

Approved by Lamoine Town Meeting – April 2, 2008

SHORELAND ZONING ORDINANCE

Town of Lamoine, Maine

Table of Contents

Section 1. PURPOSES.....	2
Section 2. AUTHORITY	2
Section 3. APPLICABILITY.....	2
Section 4. EFFECTIVE DATE and REPEAL OF FORMERLY ADOPTED ORDINANCE.....	2
Section 5. AVAILABILITY	3
Section 6. SEVERABILITY	3
Section 7. CONFLICTS WITH OTHER ORDINANCES.....	3
Section 8. AMENDMENTS	3
Section 9. DISTRICTS AND ZONING MAP	4
Section 10. INTERPRETATION OF DISTRICT BOUNDARIES.....	4
Section 11. LAND USE REQUIREMENTS.....	4
Section 12. NON-CONFORMANCE.....	5
Section 13. ESTABLISHMENT OF DISTRICTS.....	9
Section 14. TABLE OF LAND USES	11
Section 15. LAND USE STANDARDS.....	13
Section 16. ADMINISTRATION.....	26
Section 17. DEFINITIONS.....	35
APPLICATION FORMS.....	44
Attachment A	46

Section 1. PURPOSES

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

Section 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.).

Section 3. APPLICABILITY

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

Section 4. EFFECTIVE DATE and REPEAL OF FORMERLY ADOPTED ORDINANCE

This Ordinance, which was adopted by the Lamoine Town Meeting in March, 1974 and amended in March, 1982, March, 1985, October 1989, and May, 1993 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Department of Environmental Protection for approval. If the Department of Environmental Protection fails to act on this Ordinance within forty-five (45) days of its receipt of the Ordinance, it shall be deemed approved. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on May 8, 1993 is hereby amended.

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 if the Ordinance is approved by the Department of Environmental Protection.

A. The effective date of this ordinance is March 7, 2007

- B. **REPEAL OF MUNICIPAL TIMBER HARVESTING REGULATION.** The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-A(5), the following provisions of this Ordinance are repealed:
- Section 14. Table of Land Uses, line 12 (Forest management activities except for timber harvesting) and line 32 (Timber harvesting);
 - Section 15.N in its entirety;
 - Section 17. Definitions, the definition of "forest management activities".

Section 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.

Section 6. SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

Section 7. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

Section 8. AMENDMENTS

This Ordinance may be amended by majority vote of the Lamoine Town Meeting. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Department's receipt of the amendment, the amendment is 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 the amendment, if such amendment is approved by the Department.

Section 9. DISTRICTS AND ZONING MAP

A. Official Shoreland Zoning Map

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

1. Limited Residential
2. Limited Commercial
3. Commercial Fisheries/Maritime Activities
4. Stream Protection
5. Resource Protection

B. Scale of Map

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

D. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Board of Environmental Protection.

Section 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.

Section 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.

Section 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 shall be allowed to continue, subject to the requirements set forth in this section. 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 which 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.

C. Non-conforming Structures

1. Expansions:

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with sub paragraphs (a) and (b) below.

Further Limitations:

- a. Any portion of a structure existing on January 1, 1989 that is less than the required setback from a water body, tributary stream or wetland may be expanded, as measured in floor area or volume, by less than 30% during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12 C(3) and is less than the required setback from a water body, wetland or tributary stream, the replacement structure may not be expanded if the original structure has been expanded 30% in floor area or volume.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided that
 - i. the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2.;

- ii. the completed foundation does not extend beyond the exterior dimensions of the structure; and
- iii. the foundation does not cause the structure to be elevated by more than three (3) additional feet.

c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

2. 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

- i. size of the lot,
- ii. the slope of the land,
- iii. the potential for soil erosion,
- iv. the location of other structures on the property and on adjacent properties,
- v. the location of the septic system and other on-site soils suitable for septic systems and,
- vi. the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. Without exception, the area from which the structure was removed must be revegetated to a buffer of native vegetation including trees, shrubs and other ground cover.

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 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 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.

