ZONING ORDINANCE

CASCO, MAINE

June 11, 2003
Amended June 10, 2009
Amended June 12, 2013

TABLE OF CONTENTS

ARTICLE 1
PREAMBLE

1.1 Authority 1

1.2 Title 1

1.3 Purpose 1

1.4 Jurisdiction 1

1.5 Conflict with other ordinances 1

1.6 Separability 1

1.7 Effective date 1

ARTICLE 2
DEFINITIONS

Definitions 2

ARTICLE 3
GENERAL PROVISIONS

3.1 General restrictions 28

3.2 Nonconformance 28
- 3.2.1 General provisions 28
- 3.2.2 Nonconforming uses 28
- 3.2.3 Nonconforming structures 30
- 3.2.4 *Deleted* 31
- 3.2.5 Nonconforming lots of record 31

3.3 Changes and amendments 31
- 3.3.1 Procedures 31
- 3.3.2 Contract zoning 32
  - A. Authority 32
  - B. Purpose 32

C. Procedure 33
D. Administration 37

ARTICLE 4
ZONING DISTRICTS

4.1 Establishment of districts 39

4.2 Official zoning map 39

4.3 Zoning district boundaries 40

4.4 District standards 40
4.4.1 Village District (V) 40
4.4.2 Residential District (R) 43
4.4.3 Commercial District (C) 45
4.4.4 Streams and Wetlands Protection District (SW) 49
4.4.5 Manufactured Housing Park District (MHP) 50
4.4.6 Aquifer Protection Overlay District (AP) 51
4.4.7 Resort Commercial Overlay District (RC) 53

ARTICLE 5
PERFORMANCE STANDARDS

5.1 *Deleted* 55

5.2 Townwide Standards 55
5.2.1 Accessory buildings 55
5.2.2 Access to property 55
5.2.3 Agriculture 56
5.2.4 Animal husbandry 56
5.2.5 Buffer zones 57
5.2.6 Campgrounds 57
5.2.7 Corner clearance 58
5.2.8 Erosion and sedimentation control 58
5.2.9 Home occupations (1/9/93) 59
5.2.10 Junk yards 61
5.2.11 Light industrial use 61
5.2.12 Manufactured housing 61
5.2.13 Manufactured housing parks 62
5.2.14 Mineral exploration, excavation, removal and filling of lands 63
5.2.15 Net residential area 65

5.2.16 Nuclear facilities 67
5.2.17 Off-street loading 67
5.2.18 Off-street parking 67
5.2.19 Open space 69
5.2.20 Planned residential development 70
5.2.21 Road construction 7
5.2.22 Ruins 74
5.2.23 Sanitary provisions 75
5.2.24 Signs 75
5.2.25 Steep slopes 81
5.2.26 Soils 81
5.2.27 Temporary activity 81
5.2.28 Temporary structures 82
5.2.29 Water quality protection 82
5.2.30 Chimney regulations 83

ARTICLE 6
ADMINISTRATION

6.1 Administration of permits 84
6.1.1. Building permit 84
6.1.2. Application for building permit 84
6.1.3. Certificate of occupancy 85
6.1.4. *Deleted* 85
6.1.5. Fee schedule 85

6.2 Enforcement 85
6.2.1. Code enforcement officer 85
6.2.2. Legal action and violation 86
6.2.3. Fines 86

6.3 Zoning board of appeals 86
6.3.1. Appointment and composition 86
6.3.2. Powers and duties 86
6.3.3. Conditions attached to appeals 89
6.3.4. Meetings 89
6.3.5. Appeal procedure 89

6.4 Performance guarantees 91

ARTICLE 7
SITE PLAN REVIEW

7.1 Purpose....94
7.2 Applicability....94
7.3 Administration....95
7.4 Submission requirements....97
7.5 Criteria and standards....99
7.6 Time Limit for Construction or Change of Use....102

ARTICLE 8
WIRELESS TELECOMMUNICATIONS FACILITIES SITING ARTICLE

8.1 Title....103
8.2 Authority....103
8.3 Purpose....103
8.4 Applicability....104
8.4.1 Exemptions....104
8.5 Conflict and severability....104
8.6 Definitions....105
8.7 Review and approval authority....107
8.8 Approval process....108
8.8.1 Requirements for tower....109
8.8.2 Planning board review....114
8.9 Performance standards....117
8.10 Additional standards & criteria....120
8.11 Alterations to existing facilities....121
8.12 Building permit requirements....124
8.13 Inspections....125
8.14 Removal of abandoned wireless communication facilities....125
8.15 Waiver provision....126
8.16 Appeals....126
8.17 Effective date....127

ARTICLE 9
SHORELAND ZONING

9.1 Purposes....128
9.2 Authority....128
9.3 Shoreland Districts and Zoning Map....128
9.3.1 Shoreland Districts....128
9.3.2 Official Shoreland Zoning Map....128
9.3.3 Scale of Map....128

