

**Shoreland Zoning Ordinance  
for the Municipality of  
Canaan, Maine**

**Adopted March 17, 2012 Town Meeting**

**Amended January, 2020 & Adopted 03/14/2020**

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## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 **1. Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful  
2 conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life,  
3 bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated  
4 erosion; to protect archaeological and historic resources; to protect freshwater 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 waters; to conserve natural beauty and open space; and to  
anticipate and respond to the impacts of development in shoreland areas.

5 **2. Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38  
6 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

7 **3. Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the  
• normal high-water line of any great pond or river, or  
• with 250 feet horizontal distance of the upland edge of a freshwater wetland,

8 and all land areas with 75 feet, horizontal distance, of the normal high-water line of a stream.

9 This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or  
10 other structure extending beyond or located below the normal high-water line of a water body or  
within a wetland.

### 11 **4. Effective Date**

12 **A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was  
13 adopted by the municipal legislative body on March 17, 2011 shall not be effective unless  
14 approved by the Commissioner of the Department of Environmental Protection. A certified  
15 copy of the Ordinance Amendment, attested and signed by the Municipal Clerk, shall be  
16 forwarded to the Commissioner for approval. If the Commissioner fails to act on this  
17 Ordinance or Ordinance Amendment, within forty five (45) days of his/her receipt of the  
18 Ordinance, or Ordinance Amendment, it shall be automatically approved. Upon approval of  
19 this Ordinance, the original Shoreland Zoning Ordinance previously adopted on June 25, 1974  
20 and November 5, 1991 is hereby repealed, as well as all amendments thereto.

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

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1     **B. Repeal of Municipal Timber Harvesting Regulation.** The municipal regulation of timber  
2     harvesting activities is repealed on the statutory date established under 38 M.R.S.A. Section  
3     438-B(5), at which time the State of Maine Department of Conservation’s Bureau of Forestry  
4     shall administer timber harvesting standards in the Shoreland zone. On the date established  
5     under 38 M.R.S.A. Section 438-B(5), the following provisions of this Ordinance are repealed:

- 6             • Section 14. Table of Land Uses, Item 3 (Forest management activities except for  
7             timber harvesting), Item 4 (Timber harvesting), and Item 27 (Land management  
8             roads);
- 9             • Section 15(O), Timber Harvesting, in its entirety; and
- 10            • Section 17. Definitions, The definitions of “forest management activities”, “land  
11            management roads”, “skid trail”, “slash” and “residual basal ares”.

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

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

18     **7. Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is  
19     inconsistent with another provision of this Ordinance or of any other ordinance, regulation or  
20     statute administered by the municipality, the more restrictive provision shall control.

21     **8. Amendments.** Amendments to this Ordinance may be initiated by a majority vote by the Board  
22     of Selectman, Planning Board, or by written petition by a number of voters equal to at least 10%  
23     of the number of votes cast in the municipality in the last gubernatorial election. This Ordinance  
24     may be amended by a majority vote of the legally constituted municipal governing body at a  
25     regular or special town meeting or by referendum ballot.

26     Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the  
27     Commissioner of the Department of Environmental Protection following adoption by the  
municipal legislative body and shall not be effective unless approved by the Commissioner.  
If the Commissioner fails to act on any amendment within forty five (45) days of his/her receipt  
of the amendment, the amendment is automatically approved. Any application for a permit  
submitted to the municipality within the forty five (45) day period shall be governed by the  
terms of the amendment, if such amendment is approved by the Commissioner.

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## 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 which is a part of this Ordinance:

- (1) Resource Protection
- (2) Limited Residential
- (3) Limited Commercial
- (4) Stream Protection

The Official Shoreland Zoning Map for the Town of Canaan was adopted on November 5, 1991 by referendum ballot and revised on March 18, 1995 by Town Meeting is attached to this Ordinance.

**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. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

**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 Commissioner of the Department of Environmental Protection.

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

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

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## 12. Non-conformance.

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

### **B. General**

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

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

### **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 subparagraphs (a) and (b) below.

(a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

i. Expansion of any portion of a structure within twenty five (25) feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase non-conformity with the water body, tributary stream or wetland setback requirement.

ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.

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1           iii. For structures located less than seventy five (75) feet, horizontal distance, from the  
2           normal high-water line of a water body, tributary stream, or upland edge of a  
3           wetland, the maximum combined total floor area for all portions of those structures  
4           within that seventy five (75) foot distance is one thousand (1,000) square feet, and  
5           the maximum height of any portion of a structure that is within seventy five (75)  
6           feet, horizontal distance, of a water body, tributary stream or upland edge of a  
7           wetland is twenty (20) feet or the height of the existing structure, whichever is  
8           greater.

9           iv. For structures located less than one hundred (100) feet, horizontal distance, from  
10          the normal high-water line of a great pond, the maximum combined total floor area  
11          for all portions of those structures within that one hundred (100) foot distance is  
12          fifteen hundred (1,500) square feet, and the maximum height of any portion of a  
13          structure that is within one hundred (100) feet, horizontal distance, of a great pond  
14          is twenty five (25) feet or the height of the existing structure, whichever is greater,  
15          except that any portion of those structures located less than seventy five (75) feet,  
16          horizontal distance from the normal high-water line of a water body, tributary  
17          stream, or the upland edge of a wetland must meet the floor area and height limits  
18          of division (iii).

19               For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

20           (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-  
21           conforming structure, the structure and new foundation must be placed such that the  
22           setback requirement is met to the greatest practical extent as determined by the  
23           Planning Board or its designee, basing its decision on the criteria specified in Section  
24           12(C)(2) Relocation, below. If the completed foundation does not extend beyond the  
25           exterior dimensions of the structure, except for expansion in conformity with Section  
26           12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by  
27           more than three (3) additional feet, as measured from the uphill side of the structure  
28           (from original ground level to the bottom of the first floor sill), it shall not be  
29           considered to be an expansion of the structure.

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



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1 In determining whether the building relocation meets the setback to the greatest practical  
2 extent, the Planning Board or its designee shall consider the size of the lot, the slope of the  
3 land, the potential for soil erosion, the location of other structures on the property and on  
4 adjacent properties, the location of the septic system and other on-site soils suitable for  
5 septic systems, and the type and amount of vegetation to be removed to accomplish the  
6 relocation. When it is necessary to remove vegetation within the water or wetland setback  
7 area in order to relocate a structure, the Planning Board shall require replanting of native  
8 vegetation to compensate for the destroyed vegetation. In addition, the area from which  
9 the relocated structure was removed must be replanted with vegetation. Replanting shall  
10 be required as follows:

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

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

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

- 25 (3) Reconstruction or Replacement. Any non-conforming structure which is located less than  
26 the required setback from the normal high water line of a water body, tributary stream, or  
27 upland edge of wetland and which is removed, or damaged or destroyed, regardless of the  
28 cause, by more than fifty (50) percent of the market value of the structure before such  
29 damage, destruction or removal, may be reconstructed or replaced provided that a permit  
30 is obtained within 18 months of the date of said damage, destruction, or removal, and  
31 provided that such reconstruction or replacement is in compliance with the water body,  
32 tributary stream or wetland setback requirement to the greatest practical extent as  
33 determined by the Planning Board or its designee in accordance with the purposes of this  
34 Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its  
35 non-conformity. If the reconstructed or replacement structure is less than the required  
36 setback it shall not be any larger than the original structure, except as allowed pursuant to  
37 Section 12(C)(1) above, as determined by the non-conforming floor area and volume of

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1 the reconstructed or replaced structure at its new location. If the total amount of floor  
2 area and volume of the original structure can be relocated or reconstructed beyond the  
3 required setback area, no portion of the relocated or reconstructed structure shall be  
4 replaced or constructed at less than the setback requirement for a new structure. When  
5 it is necessary to remove vegetation in order to replace or reconstruct a structure,  
6 vegetation shall be replanted in accordance with Section 12(C)(2) above.

