing authority as part of the permit application, photographs of the shoreland vegetation and development site as they existed prior to construction and, no later than twenty (20) days after completion of the development as determined by the Code Enforcement Officer, post-construction photographs of the shoreland vegetation and development site.

- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

Otherwise, the application shall be denied.

The Planning Board shall provide written documentation to the Code Enforcement Officer of its decision to approve, approve with conditions or deny the application. If the application is either approved with conditions or denied, the reasons as well as the conditions shall be included. A Land Use or Building Permit shall not be issued by the Code Enforcement Officer unless the Planning Board has granted approval or approval with conditions of an application that falls within its review authority as set forth in this Ordinance. Any conditions accompanying the Planning Board's decision shall be included on the Permit. 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, except for structure setback requirements, the Planning Board may approve an application 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) Fines: Any person who continues to violate any provisions of this Ordinance after receiving notice of such violation may be liable for civil penalty of a maximum of \$5,000.00 for each violation. However, the maximum penalty for each violation in the Resource Protection District of the shoreland zone shall be \$10,000.00 per violation. Each day the violation continues shall constitute a separate violation as referenced in Title 30-A M.R.S.A., Section 4452. The violator liable for each offence may be ordered to correct or abate a violation, and may be liable for the Town's attorney's fees, witness fees and costs.

## **I. Appeals**

See The Board of Appeals Ordinance for the Town of Bremen, Maine.

## **J. Fee Schedule**

All applications fees for permits shall be paid to the Town in accordance with the fee schedule as established by the Selectmen. Fees shall be for the cost of processing the permits and shall not be refundable regardless of the final decision to issue or deny a permit. Advertising costs, technical or legal assistance and associated costs deemed necessary by the Town for the review of applications shall be the responsibility of the owner.

## **17. Definitions**

**Abutting Property Owner or Abutter:** Any lot or the owner of a lot that is physically contiguous with the subject lot even if only at a point, and any lot or the owner of a lot that is located directly across a street, right-of-way, or stream from the subject lot such that the extension of a side lot line of the subject lot would touch or enclose the abutting property.

**Accessory Structure:** See Structural Terms.

**Affordable Housing Development (AHD):** AHD means:

1. For rental housing, a development in which a household whose income does not exceed eighty percent (80%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs; and
2. For owned housing, a development in which a household whose income does not exceed one hundred twenty percent (120%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the 36 household's monthly income on housing costs.

**Archaeological Excavation:** The excavation of a site or structure as defined in the Land Use Ordinance.

**Area Median Income:** Income that is at the midpoint of the Lincoln County region's income distribution calculated on an annual basis by the Maine State Housing Authority. (Revised effective June 8, 2022).

**Attached:** A building connected by a shared wall or roof to the principal structure or having physically connected finished spaces.

**Basal Area:** The area of cross-section of a tree stem at four and one half (4-1/2) feet above ground level and inclusive of bark.

**Base Density:** The maximum number of dwelling units allowed on a lot based on dimensional requirements in Section 15.A. of this Ordinance.

**Basement:** Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Bed and Breakfast:** A home occupation in an owner-occupied dwelling in which 4 or fewer 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. Breakfast is the only meal, if any, to be provided and served only to guests. There shall be no separate ownership of rooms. A *Bed and Breakfast* shall also meet all the requirements of a home occupation.

**Boat Launching Facility:** A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Buffers:** Areas of land, together with specified types and amounts of planting thereon, and any structures that may be required between land uses to eliminate or minimize conflicts between them, or to provide mitigation of the adverse effects of surface water runoff, erosion and sedimentation or visual impacts on protected resources.

**Building:** A structure having a roof supported by posts, columns or walls. See also **Structural Terms**.

**Bureau of Forestry:** State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

**Campground:** Any area or tract of land or a premise established for commercial use to accommodate two (2) or more parties for temporary camping or living quarters, including, but not limited to tent sites, lean-tos, seasonal cabins or similar structures, and sites for recreational vehicles. It does not include an **Individual Private Campsite** as defined herein.

Comprehensive Plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. As of July 1, 2024, Bremen does not have a Designated Growth Area.

**Development:** A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional Requirements:** The requirements which govern the size and placement of structures including, but not limited to, the following requirements: building/structure height, lot area, minimum shore frontage, setbacks, and lot depth.

**Disability:** Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services, as defined in the Americans with Disabilities Act (ADA).

**Dock:** See Pier.

**Drainage:** The removal of surface or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or alleviation of flooding.

**Driveway:** A vehicular access-way less than five hundred (500) feet in length serving up to two single-family dwellings or one two-family dwelling.