3. Reconstruction or Replacement:

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or 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 as determined by a State licensed appraiser may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water, wetland or tributary stream 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.

Any non-conforming structure which is 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 a permit from the code enforcement officer.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider the physical condition and type of foundation present, if any, in addition to the criteria in paragraph 2 above.

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 floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume 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.2 above.

4. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will be consistent with the surrounding character and uses and will have no greater adverse impact on the water body, wetland or tributary stream, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative

cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions:

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 12(C)(1)(a) above.

2. Resumption Prohibited:

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use:

An owner may apply to the Planning Board for approval to change an existing non-conforming use to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12 (C) (4) above.

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 and shore frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Lots

If two or more non-conforming lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, and a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided each lot is

in compliance with the State Minimum Lot Size Law (Title 12 M.R.S.A. § 4807 through § 4807(d) and with the State of Maine Subsurface Wastewater Disposal Rules

If two or more principal uses or structures existed on a single lot of record on the effective date 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 the following conditions are met, two or more non-conforming contiguous lots shall be combined to the extent necessary to meet dimensional requirements:

- i. The lots are in single or joint ownership of record at the time of or since adoption or amendment of the Ordinance;
- ii. None of the lots individually meets the dimensional requirements of this Ordinance or subsequent amendments; and,
- iii. If one or more of the lots are vacant or contain no principal structure.

Section 13. ESTABLISHMENT OF DISTRICTS

The Town of Lamoine establishes Shoreland Zone Districts to permit the orderly development of different shoreland uses. In doing so, the Town recognizes the need to encourage diverse uses including residential, economic and resource protection and to balance these one with another.

Shoreland Zone Districts are established by vote of the Town according to the following definitions and guidelines. The Town of Lamoine Shoreland Zoning Map, as most recently amended, assigns a district designation to all the town's shorelands -- the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body and within two hundred and fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream. The Map is available in the Town Office.

A. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development except for those areas that fall within the 100 year Flood Plain, which are designated as Resource Protection Districts.

B. Limited Commercial District

The Limited Commercial District includes areas (exclusive of the Stream Protection District) of mixed light commercial and residential uses which can coexist compatibly so as not to intrude upon one another. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Excluded from this district are those areas which

- i. fall within the 100 year flood plain,
- ii. are designated as Resource Protection District, or
- iii. Are located in a Stream Protection District.

C. Commercial Fisheries/Maritime Activities District

The Commercial Fisheries/Maritime Activities District includes areas suitable for functionally water dependent uses. In determining whether an area qualifies for inclusion in a CFMA District, the following factors will guide the Board and Town's decision. :

1. Shelter from prevailing winds and waves;
2. Slope of the land within 250 feet, horizontal distance, of the normal high-water line;
3. Depth of the water within 150 feet, horizontal distance, of the shoreline;
4. Available support facilities including utilities and transportation facilities;
5. Compatibility with adjacent upland uses;
6. Historic uses, prevailing current uses, and future uses as projected in the Town of Lamoine Comprehensive Plan;
7. Compatibility of uses within the District (the Planning Board may restrict certain functionally water-dependent uses if they are incompatible with the dominant uses projected in the Town of Lamoine Comprehensive Plan).

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 two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater body, 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 is located within two-hundred and fifty (250) feet horizontal distance of the above water bodies or wetlands, the land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

E. 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 those areas designated as Resource Protection on the Town of Lamoine Shoreland Zoning Map, as most recently amended, and areas meeting one or more of the following criteria:

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, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W). These shall include any such areas in Lamoine that the Department of Environmental Protection has designated as areas of "significant wildlife habitat."

2. Flood plains defined by the 100 year Flood Plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps, but shall not include land within the shoreland zone which is shown by a surveyor to be outside the 100 year flood plain.
3. Areas of two 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, as determined by a Certified Soil Scientist, which are not part of a freshwater or coastal wetland as defined and which are not surficially connected to a water body during normal spring high water.
5. Land areas subject to severe bank erosion or undercutting and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
6. Other areas which have been recommended for protection in the Town of Lamoine's Comprehensive Plan including wildlife habitats, sites of significant scenic or esthetic value and sites of historic or archeological significance.