7 Any non-conforming structure which is located less than the required setback from a water  
8 body, tributary stream, or wetland and which is removed by fifty (50) percent or less of the  
9 market value, or damaged or destroyed by fifty (50) percent or less of the market value  
10 of the structure, excluding normal maintenance and repair, may be reconstructed in place  
11 if a permit is obtained from the Planning Board or its designee within eighteen (18)  
12 months of such damage, destruction, or removal.

13 In determining whether the building reconstruction or replacement meets the setback to  
14 the greatest practical extent the Planning Board or its designee shall consider, in addition  
15 to the criteria in Section 12(C)(2) above, the physical condition and type of foundation  
16 present, if any.

- 17 (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure  
18 may not be changed to another use unless the Planning Board, after receiving a written  
19 application, determines that the new use will have no greater adverse impact on the water  
20 body, tributary stream, or wetland, or on the subject or adjacent properties and resources  
21 than the existing use.

22 In determining that no greater adverse impact will occur, the Planning Board shall require  
23 written documentation from the applicant, regarding the probable effects on public health  
24 and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative  
25 cover, visual and actual points of public access to waters, natural beauty, floodplain  
26 management, archaeological and historic resources, and functionally water-dependent uses.

### 27 **D. Non-conforming Uses**

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

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

8 (3) Change of Use. An existing non-conforming use may be changed to another non-  
9 conforming use provided that the proposed use has no greater adverse impact on the  
10 subject and adjacent properties and resources than the former use, as determined by the  
11 Planning Board. The determination of no greater adverse impact shall be made according  
12 to criteria listed in Section 12(C)(4) above.

### 13 E. Non-conforming Lots

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

21 (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint  
22 ownership of record at the time of adoption of this Ordinance, if all or part of the lots do  
23 not meet the dimensional requirements of this Ordinance, and if a principal use or structure  
24 exists on each lot, the non-conforming lots may be conveyed separately or together,  
25 provided that the State Minimum Lot Size Law (12 M.R.S.A. Sections 4807-A through  
26 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

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### 13. Establishment of Districts

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

(1) Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

(2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the one hundred (100) year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(3) Areas of two or more contiguous acres with sustained slopes of twenty (20) percent or greater.

(4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

(6) Wetland areas identified as locally significant by the Town of Canaan Planning Board.

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1 **B. Limited Residential District.** The Limited Residential District includes those areas suitable  
2 for residential and recreational development. It includes areas other than those in the Resource  
3 Protection District, or Stream Protection District, and areas which are used less intensively  
4 than those in the Limited Commercial District.

5 **C. Limited Commercial District.** The Limited Commercial District includes areas of mixed,  
6 light commercial and residential uses, exclusive of the Stream Protection District. This district  
7 includes areas of two or more contiguous acres in size devoted to a mix of residential and low  
8 intensity business and commercial uses. Industrial uses are prohibited.

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

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

20 Key to Table 1:

21 Yes - Allowed (no permit required but the use must comply with all applicable land use  
22 standards)

23 No - Prohibited

24 PB - Allowed with permit issued by the Planning Board.

25 CEO - Allowed with permit issued by the Code Enforcement Officer

26 LPI - Allowed with permit issued by the Local Plumbing Inspector

27 Abbreviations:

28 RP - Resource Protection      SP - Stream Protection  
29 LR - Limited Residential      LC - Limited Commercial

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

<u>LAND USES</u>	<u>DISTRICT</u>			
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking .....	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails .....	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management road...	yes	yes	yes	yes
4. Clearing or removal of vegetation for activities other than timber harvesting.....	CEO	CEO 1	CEO	CEO
5. Fire prevention activities.....	yes	yes	yes	yes
6. Wildlife management practices.....	yes	yes	yes	yes
7. Soil and water conservation practices.....	yes	yes	yes	yes
8. Mineral exploration.....	no	yes 2	yes 2	yes 2
9. Mineral extraction including sand and gravel extraction .....	no	PB 3	PB	PB
10. Surveying and resource analysis .....	yes	yes	yes	yes
11. Emergency operations .....	yes	yes	yes	yes
12. Agriculture.....	yes	PB	yes	yes
13. Aquaculture .....	PB	PB	PB	yes
14. Principal structures and uses				
A. One and two family residential, including driveways .....	PB 4	PB 11	PB	PB
B. Multi-unit residential .....	no	no	PB	PB
C. Commercial, given line 29.....	no	no 8	no	PB
D. Industrial .....	no	no	no	no
E. Governmental and institutional .....	no	no	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes .....	PB 4	PB	CEO	CEO
15. Structures accessory to allowed uses .....	PB 4	PB	CEO	CEO
16. 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 9	CEO 9	CEO 9	CEO 9
b. Permanent .....	PB	PB	PB	PB
17. Conversions of seasonal residences to year-round residences .....	LPI	LPI	LPI	LPI
18. Home occupations .....	PB	no	PB	CEO
19. Private sewage disposal systems for allowed uses .....	LPI	LPI	LPI	LPI
20. Essential services.....	PB 5	PB 5	PB	PB
A. Roadside distribution lines (34.5kV and lower) .....	CEO 5	CEO 5	yes 10	yes 10
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone .....	PB 5	PB 5	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone .....	PB 5	PB 5	PB	PB
D. Other essential services .....	PB 5	PB 5	PB	PB
21. Service drops, as defined, to allowed uses .....	yes	yes	yes	yes
22. Public and private recreational areas involving minimal structural development.....	PB	PB	PB	CEO
23. Individual, private campsites .....	CEO	CEO	CEO	CEO
24. Campgrounds .....	no	no 6	PB	PB
25. Road construction .....	PB	no 7	PB	PB
26. Parking facilities .....	no	no 6	PB	PB
27. Marinas .....	PB	no	PB	PB
28. Filling and earth moving of <10 cubic yards .....	CEO	CEO	yes	yes
29. Filling and earth moving of >10 cubic yards .....	PB	PB	CEO	CEO
30. Signs .....	yes	yes	yes	yes
31. Uses similar to allowed uses .....	CEO	CEO	CEO	CEO
32. Uses similar to uses requiring a CEO permit .....	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a PB permit .....	PB	PB	PB	PB

1 In RP not allowed within 75 feet horizontal distance, 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 In RP not allowed in areas so designated because of wildlife value.