**Dwelling:** A building or similar structure or portion thereof, used exclusively for residential occupancy, including single-family, two-family, multiple family dwellings, and manufactured housing or mobile homes. See also **Recreational Vehicle** and **Structural Terms**.

**Emergency Operations:** Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from fire or other threats of destruction or injury.

**Environmental Impact Plan:** A written document prepared for the Planning Board by an applicant who proposes to use pesticides, herbicides, or fertilizers other than manure in the Shoreland Zone. In preparing such a document, the applicant should address, but not be limited to, how he or she plans to implement the following issues:

area occupied by a particular use. Increases that are required to meet the requirements of the ADA and the State Fire Code are not considered to be enlargements or expansions of use.

**Family:** One or more persons occupying a building and living as a single housekeeping unit.

**Fertilizers:** Any material of synthetic, natural, or organic origin other than manure that is applied to soils or to plant tissue to supply one or more plant nutrients that facilitate the growth of plants.

**Floodway:** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Forest Management Activities:** Timber cruising and other forest resources, evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, and other forest harvesting, regeneration of forest stands, and other similar associated activities, exclusive of timber harvesting and the construction or creation of roads.

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

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

**Foundation:** The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick, stone, or similar material.

**Freshwater Wetland:** Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (1) Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally Water-Dependent Uses:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish

**Housing:** Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.

**Impervious Surface:** The area covered by buildings and associated constructed facilities, areas that have been or may be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads, driveways and unpaved parking areas, that have been or may be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, clay, asphalt, concrete, or stone materials, as well as roof tops, or other surfaces that similarly impede the natural infiltration of storm water.

**Increase in Nonconformity of a Structure:** See **Structural Terms**.

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

**Industrial Use:** Use of premises for assembling, fabricating, finishing, manufacturing, packaging or processing of goods.

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

**Lot Area:** The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots. See the Land Use Ordinance for related definitions such as: **Lot Depth, Lot Frontage, Lot Width, etc.**

**Lot Standards:** The combination of controls that establishes the maximum size of a structure and its location. Components of lot standards, also known as space and bulk regulations in size and height of structure; location or exterior walls at all levels with respect to lot lines, streets, and other structures; structure coverage; gross floor area of structures in relation to lot area; setback requirements; and amount of lot area provided per dwelling unit.

**Low Impact Business:** A business, profession, occupation, or trade that is conducted for financial gain, and that does not change the rural and/or residential character of the neighborhood.

**Low income:** Family income which is between fifty percent (50%) and eighty percent (80%) of median family income for Lincoln County as established by the Maine State Housing Authority. (Revised effective June 8, 2022)

**Non-Native Invasive Species of Vegetation:** Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Normal High-Water Line (Non-Tidal Waters):** That line, which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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**Note:** Adjacent to **Tidal Waters**, setbacks are measured from the upland edge of the **Coastal Wetland**.

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**Normal Maintenance and Repair:** Work that is necessary to maintain an improvement or structure in its originally or previously improved state or condition. Normal maintenance and repair shall not include reconstruction and any change in design, structure, use, location, size, or capacity.

**Operational Necessity:** Structure, road, or other construction required for the operation of a commercial fishing or other marine-related business, or for a public recreational activity or facility.

**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.

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

**Pesticide:** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails, or other biological agents not regulated as pesticides by the US Environmental Protection Agency. Herbicides, fungicides, insecticides, miticides, and rodenticides are considered pesticides.

**Piers, Docks, Wharves, Bridges, and Other Structures:** A seasonal or permanent platform-type structure, beginning on or adjacent to the shoreline, and built over the water or beyond the high-water line or within a wetland.

**Seasonal:** Structures which remain in or over the water or wetland for less than seven (7) months in any period of twelve (12) consecutive months, and are

**Recreational Vehicle:** A vehicle and or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, that is not a dwelling, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be roadworthy (i.e., possess a current registration sticker from any State Division of Motor Vehicles). An RV that is in use for cooking, sleeping, or toilet facilities within the shoreland zone and on the same lot for more than one-hundred and twenty (120) days per year shall be subject to all requirements for residential structures, 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. In addition, a **Residential Growth Cap Permit** must be obtained.

**Replacement System:** A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

**Residential Growth Cap Permit:** A permit to allow the establishment of a principal year-round residence to or in an existing structure or as a new stand-alone structure, in accordance with the Town of Bremen Residential Growth Cap Ordinance.

**Restrictive Covenant:** A provision in a deed, or other covenant conveying real property, restricting the use of the land.

**Reviewing Authority:** The Planning Board or Code Enforcement Officer as indicated in Section 14 and the Table of Land Uses.

**Riprap:** Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**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 vehicles, excluding driveways as defined herein.

**Road, Private:** A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

**Road, Public:** A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

**Salt Marsh:** Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.