Section 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 - Requires permit issued by the Planning Board

CEO - Requires permit issued by the Code Enforcement Officer

LPI - Requires permit issued by the Local Plumbing Inspector

Abbreviations:

LR - Limited Residential

LC - Limited Commercial

CFMA - Commercial Fisheries/Maritime Activities

SP - Stream Protection

RP - Resource Protection

TABLE 1. LAND USES IN THE SHORELAND ZONE

		Land Uses				
		LR	LC	CFMA	SP	RP
1	Agriculture	CEO ³	CEO ³	NO	CEO ³	CEO ³
2	Aquaculture	NO	PB	PB	PB	PB
3	Bunkhouses	NO	NO	NO	NO	NO
4	Campgrounds	PB	PB	no	no	no
5	Clearing of vegetation for approved construction and other allowed uses	yes	yes	yes	CEO	CEO ¹
6	Conversions of seasonal residences to year-round residences	LPI	LPI	no	LPI	no
7	Emergency operations	yes	yes	yes	yes	yes
8	Essential services	PB	PB	PB	PB ⁵	PB ⁵
9	Filling and earthmoving of < 10 cubic yards	yes	yes	yes	CEO	CEO
10	Filling and earthmoving of > 10 cubic yards	CEO	CEO	CEO	PB	PB
11	Fire prevention activities	yes	yes	yes	yes	yes
12	Forest management activities except for timber harvesting	yes	yes	yes	yes	yes
13	Home occupations	PB	PB	PB	NO	no
14	Individual, private campsites	CEO	CEO	CEO	CEO	CEO
15	Marinas	PB	PB	PB	NO	no
16	Mineral exploration	NO	NO	NO	NO	NO
17	Mineral extraction including sand and gravel extraction	NO	NO	NO	NO	NO
18	Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
19	Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
20	Parking facilities	PB	PB	PB ⁵	no	no
21	Pathway within 100' of median high water	CEO	CEO	CEO	CEO	CEO
22	Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
	a. Temporary	CEO	CEO	CEO	CEO	CEO
	b. Permanent	PB	PB	PB ⁵	PB	PB
23	Principal Structures and uses					
	A. One and two family residential	CEO	CEO	no	NO	no
	B. Multi-unit residential	PB	PB	no	no	no
	C. Commercial	no	PB	PB ⁵	no	no
	D. Industrial	no	no	PB ⁵	no	no
	E. Governmental and Institutional	no	PB	PB ⁵	no	no
	F. Small non-residential facilities for educational, scientific or nature interpretation purposes.	CEO	CEO	PB ⁵	PB ⁴	PB
24	Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI NO	no
25	Public and private recreational areas involving removal or addition of more than 10 cubic yards of soils and minor structural development.	PBCEO	CEO	CEO PB ⁵	PB NO	PB NO
26	Road and driveway construction	CEO	CEO	CEO ⁵	PB	no ⁸
27	Service drops, as defined, to allowed uses	yes	yes	yes	CEO	CEO
28	Signs	CEO	CEO	CEO	CEO	CEO
29	Soil and water conservation practices	yes	yes	yes	yes	yes
30	Structures accessory to allowed uses	CEO	CEO	PB	PB ⁴	PB
31	Surveying and resource analysis	yes	yes	yes	yes	yes
32	Timber Harvesting	CEO	CEO	CEO	CEO	CEO ¹
33	Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
35	Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB
36	Wildlife management practices	yes	yes	yes	yes	yes

¹ In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards

² Requires permit from the Code enforcement Officer if more than 100 square feet of surface area, in total, is disturbed

³ See Section 15M (Agriculture)

⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals

⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only

⁶ See further restrictions in Section 15 (K)(2)

⁷ Except when area is zoned for resource protection due to Flood Plain criteria in which case a permit is required from the Planning Board

⁸ Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection pursuant to Title 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.