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

5 See further restrictions in Section 15(L)(2).

6 Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

7 Except as provided in Section 15(H)(3).

8 Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

9 Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

10 Permit not required but must file a written "notice of intent to construct" with CEO.

11 Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater 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.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

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

### 3 **A. Minimum Lot Standards**

4 (1)	5 Min. Lot 6 Area (sq. ft.)	7 Min. Shore 8 Frontage (ft.)	9 Min. Setback 10 from side & 11 rear lines
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12 (a) Residential per dwelling unit  
13 Within all Shoreland Zones  
14 of Great Ponds & Rivers  
15 flowing into Great Ponds  
16 Within the Shoreland Zones  
17 Of all other water bodies,  
18 Tributary streams, and the  
19 Upland edge of wetlands

40,000 200 15

20 (b) Governmental, Institutional, Commercial  
21 or Industrial per principal structure  
22 Within the Shoreland Zone

60,000 300 15

23 (c) Public and Private Recreational Facilities

40,000 200 15

24 (2) Land below the normal high-water line of a water body or upland edge of a wetland and  
25 land beneath roads serving more than two (2) lots shall not be included toward calculating  
26 minimum lot area.

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

30 (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal  
31 distance, of the normal high-water line of a water body or upland edge of a wetland shall  
32 be equal to or greater than the shore frontage requirement for a lot with the proposed use.

33 (5) If more than one residential dwelling unit, principal governmental, institutional, commercial  
34 or industrial structure or use, or combination thereof, is constructed or established on a  
35 single parcel, all dimensional requirements shall be met for each additional dwelling unit,  
principal structure, or use. Clustered housing within the shoreland zone may be permitted  
provided that the overall dimensional requirements, including frontage and lot area per  
dwelling unit and principal structure are met. When determining whether dimensional  
requirements are met, only land area within the shoreland zone shall be considered.

# Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

## B. Dimensional Requirements for Principal and Accessory Structures

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds and seventy five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

The Planning Board may increase the required setback of a proposed structure, as condition to permit approval, if necessary to accomplish the purposes of this ordinance, Instances where a greater setback may be appropriate include, but not be limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

In addition:

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the planning board or its designee may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(2) 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.



## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

- 1 (3) The lowest floor elevation or openings of all buildings and structures, including basements,  
2 shall be elevated at least one foot above the elevation of the one hundred (100) year flood,  
3 the flood of record, or in the absence of these, the flood as defined by soil types identified  
4 as recent floodplain soils. In those municipalities that participate in the National Flood  
5 Insurance Program and have adopted the April 2005 version, or later version, of the  
6 Floodplain Management Ordinance, accessory structures may be placed in accordance with  
7 the standards of that ordinance and need not meet the elevation requirements of this  
8 paragraph.
- 9 (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces,  
10 within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion  
11 thereof, located within the shoreland zone, including land area previously developed.
- 12 (5) Retaining walls that are not necessary for erosion control shall meet the structure setback  
13 requirement, except for low retaining walls and associated fill provided all of the  
14 following conditions are met:
- 15 (a) The site has been previously altered and an effective vegetated buffer does not exist;
- 16 (b) The wall(s) is (are) at least twenty five (25) feet, horizontal distance, from the normal  
17 high-water line of a water body, tributary stream, or upland edge of a wetland;
- 18 (c) The site where the retaining wall will be constructed is legally existing lawn or is a site  
19 eroding from lack of naturally occurring vegetation, and which cannot be stabilized  
20 with vegetative plantings;
- 21 (d) The total height of the wall(s), in the aggregate, are no more than twenty four (24)  
22 inches;
- 23 (e) Retaining walls are located outside of the one hundred (100) year floodplain on rivers,  
24 streams, wetlands, and tributary streams, as designated on the Federal Emergency  
25 Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard  
26 Boundary Maps, or the flood of record, or in the absence of these, by soil types  
27 identified as recent floodplain soils.
- 28 (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination  
29 thereof, and no further structural development will occur within the setback area,  
30 including patios and decks; and
- 31 (g) A vegetated buffer area is established within twenty -five (25) feet, horizontal distance,  
32 of the normal high-water line of a water body, tributary stream, or upland edge of a  
33 wetland when a natural buffer area does not exist. The buffer area must meet the  
34 following characteristics:

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

- 1 (i) The buffer must include shrubs and other woody and herbaceous vegetation.  
2 Where natural ground cover is lacking the area must be supplemented with leaf  
3 or bark mulch;
- 4 (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide  
5 for effective infiltration of stormwater runoff;
- 6 (iii) Only native species may be used to establish the buffer area;
- 7 (iv) A minimum buffer width of fifteen (15) feet, horizontal distance, is required,  
8 measured perpendicularly to the normal high-water line or upland edge of a  
9 wetland;
- 10 (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse  
11 the buffer.

12 (6) Notwithstanding the requirements stated above, stairways or similar structures may be  
13 allowed with a permit from the planning board or its designee, to provide shoreline access  
14 in areas of steep slopes or unstable soils provided: that the structure is limited to a  
15 maximum of four (4) feet in width; that the structure does not extend below or over the  
16 normal high-water line of a water body or upland edge of a wetland, (unless permitted by  
17 the Department of Environmental Protection pursuant to the Natural Resources Protection  
18 Act, 38 M.R.S.A. Section 480-C); and that the applicant demonstrates that no reasonable  
19 access alternative exists on the property.

### 20 **C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or** 21 **Below the Normal High-Water Line of a Water Body or Within a Wetland.**

- 22 (1) Access from shore shall be developed on soils appropriate for such use and constructed so  
23 as to control erosion.
- 24 (2) The location shall not interfere with existing developed or natural beach areas.
- 25 (3) The facility shall be located so as to minimize adverse effects on fisheries.
- 26 (4) The facility shall be no larger in dimension than necessary to carry on the activity and be  
27 consistent with the surrounding character and uses of the area. A temporary pier, dock or  
28 wharf for non-commercial use, shall not be wider than six feet, nor longer than thirty five  
29 (35) feet, and shall have a minimum of a fifteen (15) feet side boundary setback.
- 30 (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure  
31 extending below the normal high-water line of a water body or within a wetland unless the  
32 structure requires direct access to the water body or wetland as an operational necessity.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 (6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to  
2 the Planning Board that a temporary pier or dock is not feasible, and a permit has been  
3 obtained from the Department of Environmental Protection, pursuant to the Natural  
4 Resources Protection Act.

5 (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure  
6 extending below the normal high-water line of a water body or within a wetland shall be  
7 converted to residential dwelling units in any district.

8 (8) Structures built on, over or abutting a pier, wharf, dock or other structure extending below  
9 the normal high-water line of a water body or within a wetland shall not exceed twenty (20)  
10 feet in height above the pier, wharf, dock or other structure.

11 (9) Permanent structures projecting into or over water bodies shall require a permit from the  
12 Department of Environmental Protection pursuant to the Natural Resources Protection Act,  
13 Title 38, M.R.S.A., Section 480-C.

### 14 **D. Campgrounds.**

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

17 (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not  
18 including roads and driveways, for each site. Land supporting wetland vegetation, and land  
19 below the normal high-water line of a water body shall not be included in calculating land  
20 area per site.