9.3.4 Certification of Official Shoreland Zoning Map 128
9.3.5 Changes to the Official Shoreland Zoning Map 129
9.4 Interpretation of District Boundaries 129
9.5 Applicability 129
9.6 Effective Date 129
9.6.1 Effective Date 129
9.6.2 Sections 9.13.14 and 9.13.14-1 129
9.7 Availability 130
9.8 Severability 130
9.9 Conflicts with Other Articles 130
9.10 Amendments 130
9.11 Land Use Requirements 130
9.12 Non-conformance 130
9.12.1 Purpose 130
9.12.2 General 131
9.12.3 Non-conforming Structures 131
9.12.4 Non-conforming Uses 134
9.12.5 Non-conforming Lots 134
9.13 Land Use Standards 135
9.13.1 Minimum Lot Standards 135
9.13.2 Principal and Accessory Structures 136
9.13.3 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water body or Within a Wetland 137
9.13.4 Campgrounds 138
9.13.5 Individual Private Campsites 138
9.13.6 Commercial and Industrial Uses 139
9.13.7 Parking Areas 140
9.13.8 Roads and Driveways 140
9.13.9 Signs 142
9.13.10 Storm Water Runoff 143
9.13.11 Septic Waste Disposal 143
9.13.12 Essential Services 144
9.13.13 Agriculture 144
9.13.14 Timber Harvesting 145
9.13.14-1 Timber Harvesting – Statewide Standards 147
9.13.15 Clearing or Removal of Vegetation for Activities Other than Timber Harvesting 156
9.13.16 Erosion and Sedimentation Control 159
9.13.17 Soils 160
9.13.18 Water Quality 160
9.13.19 Archaeological Site 160
9.13.20 Beach Construction 160
9.13.21 Shorefront Common Areas 161
9.14 Administration 161
9.14.1 Administering Bodies and Agents 161

9.14.2 Permits Required....161
9.14.3 Permit Application....162
9.14.4 Procedure for Administering Permits....162
9.14.5 Expiration of Permit....164
9.14.6 Installation of Public Utility Service....164
9.14.7 Appeals....164
9.14.8 Enforcement....167
9.15 Establishment of Districts....169
9.15.1 Resource Protection District (RP)....169
9.15.2 Limited Residential/Recreational District (LRR)....170
9.15.3 Limited Commercial/Residential District (LCR)....171
9.15.4 Stream Protection District (SP)....172
9.15.5 Watershed District (WS)....173
Table 1:Shoreland Use Table....174

INDEX....178

ARTICLE 1
PREAMBLE

1.1 AUTHORITY

This Ordinance has been prepared in accordance with the provisions of the Revised Statutes of Maine, as amended.

1.2 TITLE

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Casco, Maine."

1.3 PURPOSE

The purpose of this Ordinance, made as part of a Comprehensive Plan for the development of the Town and for the promotion of the health, safety and general welfare of its residents, is to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to regulate the location, density, and rate of development so that the rural environment is retained in appropriate locations; to conserve natural resources; and to provide for adequate public services.

1.4 JURISDICTION

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Casco, Maine.

1.5 CONFLICT WITH OTHER ORDINANCES

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

1.6 SEPARABILITY

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

1.7 EFFECTIVE DATE

The effective date of this Ordinance is June 10, 2009 as amended.

ARTICLE 2
DEFINITIONS

Word Usage

In this Ordinance, certain terms or words shall be interpreted as follows: the singular may be taken for the plural and the plural for the singular; "person" may include an association, a partnership, a corporation or other entity; the present tense includes the future; the word "building" includes the word "structure"; the word "lot" includes the word plot; and the word "shall" is mandatory.

In case of any difference in meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. Terms not defined shall have their customary meaning. For the purpose of this Ordinance and the Casco Subdivision Ordinance, the terms and words listed below shall be specifically interpreted or defined as follows:

Abutter - The owner of a property sharing a common boundary with or within 500 feet of a given piece of property, whether or not these properties are separated by a public or private way. For the purposes of this Ordinance, the owners of properties shall be considered to be parties listed by the Tax Assessor of Casco as the ones against whom taxes are assessed.

Accessory Use or Structure - 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. Where an accessory building is attached in a substantial manner by a wall to a principal building or structure, it shall be considered a part of said principal structure or building. Accessory structures shall conform to the dimensional standards of each district.

Activity - The specific use or uses to which premises are put.

Affordable Housing - Decent, safe living accommodations that are affordable to lower income households and moderate income households, in accordance with provisions as determined by Chapter 100 of the Department of Economic and Community Development Rules.

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

Agriculture - The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental

and green house products excluding private gardens less than 1/2 acre. Agriculture does not include forest management and timber harvesting activities.

Animal Husbandry - Boarding, raising, breeding or keeping of animals, fish or fowl for commercial purposes including without limitation swine, poultry, cattle and horses.

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

Aquifer - A geologic unit composed of sand and gravel, which unit contains sufficient saturated permeable materials to conduct groundwater and also yield economically significant quantities of groundwater to wells and springs. For the purposes of this Ordinance, the Aquifer Protection District shall include aquifers with flow rates of ten (10) gallons or more per minute as demarked on the Casco Official Zoning Map, using Maine Geologic Survey Sand and Gravel Aquifer Map #12.

Arterial Street/Road - For the purpose of this Ordinance, Route 302, Route 121, Route 11, Route 85, State Park Road, Quaker Ridge Road, Leach Hill Road, Mayberry Hill Road and Heath Road.