Section 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 (square feet)	Minimum Shore Frontage (feet)
1. <u>Minimum Lot Size</u>	40,000	200
2. <u>Residential per dwelling unit</u>		
a. Within the Shoreland Zone Adjacent to Tidal Areas	40,000	200
b. Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
3. <u>Governmental, Institutional, Commercial or Industrial per principal structure</u>		
a. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	60,000	300
b. Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
c. Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
4 <u>Public and Private Recreational Facilities</u>		
a. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	60,000	300

5. If more than one residential dwelling unit, more than one governmental, institutional, commercial or industrial principal structure, or more than one public or private recreational facility is constructed on a single parcel, all dimensional requirements, including shore frontage, shall be met for each additional unit, principal structure, or facility.

When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

6. 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.

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

8. 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.

9. Lots shall meet or exceed the minimum lot standards of the Building Code, Town of Lamoine.

B. Required Setbacks and other Structure Standards

1. Setbacks from Normal High-Water and Flood Plain Boundaries

All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any water bodies, tributary streams, or the upland edge of a wetland, except:

- a. in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback if uses are functionally water-dependent; or
- b. when dictated otherwise by the Lamoine Flood Plain Management Ordinance.

The one hundred (100) foot setback mark must be approved by the Code Enforcement Officer prior to any work being done or, in cases where a structure or activities are to be within 125 feet of normal high-water line, the setback mark must be marked with stakes set by a registered surveyor at the owner's expense and a letter from said surveyor attached to the application for shoreland permit.

If a structure or activities are proposed within twenty-five (25) feet of the hundred year Flood Plain, falling thereby in a Resource Protection District, the boundary of that zone must be established and marked by a certified surveyor at the owner's expense and a letter to that effect must be submitted as part of the application for permit.

Both setback and Floodplain elevation markers must remain undisturbed until the Code Enforcement Officer's inspection has determined that all construction conforms to the requirements of this and other pertinent ordinances.

In addition:

- i. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity,

such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- ii. 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 to prevent erosion include, but are not limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

2. Coastal Bluffs

For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps (available at the Town Hall) as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

3. Height

Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

4. First Floor Elevations or Openings

The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

5. Total Area

The total area of all structures, parking lots and other non-vegetated surfaces within the shoreland zone shall not exceed ten (10) percent of the lot or a portion thereof located within the shoreland zone, including land area previously developed, except in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.

6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-

water line of a water body or upland edge of a wetland; (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C or its successor statute); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. 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.
7. 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.

Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C or its successor statute.

D. Campgrounds

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

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of a great pond classified GPA, and one hundred (100) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

- E. Temporary Uses: Individual, private campsites, recreational vehicles, and similar temporary shelters are permitted provided the following conditions are met:
1. One campsite per lot existing on the effective date of this Ordinance, or forty thousand (40,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
 2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and one hundred (100) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
 3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
 4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
 5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
 6. When a recreational vehicle, tent or similar shelter is placed on a site for purposes of occupation for more than one hundred and twenty (120) days within a calendar year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Parking Areas

1. Parking areas shall meet the shoreline setback requirements for structures 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 from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Commercial Fisheries/Maritime Activities District may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
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, 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.

G. Roads, Private Ways and Driveways

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

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

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

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

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads, private ways and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road, private way 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 banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q.
5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
6. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed and maintained to empty onto an unscarified buffer strip 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. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
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 in the road or ditches gains sufficient volume or head to erode the road 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 at intervals no greater than indicated in the following table:

<u>Road Grade (Percent)</u>	<u>Spacing (Feet)</u>
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 road grade is ten (10) percent or less.

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

- 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 shall be maintained on a regular basis to assure effective functioning.

9. Private Ways: Construction Standards

All private ways located in whole or in part of the Shoreland Zone shall meet the requirements in this Section (15G) and the following:

- a. For every 500 foot section of a private way, an area twenty (20) feet in width and fifty (50) feet in length shall be constructed for the purpose of allowing two vehicles to pass;
- b. Prior to final approval the private way shall receive written approval from the Lamoine Fire Chief or his designee;
- c. Any proposal to increase the number of lots to be served by a private way to three or more must include a plan to upgrade the private way to the Minimum Standards for Street Design and Construction as found in Section 12(F) of the Lamoine Building and Land Use Code, whether or not the proposed construction constitutes a subdivision as defined in that Ordinance.