21 (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and  
22 service buildings shall be set back a minimum of one hundred (100) feet, horizontal  
23 distance, from the normal high-water line of a great pond and seventy five (75) feet,  
24 horizontal distance, from the normal high-water line of other water bodies, tributary  
25 streams, or the upland edge of a wetland.

### 26 **E. Individual Private Campsites.**

27 Individual private campsites not associated with campgrounds are allowed provided the  
28 following conditions are met:

29 (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand  
30 (30,000) square feet of lot area within the shoreland zone, whichever is less, may be  
31 permitted.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

- 1 (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent  
2 platform, shall be set back one hundred (100) feet, horizontal distance, from the normal  
3 high-water line of a great pond, and seventy five (75) feet, horizontal distance, from the  
4 normal high-water line of other water bodies, tributary streams, or the upland edge of a  
5 wetland.
- 6 (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall  
7 not be located on any type of permanent foundation except for a gravel pad, and no  
8 structure except a canopy shall be attached to the recreational vehicle.
- 9 (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter  
10 in a Resource Protection District shall be limited to one thousand (1000) square feet.
- 11 (5) A written sewage disposal plan describing the proposed method and location of sewage  
12 disposal shall be required for each campsite and shall be approved by the Local Plumbing  
13 Inspector. Where disposal is off-site, written authorization from the receiving facility or  
14 land owner is required.
- 15 (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one  
16 hundred twenty (120) days per year, all requirements for residential structures shall be met,  
17 including the installation of a subsurface sewage disposal system in compliance with the  
18 State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage  
19 facilities.

### 20 **F. Commercial and Industrial Uses.**

21 The following new commercial and industrial uses are prohibited within the shoreland zone:

- 22 (1) Auto washing facilities
- 23 (2) Auto or other vehicle service and/or repair operations, including body shops
- 24 (3) Chemical and bacteriological laboratories
- 25 (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts  
26 normally associated with individual households or farms
- 27 (5) Commercial painting, wood preserving, and furniture stripping
- 28 (6) Dry cleaning establishments
- 29 (7) Electronic circuit assembly

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

- 1 (8) Laundromats, unless connected to a sanitary sewer
- 2 (9) Metal plating, finishing, or polishing
- 3 (10) Petroleum or petroleum product storage and/or sale except storage on same property as
- 4 use occurs and except for storage and sales associated with marinas
- 5 (11) Photographic processing
- 6 (12) Printing

### 7 **G. Parking Areas**

- 8 (1) Parking areas shall meet the shoreline and tributary stream setback requirements for
- 9 structures for the district in which such areas are located. The setback requirement for
- 10 parking areas serving public boat launching facilities shall be no less than fifty (50) feet,
- 11 horizontal distance, from the shoreline or tributary stream if the Planning Board finds that
- 12 no other reasonable alternative exists further from the shoreline or tributary stream.
- 13 (2) Parking areas shall be adequately sized for the proposed use and shall be designed to
- 14 prevent stormwater runoff from flowing directly into a water body, tributary stream or
- 15 wetland and where feasible, to retain all runoff on-site.
- 16 (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
- 17 (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long,
- 18 except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
- 19 (b) Internal travel aisles: Approximately twenty (20) feet wide.

### 20 **H. Roads and Driveways.**

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

- 23 (1) Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance,
- 24 from the normal high-water line of a great pond and seventy five (75) feet, horizontal
- 25 distance from the normal high-water line of other water bodies, tributary streams, or the
- 26 upland edge of a wetland unless no reasonable alternative exists as determined by the
- 27 Planning Board. If no other reasonable alternative exists, the Planning Board may reduce
- 28 the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal
- 29 distance, upon clear showing by the applicant that appropriate techniques will be used to
- 30 prevent sedimentation of the water body, tributary stream, or wetland. Such techniques
- 31 may include, but are not limited to, the installation of settling basins, and/or the effective
- 32 use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of
- 33 the water body, tributary stream, or wetland.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

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

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

10           (2) Existing public roads may be expanded within the legal road right of way regardless of their  
11           setback from a water body, tributary stream or wetland.

12           (3) New roads and driveways are prohibited in a Resource Protection District except that the  
13           Planning Board may grant a permit to construct a road or driveway to provide access to  
14           permitted uses within the district. A road or driveway may also be approved by the  
15           Planning Board in a Resource Protection District, upon a finding that no reasonable  
16           alternative route or location is available outside the district. When a road or driveway is  
17           permitted in a Resource Protection District the road and/or driveway shall be set back as  
18           far as practicable from the normal high-water line of a water body, tributary stream, or  
19           upland edge of a wetland.

20           (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1)  
21           vertical, and shall be graded and stabilized in accordance with the provisions for erosion and  
22           sedimentation control contained in Section 15(Q).

23           (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of  
24           less than two hundred (200) feet.

25           (6) In order to prevent road and driveway surface drainage from directly entering water bodies,  
26           tributary streams or wetlands, roads and driveways shall be designed, constructed, and  
27           maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the  
28           average slope, in width between the outflow point of the ditch or culvert and the normal  
29           high-water line of a water body, tributary stream, or upland edge of a wetland. Surface  
30           drainage which is directed to an unscarified buffer strip shall be diffused or spread out to  
31           promote infiltration of the runoff and to minimize channelized flow of the drainage through  
32           the buffer strip.

33           (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in  
34           a manner effective in directing drainage onto unscarified buffer strips before the flow gains  
35           sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the  
36           following shall apply:

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

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

3	Grade	Spacing
4	<u>(Percent)</u>	<u>(Feet)</u>
5	0-2	250
6	3-5	200-135
7	6-10	100-80
8	11-15	80-60
9	16-20	60-45
10	21 +	40

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

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

- 16 (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow  
17 for effective functioning, and their inlet and outlet ends shall be stabilized with  
18 appropriate materials.

- 19 (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control  
20 installations associated with roads and driveways shall be maintained on a regular basis to  
21 assure effective functioning.

### 22 I. Signs.

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

- 25 (1) Signs relating to goods and services sold on the premises shall be allowed, provided that  
26 such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per  
27 premises. In the Limited Commercial District, however, such signs shall not exceed sixteen  
28 (16) square feet in area. Signs relating to goods or services not sold or rendered on the  
29 premises shall be prohibited.

- 30 (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises,  
31 and shall not exceed twelve (12) square feet in the aggregate.

- 32 (3) Residential users may display a single sign not over three (3) square feet in area relating to  
33 the sale, rental, or lease of the premises.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number  
2 provided that no such sign shall exceed two (2) square feet in area.

3 (5) Signs relating to public safety shall be allowed without restriction.

4 (6) No sign shall extend higher than twenty (20) feet above the ground.

5 (7) Signs may be illuminated only by shielded, non-flashing lights.

### 6 **J. Storm Water Runoff**

7 (1) All new construction and development shall be designed to minimize storm water runoff  
8 from the site in excess of the natural predevelopment conditions. Where possible, existing  
9 natural runoff control features, such as berms, swales, terraces and wooded areas, shall be  
10 retained in order to reduce runoff and encourage infiltration of stormwaters.

11 (2) Storm water runoff control systems shall be maintained as necessary to ensure proper  
12 functioning.

### 13 **K. Septic Waste Disposal**

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

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

21 (1) Where feasible, the installation of essential services shall be limited to existing public ways  
22 and existing service corridors.