Barn - A structure designed for the housing of animals and storage of feed crops.

Basal Area - The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Base Flood - Means the flood having a one (1) percent chance of being equaled or exceeded in any given year, alternately referred to as the 100-year floodplain.

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

Bed and Breakfast Establishments - A single-family dwelling in which the resident(s) of the dwelling provide(s) short-term overnight lodging to paying guests in a maximum of seven (7) guestrooms located within the dwelling or permitted attached structures. Breakfast shall be the only meal served and shall be limited to overnight guests. A bed and breakfast with three (3) guest rooms or less shall be considered a home occupation accessory to principal use of the dwelling and shall be allowed under the standards applicable to home occupations.

Beach Construction - Dredging or removing materials from below the normal high water mark of a pond; constructing or repairing any permanent structure below the normal high water mark of a pond; or depositing any dredged spoil or fill below the normal high water mark of a pond or on the land adjacent thereto in such a manner that the material may fall or be washed into the pond, or bulldozing or scraping on land adjacent to a pond in such a manner that the material or soil may fall or be washed into the pond.

Billboard - A structure, either freestanding or attached to a building, the surface of which is available for hire for advertising purposes.

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.

Buildable Land - Land that in its natural state is suitable for development. For the purposes of this Ordinance, land treated as 100 percent deductions for the net residential area calculation shall be considered unbuildable land. Other lands shall be considered buildable.

Building - Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattel or property. For the purposes of determining exterior measurements or footprints in order to locate the setback line, buildings shall include all attached structures such as open or closed porches, car-ports, garages, balconies, roof overhangs, stairways and other similar structures.

Building Coverage - That percentage of the lot that is covered by buildings.

Building Front Line - A line parallel to the front line transecting that point of the building which is closest to the front lot line.

Bureau - State of Maine Department of Conservation's Bureau of Forestry.

Business and Professional Office - A building in which there are located the offices of one or more professional businesses including but not limited to banks, insurance offices, realtors, law and medical offices, barber shops and beauty salons.

Campground - A Nonresidential Use of a parcel of land for temporary overnight use by tents and recreational vehicles for which a use fee is charged. Campgrounds may be open for business and sites occupied from May l to November l. Tents and recreational vehicles may not have any permanent utility hookups such as but not limited to electricity, water, sewer, telephone, or cable television; but campground ownership may provide said utility hook-ups and any campground shall be required to provide water and adequate septic disposal. This use shall be subject to Use Standards.

Canopy - The more or less continuous cover formed by tree crowns in a wooded area.

Cemetery - A burial ground maintained by the town or other public or non-profit body or private individual.

Central Sewage System - A wastewater disposal system that receives wastewater from two or more structures. The system may have a private sewer collection system flowing into a common septic tank, or it may utilize individual septic tanks. The wastewater, after receiving primary

treatment in the septic tank or tanks, may be pumped or gravity-fed to a single subsurface disposal field or several fields on a common land area.

Church - A building or structure, or groups of buildings and structures which, by design and construction, are primarily intended for the conducting of organized religious services, and accessory uses associated with the mission of the institution. Accessory uses include, but are not limited to meeting halls, classrooms, and kitchens. The church proper, and accessory buildings shall comply with maximum building heights. The church proper may include a steeple, or spire, or bell tower. That steeple, spire, or bell tower, may exceed the height standards with Planning Board approval.

Clearcut Land - Land in which more than eighty (80) percent of the volume in trees over six (6) inches DBH is cut down within any ten (10)-year period, unless the Planning Board, after consultation with the Conservation Commission, has issued a permit approving clearcutting for the purposes of land conservation, public safety or utility construction.

Code Enforcement Officer - A person appointed by the Board of Selectmen to administer and enforce this Ordinance.

Commercial Recreation: Indoor - Any recreational use in which the primary use is within a structure, such as a bowling alley, roller or ice skating rink, swimming pools, tennis courts, movie theaters or arcades, operated primarily for profit.

Commercial Recreation: Outdoor - Any outdoor recreational use such as, but not limited to, golf courses, tennis courts, riding stables, swimming pools or ice skating rinks, operated primarily for profit, but not including campgrounds, race tracks, amusement parks and mechanical or motorized rides.

Commercial Sales and Service: Indoor - A business in which the principal use is the sale of goods and/or services in large quantities either to the general public or to other businesses. Indoor storage of goods or equipment is permitted as an accessory use. Outdoor storage is prohibited.

Commercial Sales and Service: Outdoor - Commercial sales and service which permits both indoor and outdoor storage as principal uses.

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.

Common Borrow - Sand, silt, clay and/or gravel that is borrowed to be used for fill.

Community Living Use - A state-authorized, certified or licensed group home for eight (8) or

more developmentally disabled persons. Procedures and standards for permitting these uses are described in M.R.S.A. Title 30, Section 4962A.

Conforming Use - A use of buildings, structures, or land which complies with all applicable provisions of this Ordinance.

Construction Services - The performance of work or the furnishing of supplies to members of the building trades, such as but not limited to plumbing, painting, building, well drilling, carpentry, masonry, or electrical installation, which requires the storage of materials and/or the location of commercial vehicles at the site.