H. Signs

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

1. Signs and billboards relating to goods and services sold on the premises shall be permitted except within the 100 foot setback where no signs are permitted. Signs shall not exceed 16 square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
2. Name signs shall be permitted, provided such signs shall not exceed two (2) square feet in total area and two (2) signs per premises and shall be posted in accordance with State guidelines.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be permitted provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be permitted without restriction.
6. No sign shall extend higher than eight (8) feet above the ground.
7. Only commercial signs may be illuminated and only by shielded, non-flashing lights.
8. The fee for a sign permit shall be twelve dollars (\$12.00)

I. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

J. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

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.

K. 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 is not permitted 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 permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

L. Mineral Exploration and Extraction in the Shoreland Zone is NOT permitted.

M. Agriculture

- (1) All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001 or successor guidelines.
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone 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, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing must be conducted in accordance with a Soil and Water Conservation Plan.

N. Timber Harvesting

Timber Harvesting from the May 8, 1993 Lamoine Shoreland Zoning Ordinance (see Attachment A) shall remain in effect until the effective date in Section 4B is met. Timber Harvesting in Lamoine is governed by Title 38 MRSA § 438-B (3) of the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances. Under this option, rules for timber harvesting will be administered and enforced by the State of Maine Department of Conservation, Bureau of Forestry. (Please consult Maine Statutes or the Maine Department of Conservation for the latest regulations).

O. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section O(1), above, and except to allow for the development of permitted uses within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from any other water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 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 footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed 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. For the purposes of Section 15(Q) (2) (b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 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 a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

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

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

The following shall govern in applying this point system:

- (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.

For the purposes of Section 15(Q) (2) (b) “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 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 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.

- (c) 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 as described in Section 15(O) paragraphs (2) and (2)(a) above.
- (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, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(O) (2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of any other water body, tributary stream or the upland edge of a wetland, there shall be allowed on any lot, in any 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 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 General Development or Commercial Fisheries/Maritime Activities Districts.

- (4) Nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(O).

P. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (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.

Q. 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.

R. 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.

S. Archeological Sites

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

Section 16. ADMINISTRATION

A. Administering Bodies and Agents

1. Code Enforcement Officer

A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of MRSA Title 30-A Section 2691.

3. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

B. Jurisdiction

The purpose of this section is to establish an orderly, equitable, and expeditious procedure for administering the provisions of this Ordinance.

1. Planning Board

The Planning Board shall have responsibility for all procedures, consideration of plans and evidence to support them, collection of fees and issuance of Shoreland permits. The Board shall retain oversight responsibilities for any parcel under consideration for development in the Shoreland Zone, undergoing such development, or in which such development has been completed.

2. Code Enforcement Officer

The Planning Board shall call on the services of the Code Enforcement Officer (CEO) for its administrative purposes and the Code Enforcement Officer shall be responsible to the Board in the performance of Board-related duties.

The CEO shall review all applications required to be submitted under this ordinance and shall make findings and recommendations to the Board. Permits shall be issued in accordance with the Table of Land Uses (Section 14). The CEO shall carry out all those enforcement activities and responsibilities described in Section 16J of this ordinance and perform other duties as the Board may request.

3. Board of Appeals (See Section I)

4. Board of Selectmen

Any action needed to enforce the provisions of this Ordinance shall be taken by the Selectmen of the Town of Lamoine on their own motion or on the recommendation of the Planning Board or the Code Enforcement Officer.

C. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. Please note: Additional permits may be required by Maine State Statutes. The applicant is responsible for obtaining all required permits prior to the issuance of a Lamoine Shoreland permit.