23 (2) The installation of essential services, other than road-side distribution lines, is not allowed  
24 in a Resource Protection or Stream Protection District, except to provide services to a  
25 permitted use within said district, or except where the applicant demonstrates that no  
26 reasonable alternative exists. Where allowed, such structures and facilities shall be located  
27 so as to minimize any adverse impacts on surrounding uses and resources, including visual  
28 impacts.

29 (3) Damaged or destroyed public utility transmission and distribution lines, towers and related  
30 equipment may be replaced or reconstructed without a permit.



## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

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

2           Mineral exploration to determine the nature or extent of mineral resources shall be  
3           accomplished by hand sampling, test boring, or other methods which create minimal disturbance  
4           of less than one hundred (100) square feet of ground surface. A permit from the Code  
5           Enforcement Officer shall be required for mineral exploration which exceeds the above  
6           limitation. All excavations, including test pits and holes, shall be immediately capped, filled or  
7           secured by other equally effective measures to restore disturbed areas and to protect the public  
8           health and safety.

9           Mineral extraction may be permitted under the following conditions:

- 10          (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit  
11           is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the  
12           requirements of Section 15 (M)(3) below.
- 13          (2) No part of any extraction operation, including drainage and runoff control features, shall  
14           be permitted within one hundred (100) feet, horizontal distance, of the normal high-water  
15           line of a great pond, and within seventy five (75) feet, horizontal distance, of the normal  
16           high-water line of any other water body, tributary stream, or the upland edge of a wetland.  
17           Extraction operations shall not be permitted within seventy five (75) feet, horizontal  
18           distance, of any property line without written permission of the owner of such adjacent  
19           property.
- 20          (3) Within twelve (12) months following the completion of extraction operations at any  
21           extraction site, which operations shall be deemed complete when less than one hundred  
22           (100) cubic yards of materials are removed in any consecutive twelve (12) month period,  
23           ground levels and grades shall be established in accordance with the following:
- 24           (a) All debris, stumps, and similar material shall be removed for disposal in an approved  
25           location, or shall be buried on-site. Only materials generated on-site may be buried or  
26           covered on-site.
- 27           (b) The final graded slope shall be two and one half to one (**2½:1**) slope or flatter.
- 28           (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be  
29           reseeded and stabilized with vegetation native to the area. Additional topsoil or loam  
30           shall be obtained from off-site sources if necessary to complete the stabilization project.
- 31          (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such  
32           conditions as are necessary to minimize the adverse impacts associated with mineral  
33           extraction operations on surrounding uses and resources.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

### 1        **N. Agriculture**

- 2            (1) All spreading or disposal of manure shall be accomplished in conformance with the *Manure*  
3            *Utilization Guidelines* published by the Maine Department of Agriculture on November 1,  
4            2001, and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).
- 5            (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance,  
6            of a great pond or within seventy five (75) feet horizontal distance, of other water bodies,  
7            tributary streams, or wetlands. All manure storage areas within the shoreland zone must  
8            be constructed or modified such that the facility produces no discharge of effluent or  
9            contaminated storm water.
- 10          (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square  
11          feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed  
12          with the Planning Board. Non-conformance with the provisions of said plan shall be  
13          considered to be a violation of this Ordinance.
- 14          (4) There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of  
15          the normal high-water line of a great pond; within seventy five (75) feet, horizontal  
16          distance, from other water bodies; nor within twenty five (25) feet, horizontal distance, of  
17          tributary streams and wetlands. Operations in existence on the effective date of this  
18          ordinance and not in conformance with this provision may be maintained.
- 19          (5) Newly established livestock grazing areas shall not be permitted within one hundred (100)  
20          feet, horizontal distance, of the normal high-water line of a great pond; within seventy five  
21          (75) feet, horizontal distance, of other water bodies; nor within twenty five (25) feet,  
22          horizontal distance, of tributary streams and wetlands. Livestock grazing associated with  
23          ongoing farm activities, and which are not in conformance with the above setback  
24          provisions may continue, provided that such grazing is conducted in accordance with a  
25          Conservation Plan.

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

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

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

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

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

6 (a) There shall be no cleared opening greater than two hundred fifty (250) square feet in  
7 the forest canopy (or other existing woody vegetation if a forested canopy is not  
8 present) as measured from the outer limits of the tree or shrub crown. However, a  
9 footpath not to exceed six (6) feet in width as measured between tree trunks and/or  
10 shrub stems is allowed provided that a cleared line of sight to the water through the  
11 buffer strip is not created.

12 (b) Selective cutting of trees within the buffer strip is allowed provided that a well-  
13 distributed stand of trees and other natural vegetation is maintained. For the purposes  
14 of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond, or  
15 stream flowing to a great pond, shall be defined as maintaining a rating score of twenty  
16 four (24) or more in each twenty five (25) foot by fifty (50) foot rectangular (1250  
17 square feet) area as determined by the following rating system.

18 Diameter of Tree at 4-1/2 feet Above	Points
19 Ground Level (inches)	
20 2 < 4 in.	1
21 4 < 8 in.	2
22 8 < 12 in.	4
23 12 in. or greater	8

24 Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed  
25 stand of trees" is defined as maintaining a minimum rating score of sixteen (16) per  
26 twenty five (25) foot by fifty (50) foot rectangular area.

27 The following shall govern in applying this point system:

- 28 (i) The twenty five (25) foot by fifty (50) foot rectangular plots must be established  
29 where the landowner or lessee proposes clearing within the required buffer;  
30 (ii) Each successive plot must be adjacent to, but not overlap a previous plot;  
31 (iii) Any plot not containing the required points must have no vegetation removed  
32 except as otherwise allowed by this Ordinance;  
33 (iv) Any plot containing the required points may have vegetation removed down to the  
34 minimum points required or as otherwise allowed by is Ordinance;

35 (v) Where conditions permit, no more than fifty (50) percent of the points on any  
36 twenty five (25) foot by fifty (50) foot rectangular area may consist of trees  
37 greater than twelve (12) inches in diameter.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as  
2 retaining existing vegetation under three (3) feet in height and other ground cover and  
3 retaining at least five (5) saplings less than two (2) inches in diameter at four and one  
4 half (4½) feet above ground level for each twenty five (25) foot by fifty (50) foot  
5 rectangle area. If five (5) saplings do not exist, no woody stems less than two (2)  
6 inches in diameter can be removed until five (5) saplings have been recruited into the  
7 plot.

8 Notwithstanding the above provisions, no more than forty (40) percent of the total  
9 volume of trees four (4) inches or more in diameter, measured at four and one half (4½)  
10 feet above ground level may be removed in any ten (10) year period.

11 (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3)  
12 feet in height and other ground cover, including leaf litter and the forest duff layer, shall  
13 not be cut, covered, or removed, except to provide for a footpath or other permitted  
14 uses as described in Section 15(P) paragraphs (2) and (2)(a) above.

15 (d) Pruning of tree branches, on the bottom one third (1/3) of the tree is allowed.

16 (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged,  
17 diseased, unsafe, or dead trees results in the creation of cleared openings, these  
18 openings shall be replanted with native tree species unless existing new tree growth is  
19 present.