Convenience Store - A retail establishment that accommodates neighborhood needs for groceries and sundries and that may sell, as accessory uses, prepared food for carry-out.

Critical Edge - All areas within 130 feet of the normal high water mark of lakes, ponds, streams, brooks, and other wetlands or waterbodies.

Cross-sectional area - The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

Day Care Center - An establishment, including a private residence, where four (4) or more unrelated persons are cared for in return for compensation. May include, but not limited to any of the following: Nursery, Pre-school, Day-Care Home Licensed, DayCare Center.

DBH - A tree's diameter 4 feet, 6 inches from the ground.

Deck - An uncovered structure with a floor, elevated above ground level, or a patio at ground level if a concrete slab or below-grade foundation is utilized. A deck is a structure for the purpose of this Ordinance.

Development - Any human-produced change to real estate including but not limited to building, mining, dredging, filling, grading, paving, excavating, or drilling.

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

Disability - Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a

substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Distribution Facility - A facility specializing in the shipping and receiving of goods and articles, which may include associated assembling, finishing and packaging.

District - A section or sections of the Town of Casco for which regulations governing the use of buildings and premises, the size of lots and setbacks and intensity of use are uniform.

Drive-Through - An accessory use which by design, physical facilities, services or by packaging materials, encourages customers to receive services or obtain goods while remaining in their vehicles.

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

Dwelling - A building designed to be used as living quarters.

Dwelling, Attached - A dwelling with two or more party walls, or one party wall in the case of a dwelling at the end of a group of attached buildings.

Dwelling, Detached - A dwelling which is designed to be and is substantially separate from another building or buildings except for accessory buildings.

Dwelling, Duplex - An attached residential dwelling, including manufactured housing, containing exactly two (2) units, with each unit having independent outside access.

Dwelling, Multiplex - An attached dwelling, including manufactured housing, containing three (3) or more residential dwelling units, with all units having independent outside access. No more than six (6) units may be attached in a group.

Dwelling, Single-Family - A residential dwelling, including a manufactured housing unit, designed and/or used exclusively for residential purposes for one (1) family and containing not more than one (1) dwelling unit.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

This term shall not include hotels, motels, bed and breakfast establishments, recreational vehicles or other temporary trailers.

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

Engineered Subsurface Waste Disposal System - A system or combination of individually or jointly owned systems which serve a single building or group of associated buildings with a total design flow in excess of 2,000 gallons per day. Examples include condominium projects and clustered systems serving residential dwellings. Residential dwellings with individual systems shall not be included in this definition.

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

Excavation - Any removal of earth from its original position.

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

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

Family - One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage; but no unrelated group shall consist of any more than eight (8) persons.

Filling - Depositing or dumping any material of fifty (50) cubic yards or more in volume on or into the ground or water.

Fire Wall - A wall of non-combustible construction, capable of resisting the spread of fire.

Flood Plain - The lands adjacent to a body of water which have been or may be covered by the base flood.

Floodway - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water

surface elevation by more than one foot in height.

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

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

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

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

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

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

1. of ten or more continuous acres; or of less than l0 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of l0 acres; and

2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Frontage, Road - The lot line abutting a road and ordinarily regarded as the front of the lot. On any lot bounded on more than one property line by a road, the road frontage shall be that property line of the lot designated as "road frontage" in any building permit application for such lot. Road frontage may be lowered by the Planning Board to fifty (50) percent of the minimum frontage required if the lot fronts on a cul-de-sac, provided that in no case road frontage for a lot is less than seventy-five (75) feet.

Frontage, Shore - The horizontal distance, measured as a straight line, between the intersection of the side lot lines with the shoreline at the normal high water mark elevation.

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

Garden - A tract of land 1/2 acre or less used for the growing of plants.

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

Great Pond Classified GPA - Any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground Cover – Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Ground Sign - An outdoor sign that is directly and permanently supported, and physically separated from other structures.

Groundwater - All the water found beneath the surface of the ground. For the purposes of aquifer protection, this term refers to the slowly moving subsurface water present in aquifers and recharge areas.

Hazardous Material - Material which may pose a present or potential hazard to human health or the environment when improperly stored, transported or disposed of, or otherwise managed, including without exception hazardous wastes identified and listed in accordance with Section 3001 of the Resource Recovery Act of 1976 and subsequent regulations promulgated by the Federal Register.

Harvest Area - The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a Structure - The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Home Occupation - An occupational or professional use that: l.) is conducted within a dwelling, or accessory structure to a dwelling, or upon the property on which the dwelling or accessory structure is located; 2.) is customarily incidental, secondary, and accessory to the residential use of the dwelling, accessory structure or property; 3.) which employs no more than two (2) persons other than family members residing in the home; and 4.) does not change the character thereof.

Hospital - An institution providing but not limited to overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central services, and staff offices.

Hotel - A facility which is not a Bed and Breakfast Establishment as defined herein, in which lodging is offered to transient guests for compensation with no cooking facilities in individual rooms or suites. Where a permitted use, hotels shall meet the minimum lot size for the district, plus 10,000 square feet for each lodging unit. Hotels may provide additional services such as restaurants, public assembly and/or recreational facilities.