D. Permit Application

1. Every applicant for a Shoreland Zoning permit shall complete all applicable sections of the Town of Lamoine Construction Application form. The application shall include all information listed below and be submitted to the appropriate official as indicated in Section 14 – Table of Land Uses. Applications submitted to the Planning Board must be signed by Lamoine's Code Enforcement Officer to indicate that they have been reviewed for completeness. Application materials must be submitted in nine copies (one for each Board member, one for the CEO, and one for the file).

The Shoreland Zoning permit application shall include:

- a. a detailed plot plan (See Attachment A of the Construction Application) showing the names of abutting landowners, boundary lines and perimeter footage, all setback measurements, Flood Plain boundary lines, sewage plans, roads, ~~and~~ site elevation above normal high-water mark, and location and elevation notations if required by section d and/or e below;
- b. front and side elevations drawings of any proposed structures (See Attachment B of the Construction Application);
- c. a completed HHE-200 (or successor form used as an application for septic system permit), with a written statement from the Town Plumbing Inspector that the design is sufficient to allow granting of a plumbing permit (Form obtained from CEO);
- d. a Flood Hazard Development permit if required, which includes, where necessary, a letter from a registered surveyor attesting to the placement of markers indicating the boundary of the Flood Plain affecting the location of structures and other land uses (See Article III Flood Plain Management Ordinance);
- e. in cases where construction will occur within 125 feet of normal high water mark, a letter from a registered surveyor attesting to the fact that markers indicating the location and elevation of the 100 foot setback from normal high water mark have been placed on the property;

- f. the signature of the owner or owners of the parcel or their authorized agent (in which case a letter of authorization must be included);
- g. the appropriate fee;
- h. any other information that the Code Enforcement Officer or Planning Board may require as necessary to determine conformity with the provisions of this Ordinance.

In addition to the above information and that information stipulated in Lamoine's Building and Land Use Ordinance, applications for governmental, institutional, commercial or industrial principal structures or for public or private recreational facilities must, be accompanied by an environmental impact study indicating the effects of the proposed land use on the parcel, on abutting landowners, on the abutting water bodies and on their customary uses.

2. Flood Hazard Development Permit Required Prior to Building Permit

No building permit shall be issued for any structure or use on a parcel which, in part or in whole, falls within the Flood Plain unless the conditions of the Town of Lamoine Flood Plain Management Ordinance are met. In cases where a Flood Plain Zone restricts the proposed land use, a registered surveyor must mark the boundary of that zone on the parcel and provide a letter to the Planning Board attesting to the accurate placement of those markers. In these cases, a Flood Hazard Development permit must be obtained PRIOR TO the issuance of a Building Permit.

3. Plumbing Permit Required Prior to Building Permit

No building permit shall be issued for any structure or use involving construction, installation or alteration of plumbing facilities unless a permit for such facilities has been secured by the applicant or an authorized agent, according to the requirements of this Ordinance.

4. All applications shall be dated and the Planning Board shall note upon each application the date and time of the Planning Board meeting at which it was received.

E. Procedure for Administering Permits

1. Notification of Completeness

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

2. Notification of Decision

When an application can be approved without public hearing, the Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions or deny all permit applications in writing within 35 days of receiving a completed application

unless the Planning Board has a waiting list of applications. In such case, a decision shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application.

3. Criteria for Decision

Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- a. Will meet requirements for the Shoreland Zone in which the proposal is located;
- b. Will maintain safe and healthful conditions;
- c. Will not result in water pollution, erosion, or sedimentation to surface waters;
- d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- e. Will protect buildings and lands from flooding and accelerated erosion;
- f. Will protect archaeological and historic resources as designated in the comprehensive plan;
- g. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- h. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- i. Will avoid problems associated with Flood Plain development and use; and
- j. Will adequately provide for the disposal of wastewater; and
- k. Is in conformance with the provisions of Section 15, Land Use Standards.

4. Denial and Conditions

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing.

No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the Town of Lamoine is responsible for enforcing.