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

23 (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond,  
24 and seventy five (75) feet, horizontal distance, from the normal high-water line of any other  
25 water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any  
26 lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the  
27 volume of trees four (4) inches or more in diameter, measured four and one half (4½) feet  
28 above ground level. Tree removal in conjunction with the development of permitted uses  
29 shall be included in the forty (40) percent calculation. For the purposes of these standards  
30 volume may be considered to be equivalent to basal area.

31 In no event shall cleared openings for any purpose, including but not limited to, principal  
32 and accessory structures, driveways, lawns and sewage disposal areas, exceed in the  
33 aggregate, twenty five (25) percent of the lot area within the shoreland zone or ten  
34 thousand (10,000) square feet, whichever is greater, including land previously cleared.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 (4) Legally existing nonconforming cleared openings may be maintained, but shall not be  
2 enlarged, except as allowed by this Ordinance.

3 (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other  
4 woody vegetation shall be regulated under the provisions of Section 15(P).

### 5 **P. Erosion and Sedimentation Control**

6 (1) All activities which involve filling, grading, excavation or other similar activities which  
7 result in unstabilized soil conditions and which require a permit shall also require a written  
8 soil erosion and sedimentation control plan. The plan shall be submitted to the permitting  
9 authority for approval and shall include, where applicable, provisions for:

10 (a) Mulching and revegetation of disturbed soil.

11 (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

12 (c) Permanent stabilization structures such as retaining walls or riprap.

13 (2) In order to create the least potential for erosion, development shall be designed to fit with  
14 the topography and soils of the site. Areas of steep slopes where high cuts and fills may be  
15 required shall be avoided wherever possible, and natural contours shall be followed as  
16 closely as possible.

17 (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed  
18 project involving land disturbance, and shall be in operation during all stages of the activity.  
19 The amount of exposed soil at every phase of construction shall be minimized to reduce the  
20 potential for erosion.

21 (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1)  
22 week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or  
23 other effective measures. In all cases permanent stabilization shall occur within nine (9)  
24 months of the initial date of exposure. In addition:

25 (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred  
26 (500) square feet and shall be maintained until a catch of vegetation is established.

27 (b) Anchoring the mulch with netting, peg and twine or other suitable method may be  
28 required to maintain the mulch cover.

29 (c) Additional measures shall be taken where necessary in order to avoid siltation into the  
30 water. Such measures may include the use of staked hay bales and/or silt fences.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion  
2 from water flowing through them. Drainage ways shall be designed and constructed in  
3 order to carry water from a twenty five (25) year storm or greater, and shall be stabilized  
4 with vegetation or lined with riprap.

### 5 **Q. Soils.**

6 All land uses shall be located on soils in or upon which the proposed uses or structures can be  
7 established or maintained without causing adverse environmental impacts, including severe  
8 erosion, mass soil movement, improper drainage, and water pollution, whether during or after  
9 construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial  
10 development and other similar intensive land uses, shall require a soils report based on an on-  
11 site investigation and be prepared by state certified professionals. Certified persons may include  
12 Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified  
13 Geologists and other persons who have training and experience in the recognition and  
14 evaluation of soil properties. The report shall be based upon the analysis of the characteristics  
15 of the soil and surrounding land and water areas, maximum ground water elevation, presence  
16 of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate.  
17 The soils report shall include recommendations for a proposed use to counteract soil limitations  
18 where they exist.

### 19 **R. Water Quality.**

20 No activity shall deposit on or into the ground or discharge to the waters of the State any  
21 pollutant that, by itself or in combination with other activities or substances, will impair  
22 designated uses or the water classification of the water body, tributary stream or wetland.

### 23 **S. Archaeological Site.**

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

# Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

## 16. Administration

### A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. Section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

**B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
  - (a) The replacement culvert is not more than twenty five (25) percent longer than the culvert being replaced;
  - (b) The replacement culvert is not longer than seventy five (75) feet; and
  - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

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### 1 C. Permit Application

2 (1) Every applicant for a permit shall submit a written application, including a scaled site  
3 plan, on a form provided by the municipality, to the appropriate official as indicated in  
4 Section 14.

5 (2) All applications shall be signed by an owner or individual who can show evidence of right,  
6 title or interest in the property or by an agent, representative, tenant, or contractor of the  
7 owner with authorization from the owner to apply for a permit hereunder, certifying that  
8 the information in the application is complete and correct.

9 (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as  
10 appropriate, shall note upon each application the date and time of its receipt.

11 (4) If the property is not served by a public sewer, a valid plumbing permit or a completed  
12 application for a plumbing permit, including the site evaluation approved by the Plumbing  
13 Inspector, shall be submitted whenever the nature of the proposed structure or use would  
14 require the installation of a subsurface sewage disposal system.

### 15 D. Procedure for Administering Permits.

16 Within thirty five (35) days of the date of receiving a written application, the Planning Board  
17 or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing  
18 either that the application is a complete application, or, if the application is incomplete, that  
19 specified additional material is needed to make the application complete. The Planning Board  
20 or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or  
21 deny all permit applications in writing within thirty five (35) days of receiving a completed  
22 application. However, if the Planning Board has a waiting list of applications, a decision on the  
23 application shall occur within thirty five (35) days after the first available date on the Planning  
24 Board's agenda following receipt of the completed application, or within thirty five (35) days  
25 of the public hearing, if one is held. Permits shall be approved if the proposed use or structure  
26 is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

32 (1) Will maintain safe and healthful conditions;

33 (2) Will not result in water pollution, erosion, or sedimentation to surface waters;



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1 (3) Will adequately provide for the disposal of all wastewater;

2 (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other  
3 wildlife habitat;

4 (5) Will conserve shore cover and visual, as well as actual, points of access to inland  
5 waters;

6 (6) Will protect archaeological and historic resources as designated in the comprehensive  
7 plan;

8 (7) Will avoid problems associated with floodplain development and use; and

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

10 If a permit is either denied or approved with conditions, the reasons as well as conditions shall  
11 be stated in writing. No approval shall be granted for an application involving a structure if the  
12 structure would be located in an unapproved subdivision or would violate any other local  
13 ordinance, or regulation or statute administered by the municipality.

14 **E. Special Exceptions.** In addition to the criteria specified in Section (16D) above, excepting  
15 structure setback requirements, the Planning Board may approve a permit for a single family  
16 residential structure in a Resource Protection District provided that the application  
17 demonstrates that all the following conditions are met:

18 (1) There is no location on the property, other than a location within the Resource Protection  
19 District, where the structure can be built.

20 (2) The lot on which the structure is proposed is undeveloped and was established and recorded  
21 in the registry of deeds of the county in which the lot is located before the adoption of the  
22 Resource Protection District.

23 (3) All proposed buildings, sewage disposal systems and other improvements are:

24 (a) Located on natural ground slopes of less than twenty (20) percent; and

25  
26 (b) Located outside the floodway of the one hundred (100) year floodplain along river and  
27 artificially formed great ponds, along rivers, based on detailed flood insurance studies  
28 and as delineated on the Federal Emergency Management Agency's Flood Boundary  
29 and elevated at least one foot above the one hundred (100) year floodplain elevations;  
30 and the development is otherwise in compliance with any applicable municipal  
31 floodplain ordinance.