Impervious Surface - Structures and other man-made improvements to land, and materials covering the land, which substantially reduce the infiltration of water. Impervious surfaces shall include but not be limited to roofs, paved areas, and parking lots and driveways, regardless of surface materials.

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

Individual Private Campsite - An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (l0) individuals and which involves site improvements which may include but not be limited to gravel pads,

parking areas, fire places, or tent platforms.

Industrial - see **Light Industrial Use.**

Inland Wetlands - Areas enclosed by the normal high water mark of inland waters, and areas otherwise identified on the basis of soils, vegetation and other criteria as inland wetlands, including but not limited to swamps, marshes and bogs.

Wetlands regulated under this Ordinance shall fall within two categories. Areas enclosed by the normal high water marks of ponds or rivers as defined herein shall be considered wetlands. These wetlands and areas within 250 feet, horizontal distance, of the normal high water mark of such ponds and rivers shall be considered part of the Shoreland District. (Areas below the normal high water mark of such ponds and rivers shall be considered part of the Resource Protection District.)

Areas enclosed by the normal high water mark of waterbodies not included as part of the Shoreland District shall also be considered wetlands. These wetlands and areas within 130 feet, horizontal distance, of the normal high water mark of these wetlands shall be considered part of the Streams and Wetland District - The Shoreland District and Streams and Wetland District shall be identified on the official Zoning Map; however, the exact location and extent of wetlands and their accompanying districts shall be determined by applying the definition of normal high water mark to individual sites.

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

Junkyard -

a. A yard, field or other area used as a place of storage for three or more unserviceable, discarded, worn-out or junked motor vehicles.

b. Any area, lot, land, parcel, building or structure or part thereof used for the temporary storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery and their related recycling operations. Bottle redemption facilities are not included in this definition. Junkyards must conform to minimum state standards and to the performance standards herein.

Kennel - Any place, building, tract of land, abode, enclosure, or vehicle where three (3) or more dogs or six (6) or more cats, owned singly or jointly, are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one or more dogs or other pets are kept for their owners in return for a fee. This definition shall not apply to dogs or cats under the age of six months.

Land Management Road - A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Landscaped Buffer - A designated green area required within specified setback areas that includes a ground cover of bark mulch, grass or other natural green plant material which is then planted with trees or shrubs for all or part of its area. Landscaped buffers of crushed rock materials such as concrete and asphalt and green paint are not acceptable materials for use in landscaping. Landscaped buffers shall be maintained by the property owner(s) or their representative(s).

Leachable Materials - Materials including but not limited to solid wastes, sludges, industrial wastes, and agricultural wastes capable of releasing contaminants to the surrounding environment.

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

Light Industrial Use - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods that meets the standards contained herein.

Lodging Unit - A room or suite designed to accommodate transient guests/uses.

Lot - A parcel of land having distinct and defined boundaries and described in a deed, plan or similar legal document. Lands on opposite sides of a public way shall be considered separate lots.

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

Lot Lines - The lines bounding a lot.

Lot Line, Front - The line separating the lot from a road. On any lot bounded on more than one property line by a road, the front lot line shall be that property line of the lot designated as "road frontage" in any building permit application for such lot.

Lot Line, Rear - The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be a line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line.

Lot Line, Side - Any lot line other than the front lot line or rear lot line.

Lot Depth - The horizontal difference from the street line of the lot to its opposite rear line.

Lot of Record - A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Registry of Deeds.

Lot Width - The horizontal distance between the side lines of a lot measured at right angles to its depth parallel to the front lot line at the minimum required front setback.

Manufacturing/Processing - The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

Manufactured Housing Unit - (1) A mobile home constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development Standards, or (2) a Modular Home constructed after January 1, 1984, which the manufacturer certifies is constructed in compliance with the State of Maine's Manufactured Housing Act. Manufactured housing units must be designed for long-term, year-round occupancy and contain sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances, with plumbing and electrical connections provided for attachment to outside systems.

Manufactured Housing Units as defined must also meet the Manufactured Housing Performance Standards herein.

A mobile home that does not meet this definition but which was lawfully in use as a dwelling unit in the Town of Casco on the date of the adoption of this Ordinance shall be permitted to continue on its respective site or lot.

Manufactured Housing Park - A contiguous parcel of land plotted for the development of manufactured housing that meets the standards of the Manufactured Housing Park District and conforms to the Manufactured Housing Park Performance Standards.

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

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

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

Mineral Extraction - Excavation for the purpose of removal of earth products, including, but not limited to, sand, gravel, clay, topsoil/loam, common borrow, and rock minerals.

Mineral Processing - An operation, or set of operations, that changes the characteristics, composition, state, shape or form of earth products, including sand, gravel, clay, topsoil, common borrow, and rock minerals. (Added 6/21/97)

Minimum Lot Width - The closest distance between the side lot lines of a lot, as established in the respective Districts. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Mobile Home - A residential unit that is constructed in a manufacturing facility and then transported to a site on a permanent chassis. Only mobile homes constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development Standards, shall be considered Manufactured Housing for the purposes of this Ordinance.