F. Expiration of Permit

A permit issued under this Ordinance shall lapse and become void if a substantial start is not made in construction or in the use of the property within one year from the date of issuance of the permit and if the project is not completed sufficiently to receive a certificate of occupancy within two years of the date of issuance of the permit. Thereafter,

no further work on such construction shall be performed until the Board either renews the application or requests and approves a new application.

If an extension of these time limits is granted, the permit shall be valid for no more than one additional year.

Nothing in this section shall prohibit the Planning Board from requiring submission of additional information if needed to determine whether to grant an extension.

G. Fee Schedule

Applicants for Shoreland Zoning permits shall pay a fee to the CEO or Planning Board at the time of submission of the application. In addition to any fees required by other Town Ordinances, Shoreland Permit fees shall be:

1. Structures designed for human habitation shall pay a permit fee of \$0.10 (ten cents) per square foot of the structure's ground coverage (footprint). If Planning Board approval is required, the fee shall be doubled.
2. Structures not designed for human habitation (i.e. garages, decks, etc.) shall pay a permit fee of \$0.05 (five cents) per square foot of the structure's ground coverage (footprint). If Planning Board approval is required, the fee shall be doubled.
3. Fees for commercial, industrial or multi-family dwelling units shall be twice the schedule above.
4. Fees for subdivisions and cluster housing shall be \$50.00 for the application plus \$50.00 for each lot created in the Shoreland zone.
5. A fee of five dollars (\$5.00) shall be charged for additions or accessory structures less than 100-square feet.

All fees shall accrue to the Code Enforcement Fund for the administration and enforcement of this Ordinance.

H. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the Code Enforcement Officer of the Town of Lamoine, indicating that installation has been completed.

I. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

- a. Administrative Appeals: To hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
- b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals

Variances may be permitted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that
 - (1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (2) The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean:

- (i) That the land in question cannot yield a reasonable return unless a variance is granted;
 - (ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (iii) That the granting of a variance will not alter the essential character of the locality; and
 - (iv) That the hardship is not the result of action taken by the applicant or a prior owner.
- d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
 - e. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal

officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

- f. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

3. Appeal Procedure

a. Making an Appeal

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement
2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - (i) A concise written statement indicating what relief is requested and why it should be granted.
 - (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
3. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
4. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

6. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
7. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of

the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

8. The person filing the appeal shall have the burden of proof.
9. The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
10. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

4. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

5. Reconsideration

The Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

J. 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 Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to both the Selectmen and the Planning Board and be maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all written complaints of alleged violations of this Ordinance submitted to the Selectmen.
- 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. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Lamoine Board of Selectmen, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Lamoine. The Board of Selectmen, 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 orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 445Z.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a Resource Protection District the maximum penalty is increased to \$5000 (30-A M.R.S.A. § 4452)

Section 17. DEFINITIONS

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area – the area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of this volume below the existing ground level.

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.

Bunkhouses and similar structures – Structures that are not accessory to a principal structure and that are intended for use as temporary or seasonal living quarters, that have no permanent foundation and no subsurface sewage disposal system.

Campground - Land upon which one or more tents are erected or trailers or other shelter are parked for temporary use for a fee or two or more sites on the same property arranged specifically for that purpose.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Coastal Bluff – the area identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey. (A coastal bluff map is available at the Town Office).

Coastal wetland - all tidal and subtidal lands; all lands *in the Shoreland Zone* below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt

water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two lots or less.

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 the threat of destruction or injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of use - the addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family - two (2) or more persons related by blood, marriage, adoption or guardianship, or not more than five (5) persons not so related, occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland – a freshwater wetland dominated by woody vegetaton that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas which are:

1. of ten or more contiguous acres; or of less than 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 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 and inland waters and which 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 processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters. Recreational boat storage buildings are not considered functionally water-dependent.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA - any great pond classified GPA, pursuant to Title 38 Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Height of a structure - The vertical distance between the highest point of the structure and the average final grade around the foundation, or the average grade of the original ground adjoining the building, whichever is greater.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, 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 gravel pads, parking areas, fire places, or tent platforms.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals except when conducted as part of a home occupation or conducted wholly within an existing structure where no utility modifications are required, the operation has no more than three employees, and no more than 2000 square feet. Proposed uses beneath the above thresholds may be reviewed as commercial uses.

