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.

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
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

website: www.maine.gov/dep

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) MANDATORY SHORELAND ZONING ACT
LINCOLN COUNTY)
LAND USE ORDINANCE)
ORDER #22-2024) 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.

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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.

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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.

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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.

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(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 ~~strikethrough~~ 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 ~~strikethrough~~ 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.~~

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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.**

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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 ~~strikethrough~~ language:

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	***DISTRICT***			
	SP	**RP**	**R**	**CFMA**
~~**3. Forest management activities except for timber harvesting & land management roads**~~	~~**yes**~~	~~**yes**~~	~~**yes**~~	~~**yes**~~

G. Section 15 **Land Use Standards** shall be amended in part as follows by removing the ~~strikethrough~~ 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 Area (sq. ft.)	**Minimum Shore Frontage (ft.)**
(1)			
(a)	Residential per dwelling unit		
(i)	Within the Shoreland Zone Adjacent to Tidal Areas	80,000	300
(ii)	Within the Shoreland Zone Adjacent to Non-Tidal Areas	80,000	300
(b)	Governmental, Institutional, Commercial or Industrial per principal structure		
(i)	Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of those Areas Zoned for Commercial Fisheries and Maritime Activities	80,000	300
(ii)	Within the Shoreland Zone		

	Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	10,000	50
(iii)	Within the Shoreland Zone Adjacent to Non-Tidal Areas	80,000	300
(c)	Public and Private Recreational Facilities		
(i)	Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	80,000	300
(d)	Public and Private Water Access		
(i)	Within the Shoreland Zone Adjacent 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

(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 ~~strikethrough~~ language:

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.

(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 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.

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

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* 1 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.

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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.

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(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 (Percent)	**Spacing (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 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:

$$(4x1) + (2x2) + (3x4) + (2x8) = 36 \text{ points}$$

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.

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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 ~~strikethrough~~ 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

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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.

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(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 ~~strikethrough~~ 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.

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(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 ~~strikethrough~~ 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.

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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 in 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 20TH DAY OF SEPTEMBER, 2024.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
For: Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

FILED
September 20th, 2024
State of Maine
Board of Environmental Protection