Modular Home or Modular Housing Unit - A residential dwelling unit designed for transportation, after fabrication, to the site where it is to be occupied, as two or more component parts which must be assembled into a livable dwelling unit on site. No component part of the Modular Housing Unit shall be considered a complete dwelling unit. A modular home constructed after 1/1/84 which the manufacturer certifies is constructed in compliance with the State of Maine's Manufactured Housing Act shall be considered Manufactured Housing for the purposes of this Ordinance.

Motel - A building or group of buildings containing rooms which are rented as sleeping units for transient guests and automobile travelers, each sleeping unit consisting of at least a bedroom and a bathroom, with no cooking facilities in individual rooms or suites. Where a permitted use, motels shall meet the minimum lot size for the district, plus 10,000 square feet for each lodging unit.

Motor Vehicle Repair Garage - A business establishment where motor vehicles and/or their related parts are repaired, reconditioned, painted or rebuilt. The following services may be carried out: general repair, engine rebuilding, parts replacement, rebuilding or reconditioning of motor vehicles, collision services such as body, frame or fender straightening and repair, overall painting and undercoating, and mechanized washing of automobiles.

Motor Vehicle Sales - The use of any building, land area, or other premise for the display and sale of new or used automobiles, trucks, vans, trailers or recreational vehicles.

Motor Vehicle Service Station - A place where gasoline, or any other vehicular engine fuel, or lubricant, is retailed directly to the public on the premises; including the sale of minor accessories, and such work as tune-ups and minor mechanical repairs, but not including the

storage of unlicensed motor vehicles, or the repair of body, frame or fenders.

Multiple Commercial Structures - The siting of two or more principal commercial structures on a single lot or land parcel in the Commercial District, providing that lot or parcel has a minimum of eighty-thousand (80,000) square feet.

Multiple Use - The use, in a Commercial District, of a single land parcel or single structure for two or more purposes, providing the lot, or parcel, has a minimum of eighty-thousand (80,000) square feet.

Multi-Unit Residential - A residential structure containing three (3) or more residential dwelling units.

Municipal Facility - A facility that is open to the public, owned by the municipality and operated under its direct supervision, including but not limited to schools, libraries, offices, and garages.

Native - Indigenous to the local forests.

Net Residential Area - The net area of a parcel or site that is generally suitable, in its natural state, for residential development. The net residential area shall be determined by subtracting unsuitable or marginal areas from the gross area of the parcel. Reference Section 5.2.15 – Net Residential Area for applicability.

Net Residential Density - The number of dwelling units allowed per net residential area.

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

Nonconforming Lot of Record - A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district(s) in which it is located.

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

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

Normal High-water Line - That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which

distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Nursing Home - An institution that provides nursing or convalescent care for consideration to chronic or convalescent patients, but does not provide hospital services such as an operating room or x-ray facilities, unless incidental to the delivery of nursing or convalescent care. Where a permitted use, nursing homes shall have a density no greater than the minimum lot size for the district plus 5,000 square feet of net residential area per bed.

Open Space Use - Any area of land or water set aside, dedicated, designated or reserved in a development for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall be used for recreation, protection of natural resource areas, passive amenity or agriculture; be accessible to all residents of the development, except where used for agricultural purposes; and be accessible to the public, if accepted by a public agency. Open space shall not be occupied by nonrecreational buildings or parking, and shall not include required lot areas of dwelling units unless permitted under Planned Residential Development requirements.

Outdoor Storage - A land area where goods and materials are stored in specific outdoor locations.

Owner - Any person, firm, corporation or other legal entity which controls a parcel of land by a fee or less than fee title, or holds a valid contract or option to purchase said title.

Party Wall - A wall, in conformance with fire codes, separating multiplex units.

Permitted Use - A use specifically allowed in a zoning district.

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

Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending over or beyond the Normal High Water Line or within a Wetland:

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (l2) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (l2) consecutive months.

Planned Residential Development (PRD) - A land development project comprehensively

planned as a self-contained, integrated, unified development via site plan review, which exhibits flexibility in building siting, clustering, usable open space and the preservation of significant natural features, and which meets the Planned Residential Development performance standards herein.

Pond - Any inland body of water which has a surface area in excess of ten (10) acres, except where such body of water is man-made and in addition is completely surrounded by land held by a single owner, and except those privately owned ponds which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

Premises - One or more parcels of land which are in the same ownership and are contiguous.

Principal Structure - The structure in which the primary use is conducted.

Principal Use - The primary use to which the premises are devoted.

Private Assembly - A building which is owned and used as a meeting place for private or semi-private social organizations and clubs such as grange halls, fraternal organizations and religious institutions, in which the principal use is exclusively for members. Rental of the facilities to outside groups is clearly incidental to the principal use and shall not significantly increase the intensity of the use of the site, especially in regard to parking and traffic.

Private Way - Any way, designed for private use and maintained by a property owner or group of property owners, and which is not an accepted town road.

Prohibited Use - All uses not specifically allowed as Permitted Uses.

Public Assembly - A building which is available to the public on a nonprofit or for-profit basis. Examples include auditoriums, meeting rooms and halls available for functions.

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

Public Utilities Facilities - A facility, whether publicly or privately owned, which provides direct or indirect utility service to the public, such as but not limited to sewage and water pumping stations and treatment facilities, telephone electronic equipment structures, and major electrical power lines, pipelines or substations whose major purpose is transport through a community. Local utility transmission lines are excluded in this definition.