32 If the floodway is not shown on the Federal Emergency Management Agency Maps, it  
33 is deemed to be half (1/2) the width of the one hundred (100) year floodplain.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all  
2 principal and accessory structures is limited to a maximum of one thousand five hundred  
3 (1,500) square feet. This limitation shall not be altered by variance.

4 (5) All structures, except functionally water-dependent structures, are set back from the normal  
5 high-water line of a water body, tributary stream or upland edge of a wetland to the  
6 greatest practical extent, but not less than 75 (seventy-five) feet, horizontal distance. In  
7 determining the greatest practical extent, the Planning Board shall consider the depth of the  
8 lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation  
9 to be removed, the proposed building site's elevation in regards to the floodplain, and its  
10 proximity to moderate-value and high-value wetlands.

### 11 **F. Expiration of Permit.**

12 Permits shall expire one year from the date of issuance if a substantial start is not made in  
13 construction or in the use of the property during that period. If a substantial start is made  
14 within one year of the issuance of the permit, the applicant shall have one additional year to  
15 complete the project, at which time the permit shall expire.

### 16 **G. Permit Fees.**

17 All applications for permits issued by the Planning board or Code Enforcement Officer shall  
18 require the payment of the following fees prior to the issuance of the permit:

19 For any permit required under this ordinance: *NONE*

20 For any delinquent permit, issued for use or activity which would have been permitted if the  
21 permit had been applied for prior to the commencement of the use or activity: One hundred  
22 dollars (\$100.00)

### 23 **H. Installation of Public Utility Service.**

24 A public utility, water district, sanitary district or any utility company of any kind may not install  
25 services to any new structure located in the shoreland zone unless written authorization  
26 attesting to the validity and currency of all local permits required under this or any previous  
27 Ordinance has been issued by the appropriate municipal officials or other written arrangements  
28 have been made between the municipal officials and the utility.

# Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

## 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 an appellate 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 Planning Board in the administration of this Ordinance; and 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 granted 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:

(i) 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

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1                   c. That the granting of a variance will not alter the essential character of the  
2                   locality; and

3                   d. That the hardship is not the result of action taken by the applicant or a prior  
4                   owner.

5                   (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a  
6                   variance to an owner of a residential dwelling for the purpose of making that dwelling  
7                   accessible to a person with a disability who resides in or regularly uses the dwelling.  
8                   The board shall restrict any variance granted under this subsection solely to the  
9                   installation of equipment or the construction of structures necessary for access to or  
10                  egress from the dwelling by the person with the disability. The board may impose  
11                  conditions on the variance, including limiting the variance to the duration of the  
12                  disability or to the time that the person with the disability lives in the dwelling. The  
13                  term “structures necessary for access to or egress from the dwelling” shall include  
14                  railing, wall or roof systems necessary for the safety or effectiveness of the structure.

15                  (e) The Board of Appeals shall limit any variances granted as strictly as possible in order  
16                  to ensure conformance with the purposes and provisions of this Ordinance to the  
17                  greatest extent possible, and in doing so may impose such conditions to a variance as  
18                  it deems necessary. The party receiving the variance shall comply with any conditions  
19                  imposed.

20                  (f) A copy of each variance request, including the application and all supporting  
21                  information supplied by the applicant, shall be forwarded by the municipal officials to  
22                  the Commissioner of the Department of Environmental Protection at least twenty (20)  
23                  days prior to action by the Board of Appeals. Any comments received from the  
24                  Commissioner prior to the action by the Board of Appeals shall be made part of the  
25                  record and shall be taken into consideration by the Board of Appeals.

### 26                  (3) Administrative Appeals

27                  When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board  
28                  of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider  
29                  new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the  
30                  Board of Appeals shall hear and decide the matter afresh, undertaking its own independent  
31                  analysis of evidence and the law, and reaching its own decision.

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1           When the Board of Appeals hears a decision of the Planning Board, it shall hold an  
2 appellate hearing, and may reverse the decision of the Planning Board only upon finding that  
3 the decision was contrary to specific provisions of the Ordinance or contrary to the facts  
4 presented to the Planning Board. The Board of Appeals may only review the record of the  
5 proceedings before the Planning Board. The Board Appeals shall not receive or consider  
6 any evidence which was not presented to the Planning Board, but the Board of Appeals may  
7 receive and consider written or oral arguments. If the Board of Appeals determines that the  
8 record of the Planning Board proceedings are inadequate, the Board of Appeals may  
9 remand the matter to the Planning Board for additional fact finding.

### 10           (4) Appeal Procedure

#### 11           (a) Making an Appeal

- 12           (i) An administrative or variance appeal may be taken to the Board of Appeals by an  
13 aggrieved party from any decision of the Code Enforcement Officer or the Planning  
14 Board, except for enforcement-related matters as described in Section 16(H)(1)(a)  
15 above. Such an appeal shall be taken within thirty (30) days of the date of the  
16 official, written decision appealed from, and not otherwise, except that the Board,  
17 upon a showing of good cause, may waive the thirty (30) day requirement.
- 18           (ii) Applications for appeals shall be made by filing with the Board of Appeals a  
19 written notice of appeal which includes:
- 20           a. A concise written statement indicating what relief is requested and why the  
21 appeal or variance should be granted.
- 22           b. A sketch drawn to scale showing lot lines, location of existing buildings and  
23 structures and other physical features of the lot pertinent to the relief sought.
- 24           (iii) Upon receiving an application for an administrative appeal or a variance, the Code  
25 Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board  
26 of Appeals all of the papers constituting the record of the decision appealed from.
- 27           (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a  
28 request for a variance within thirty five (35) days of its receipt of a complete  
29 written application, unless this time period is extended by the parties.

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1 (b) Decision by Board of Appeals

2 (i) A majority of the full voting membership of the Board shall constitute a  
3 quorum for the purpose of deciding an appeal.

4 (ii) The person filing the appeal shall have the burden of proof.

5 (iii) The Board shall decide all administrative appeals and variance appeals within  
6 thirty five (35) days after the close of the hearing, and shall issue a written  
7 decision on all appeals.

8 (iv) The Board of Appeals shall state the reasons and basis for its decision,  
9 including a statement of the facts found and conclusions reached by the Board.  
10 The Board shall cause written notice of its decision to be mailed or hand-  
11 delivered to the applicant and to the Department of Environmental Protection  
12 within seven (7) days of the Board's decision. Copies of written decisions of  
13 the Board of Appeals shall be given to the Planning Board, Code Enforcement  
14 Officer, and the municipal officers.

15 (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. Section 2691(3)(F), any  
16 aggrieved party who participated as a party during the proceedings before the Board of  
17 Appeals may take an appeal to Superior Court in accordance with State laws within forty-  
18 five (45) days from the date of any decision of the Board of Appeals.