Institutional: 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.

Light Commercial Uses - Commercial uses which, because of the limited effects of traffic, noise, dust, fumes, vapors, gases, odors, hours of operation or other conditions, can coexist compatibly with residential and recreational uses.

Lot area - The area of land enclosed within the boundary lines of a lot, minus the land below the normal high-water line of a water body or upland edge of a freshwater or coastal wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Market value - The value of a structure immediately prior to damage as determined by a Maine licensed real estate appraiser.

Median High Water – See “Normal High Water”

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation which within any twelve (12) month period; removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site.

Multi-family dwelling - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units. (Replaces Multi Unit Residential in SZO)

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line - 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.

Pathway – A foot travel way for shore access not to exceed six (6) feet in width as measured between tree trunks, winding so as to preclude a clear line of sight and constructed of pervious material which follows the natural contour of land to the maximum extent possible.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland-

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same premises.

Private Way – A vehicular access-way five hundred (500) feet or greater in length serving two lots or less, and usually providing a means of access between a buildable back lot and a public or private road.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent flood plain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, 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 registered with the State Division of Motor Vehicles.

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 dwelling unit - a room or groups of rooms designed and equipped exclusively for use as permanent, seasonal or temporary living quarters for only one family at a time and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

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.

River - a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway or private way as defined.

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 salt marsh cord grass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass and Sago pondweed.

Salt meadow - Areas of coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow corgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - The nearest horizontal distance from the normal high-water line of a water body or tributary stream or upland edge of a freshwater or coastal wetland to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation, or at the upland edge of a wetland.

Shoreland zone - The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a coastal wetland including all areas affected by tidal action: within 250 feet of the upland edge of a freshwater wetland or within seventy-five (75) feet of the normal high-water of a stream.

Shoreline: The normal high-water line or upland edge of a freshwater or coastal wetland.

Significant River Segments - See Title 38 MRSA Sec. 437.

Stream –a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within the shoreland area.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles and wiring associated with service drops. The term includes structures temporarily or permanently located, such as decks, satellite dishes, driveways and roads.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to; septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste waster disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters - All waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Tributary stream - a channel between defined banks. A channel is created by the action of surface water having 2 or more of the following characteristics:

- a. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 series topographic map or, if that is not available, a 15-minute series topographic map;
- b. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years;
- c. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water;
- d. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed;

- e. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

A tributary stream is not a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

Upland edge of a Wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation, debris line and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation: or where the soils support the growth of wetland vegetations, but such vegetation is dominated by woody stems that are six (6) meters tall or taller.

Vegetation - all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 above ground level.

Velocity Zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river, stream or tidal area.

Water Crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water course or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cable as well as maintenance work on these crossings.

Wetland - a freshwater or coastal wetland.

Wetlands associated with great ponds and rivers - wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Effective Date: March, 1974
Amended: March, 1982
March, 1985
October, 1989
May, 1993
March, 2007
April 2, 2008

APPLICATION FORMS

[Available at the Lamoine Town Office or from the Code Enforcement Officer.]

Signature Page

The above ordinance was initially approved at open town meeting on March 7, 2007, approved by the Commissioner of the Department of Environmental Protection in 2007, and those changes inserted by the Commissioner approved at open town meeting on April 2, 2008

Singed April 3, 2008,

S. Josehine Cooper, Chair

Cynthia Donaldson

Richard Fennelly, Jr.

The Lamoine Board of Selectmen

Brett Jones

Chris Tadema-Wielandt

Attest: A True Copy

Stuart Marckoon, Deputy Town Clerk

Attachment A

(From 1993 Shoreland Zoning Ordinance

N. Timber Harvesting

1. Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:
 - b. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - i. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA, and within one hundred (100) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA, and greater than one hundred (100) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
 - c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
 - d. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - i. Surface waters are frozen; and
 - ii. The activity will not result in any ground disturbance.

- e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.