Public Way - Any way designed for vehicular use and maintained with public funds.

Recent Flood Plain Soils - The following soil series as described and identified by the National Cooperative Soil Survey:

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

Recharge Area - Areas composed of porous sand and gravel, or other areas that collect precipitation or surface water and carry it to aquifers.

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

Recreational Vehicle - A vehicle or vehicle attachment designed for temporary sleeping or living quarters for one or more persons, which may include a pick-up camper, travel trailer, tent trailer, camp trailer, park trailer, or motor home. In order to be considered a vehicle and not a structure, the unit must be able to be transported over the public roads, must remain with its tires on the ground, must be road worthy, and possess a valid current registration sticker from any state Division of Motor Vehicles. Recreational Vehicles must comply with the standards established by a nationally recognized society, association, or similar group that establishes standards for recreational vehicles and may not be more than forty (40) feet in length. No recreational vehicle shall be used for permanent residential purposes. Any temporary use thereof shall not be for longer than six (6) months in any calendar year. Any recreational vehicle that stays on site over l80 days in a campground shall be considered personal property.

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

Residential Care Facility - Residential housing consisting of private apartment or private room and central dining facilities and within which a supportive services program is provided to residents who are unable to live independently without assistance, yet do not require the constant supervision or intensive health care available at nursing homes or hospitals. Where a permitted use, residential care facilities shall have a density no greater than the minimum lot size for the district plus 20,000 square feet of net residential area per private apartment or private room.

Residential Dwelling Unit - *(NOTE: The language of this definition has been changed from what was adopted on June 10, 2009 at the Casco Town Meeting per Department of Environmental Protection draft conditional approval order number 61-09 dated July 14, 2009. This letter is on file at the Town Office where it is available on request to the public.)* A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles. For Shoreland Zoning, a Residential dwelling unit shall mean a room or group of rooms

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

Residual Basal Area - The average of the basal area of trees remaining on a harvested site.

Residual Stand - A stand of trees remaining in the forest following timber harvesting and related activities.

Restaurant - A commercial establishment where food and drink are prepared, served and consumed primarily within the principal building. Outdoor seating is permitted. Drive-through facilities are not included in this definition.

Retail Trade - Any business engaged primarily in the sale, rental or lease of goods and/or services individually or in small quantities to the ultimate consumer for direct consumption and/or use, and not for resale. Retail trade shall not include other commercial uses specifically defined.

Reviewing Authority. The Reviewing Authority is defined as the Code Enforcement Officer (CEO) or Planning Board. The CEO may grant permit approval under the provisions of this section, however Planning Board permit approval shall be required for any application seeking a waiver of any submission requirements or any criteria of this section which are allowed to be waived. The CEO may require that any application be reviewed for approval by the Planning Board if, in the opinion of the CEO, the staff review is unable to adequately resolve all relevant issues raised by a submitted application

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

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

Road or Street - For the purpose of this Ordinance and for determining minimum road frontage requirements, a road is considered to be: (a) any public way maintained by public authority, excluding a limited access highway; (b) a private way fifty (50) feet in width; or (c) a private way shown on a recordable plan, approved by the Planning Board. Approval of private or minimum road frontage requirements shall in no way be construed to imply acceptance by the Town of Casco for the purposes of maintenance, improvement or other Town services. For Shoreland Zoning, a road is a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

School - Includes parochial, private, public and nursery school, college, university and accessory uses; and shall include commercially operated schools of beauty culture, business, driving, music, dance and similar establishments.

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

l. in the case of electric service:
   a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

2. in the case of telephone service:
   a. the extension, regardless of length will be made by the installation of telephone wires to existing utility poles, or
   b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1000) feet in length.

Service Road - A road running roughly parallel to Routes 302, 121, 11 or 85 and serving abutting properties through limited access points.

Setback - A line that is a required minimum distance from the road right-of-way line or any other lot line that establishes the area within which principal and accessory buildings or structures must be erected or placed. Antennae shall also meet setback requirements. Where road rights-of-way cannot be determined, setbacks shall be measured from the road centerline and shall equal the minimum setback for the particular district, plus twenty-five (25) feet. In the Shoreland Zone, the setback shall be the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Setback, Front - Setback between the front lot line and front line of a building. The depth of the front setback shall be measured from the front lot line to the front line of the building.

Setback, Side - Setback between the side lot line and side line of a building. The depth of the side setback shall be measured from the side lot line to the side line of a building.

Setback, Rear - Setback between the rear lot line and rear line of a building. The depth of the rear setback shall be measured from the rear lot line to the rear line of the building.

Sewage Systems - a wastewater disposal system.

A. Central Sewage System.
   A wastewater disposal system that receives wastewater from two or more structures. The system may have a private sewer collection system flowing into a common septic tank, or

it may utilize individual septic tanks. The wastewater, after receiving primary treatment in the septic tank or tanks, may be pumped or gravity-fed to a single subsurface disposal field or several fields on a common land area.

B. Engineered Subsurface Waste Disposal System.

A system or combination of individually or jointly owned systems which servce a single building or group of associated buildings with a total design flow in excess of 2,000 gallons per day. Examples include condominium projects and clustered systems serving residential dwellings. Residential dwellings with individual systems shall not be included in this definition.