19 (6) Reconsideration. In accordance with 30-A M.R.S.A. Section 2691(3)(F), the Board of  
20 Appeals may reconsider any decision within forty five (45) days of its prior decision. A  
21 request to the Board to reconsider a decision must be filed within ten (10) days of the  
22 decision that is being reconsidered. A vote to reconsider and the action taken on that  
23 reconsideration must occur and be completed within forty five (45) days of the date of the  
24 vote on the original decision. Reconsideration of a decision shall require a positive vote of  
25 the majority of the Board members originally voting on the decision, and proper notification  
26 to the landowner, petitioner, planning board, code enforcement officer, and other parties  
27 of interest, including abutters and those who testified at the original hearing(s). The Board  
28 may conduct additional hearings and receive additional evidence and testimony.

29 Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days  
30 after the decision on reconsideration.

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### 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 the municipal officers 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 complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality 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 Municipal Officers, 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 municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. Section 4452.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

### 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 greenhouse 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 four and one half (4½) feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty (50) percent of its 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.

Bureau – State of Maine Department of Conservation’s Bureau of Forestry

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

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

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.

DBH – the diameter of a standing tree measured four and one half (4½) feet from ground level.



## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 Development – a change in land use involving alteration of the land, water or vegetation, or the  
2 addition or alteration of structures or other construction not naturally occurring.

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

5 Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental  
6 condition caused by bodily injury, accident, disease, birth defect, environmental conditions or  
7 illness; and also includes the physical or mental condition of a person which constitutes a  
8 substantial handicap as determined by a physician or in the case of mental handicap, by a  
9 psychiatrist or psychologist, as well as any other health or sensory impairment which requires  
10 special education, vocational rehabilitation or related services.

11 Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-  
12 family dwellings or one two-family dwelling, or less.

13 Emergency operations - operations conducted for the public health, safety or general welfare, such  
14 as protection of resources from immediate destruction or loss, law enforcement, and operations  
15 to rescue human beings, property and livestock from the threat of destruction or injury.

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

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

25 Expansion of use - the addition of one or more months to a use's operating season; or the use of  
26 more floor area or ground area devoted to a particular use.

27 Family - one or more persons occupying a premises and living as a single housekeeping unit.

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

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

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters  
2 tall (approximately twenty (20) feet) or taller.

3 Foundation - the supporting substructure of a building or other structure, excluding wooden sills  
4 and post supports, but including basements, slabs, frost walls, or other base consisting of  
5 concrete, block, brick or similar material.

6 Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested  
7 wetlands, which are:

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

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

16 Functionally water-dependent uses - those uses that require, for their primary purpose, location  
17 on submerged lands or that require direct access to, or location in, inland waters and that can not  
18 be located away from these waters. The uses include, but are not limited to commercial and  
19 recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and  
20 shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock  
21 and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and  
22 channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring  
23 large volumes of cooling or processing water that cannot reasonably be located or operated at  
24 an inland site, and uses that primarily provide general public access to inland waters.

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

29 Ground cover - small plants, fallen leaves, needles and twigs, and the partially decayed organic  
30 matter of the forest floor.

31 Height of a structure - the vertical distance between the mean original (prior to construction)  
32 grade at the downhill side of the structure and the highest point of the structure, excluding  
33 chimneys, steeples, antennas, and similar appurtenances that have no floor area.

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

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

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

18 Individual private campsite - an area of land which is not associated with a campground, but  
19 which is developed for repeated camping by only one group not to exceed ten (10) individuals  
20 and which involves site improvements which may include but not be limited to a gravel pad,  
21 parking area, fire place, or tent platform.

22 Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of  
23 goods, or the extraction of minerals.

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

27 Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

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

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

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 Market value - the estimated price a property will bring in the open market and under prevailing  
2 market conditions in a sale between a willing seller and a willing buyer, both conversant with the  
property and with prevailing general price levels.

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

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

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

12 Multi-unit residential - a residential structure containing three (3) or more residential dwelling  
13 units.

14 Native – indigenous to the local forests.

15 Non-conforming condition – non-conforming lot, structure or use which is allowed solely because  
16 it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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

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

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

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 Normal high-water line - that line which is apparent from visible markings, changes in the  
2 character of soils due to prolonged action of the water or changes in vegetation, and which  
3 distinguishes between predominantly aquatic and predominantly terrestrial land. Areas  
4 contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric  
5 soils and that are at the same or lower elevation as the water level of the river or great pond  
6 during the period of normal high-water are considered part of the river or great pond.

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

9 Piers, docks, wharves, bridges and other structures and uses extending over or below the normal  
10 high-water line or within a wetland.

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

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

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

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

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

22 Recent floodplain soils - the following soil series as described and identified by the National  
23 Cooperative Soil Survey:

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

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

## **Shoreland Zoning Ordinance for the Municipality of Canaan, Maine**

1     Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed  
2     for temporary sleeping or living quarters for one or more persons, and which may include a pick-  
3     up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered  
4     as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be  
5     registered with the State Division of Motor Vehicles.

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

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

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

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

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

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

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

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

## **Shoreland Zoning Ordinance for the Municipality of Canaan, Maine**

1        Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight  
2        line between the intersections of the lot lines with the shoreline.

3        Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal  
4        distance, of the normal high-water line of any great pond or river; within two hundred fifty (250)  
5        feet of the upland edge of a freshwater wetland; or within seventy five (75) feet, horizontal  
6        distance, of the normal high-water line of a stream.

7        Shoreline – the normal high-water line, or upland edge of a wetland.

8        Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two  
9        (2) perennial streams as depicted on the most recent edition of a United States Geological Survey  
10       7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the  
11       point where the body of water becomes a river or flows to another water body or wetland within  
12       the shoreland area.

13       Structure - anything built for the support, shelter or enclosure of persons, animals, goods or  
14       property of any kind, together with anything constructed or erected with a fixed location on or  
15       in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally  
16       associated with service drops as well as guying and guy anchors. The term includes structures  
17       temporarily or permanently located, such as decks, patios, and satellite dishes.

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

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

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

## Shoreland Zoning Ordinance for the Municipality of Canaan, Maine

1 Tributary stream— means a channel between defined banks created by the action of surface water,  
2 which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of  
3 topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which  
4 is connected hydrologically with other water bodies. “Tributary stream” does not include rills or  
5 gullies forming because of accelerated erosion in disturbed soils where the natural vegetation  
6 cover has been removed by human activity.

7 This definition does not include the term "stream" as defined elsewhere in this Ordinance, and  
8 only applies to that portion of the tributary stream located within the shoreland zone of the  
9 receiving water body or wetland.

10 Upland edge of a wetland - the boundary between upland and wetland. For purposes of a  
11 freshwater wetland, the upland edge is formed where the soils are not saturated for a duration  
12 sufficient to support wetland vegetation; or where the soils support the growth of wetland  
13 vegetation, but such vegetation is dominated by woody stems that are six (6) meters  
14 (approximately twenty (20) foot) tall or taller.

15 Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over  
16 and under four (4) inches in diameter, measured at four and one half (4½) feet above ground  
17 level.

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

20 Water body - any great pond, river or stream.

21 Water crossing - any project extending from one bank to the opposite bank of a river, stream,  
22 tributary stream, or wetland whether under, through, or over the water or wetland. Such projects  
23 include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and  
24 cables as well as maintenance work on these crossings. This definition includes crossings for  
25 timber harvesting equipment and related activities.

26 Wetland - a freshwater wetland.

27 Woody Vegetation - live trees or woody, non-herbaceous shrubs.  
28  
29