C. Private Single Family.

A wastewater disposal system that receives wastewater from one structure. The wastewater, after receiving primary treatment in the septic tank or tanks, may be pumped or gravity-fed to a single subsurface disposal field or several fields on a common land area.

D. Subsurface Sewage Disposal System.

A collection of treatment tanks(s) , disposal area(s), holding tank(s) and pond(s), surface spray system (s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of waste or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 4l4, any surface wastewater disposal system licensed under 38 MRSA Section 4l3 Subsection l-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter l3, subchapter l.

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

Shore Setback - The setback, measured horizontally, between the normal high water mark of a waterbody, and the nearest side of a building. This horizontal setback distance can be visualized as the line running between the high water mark and a point on the same plane as the high water mark that is directly below (or above) the nearest side of the building. All other dimensions or distances in this Ordinance that use the normal high water mark as a reference point shall be measured horizontally.

Shoreland Zone - The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within one hundred thirty (l30) feet of the normal high-water line of a

stream.

Shoreline - The normal high-water line, or upland edge of a wetland.

Sign - Any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Sign Area

Sign area is the area which encompasses the facing of a sign, including copy, insignia, background and borders. Where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured. A sign with a double signboard or display area shall be considered to be one sign for the purpose of this section and only one side shall be considered in computing sign area. (6/20/92)

Ground or Freestanding Sign.

An outdoor sign which is directly and permanently supported and physically separated from any other structure. (6/20/92)

Wall Sign

An outdoor sign which is attached flat to, painted on, or does not project more than four (4) inches from the wall. (6/20/92)

Projecting Sign

An outdoor sign which is attached to a wall, projects out from that wall, and clears the ground or sidewalk by at least eight (8) feet. (6/20/92)

Portable Sign.

Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels. Portable signs shall be considered temporary signs. (6/20/92)

Roof Sign

An outdoor sign which is attached flat to, painted on, or does not project more than four (4) inches from the roof. (6/17/95)

Temporary Sign

An outdoor sign that is displayed for no more than seventy-two (72) hours in any 30 day period, used as part of temporary activities or the merchandising of products. Signs displayed for longer than this period shall either be removed on order of the Code Enforcement Officer or be in conformance with provisions regarding signs in 5.2.24 of this ordinance. (6/20/92)

Skid Road or Skid Trail - A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - Tree residue left on the ground after harvesting occurs.

Sludge - Residual materials produced by water or sewage treatment processes and by septic tanks.

Solid Waste - Useless, unwanted, or discarded solid material without sufficient liquid content to be free flowing. This includes, but is not limited to rubbish, garbage, scrap metals, junk and refuse, and recyclable materials.

Stream - Channels between defined banks created by the action of surface water. Intermittent watercourses are included in this definition. Channels that are completely man-made are not included in this definition except where alteration of these channels may cause fill or a structure to fall or be washed into natural channels. For the purpose of this Ordinance, the lines shown as watercourses on the Official Zoning Map shall be considered streams, unless the Planning Board demonstrates that a stream as defined above exists at an unmapped location, or the applicant demonstrates that a stream as defined above does not exist at the mapped location. For the purposes of timber harvesting, stream shall be defined as all perennial streams shown on the USGS 7.5 Map.

Stream (Forestry Definition) For the purposes of timber harvesting, stream shall be defined as a free-flowing body of water from the outlet of a great pond or the point of confluence of 2 perennial streams as depicted by a solid blue line on the most recent edition of a United States Geological Survey 7.5-minute series topographic map or, if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area.

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of vegetation, boundary walls, fences, mailboxes, lampposts, bird houses, or similar construction. The term includes but is not limited to structures temporarily or permanently located, such as decks, satellite dishes, communications systems, pools, ponds, etc.

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

Subsurface Sewage Disposal System - A collection of treatment tanks(s) , disposal area(s), holding tank(s) and pond(s), surface spray system (s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of waste or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 4l4, any

surface wastewater disposal system licensed under 38 MRSA Section 4l3 Subsection l-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter l3, subchapter l.

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

Timber - The total volume of trees four (4) inches or more in diameter measured at 4-1/2 feet above ground level. (6/18/93)

Timber Harvesting - The cutting and removal of any one of the following amounts of timber from a lot in any one (l) calendar year, whether the primary purpose of such cutting or removal is for personal use or is for selling or processing forest products: twenty (20) or more cords, ten thousand (10,000) or more board feet, or fifty-eight (58) or more tons of chips. In the Shoreland Zone, the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article 9 Section 13.15, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.*

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Transient Use/Guest - Occupancy of a lodging accommodation for not more than three (3) weeks during any six (6)-month period.

Tributary Stream - A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Truck Facility - Any building, premises or land in or upon which a business, service or industry involving the sale, maintenance, servicing, storage or repair of commercial vehicles, including heavy machinery, is conducted or rendered as a principal use.

Upland Edge of a Wetland - The boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland

vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Use - The purpose for which land or a structure is arranged, designed or intended, or for which land or a structure is or may be occupied.

Variance - For property located in the Shoreland Zone and for increases in nonconforming nonresidential uses over 25% - a departure from the requirements of this Zoning Ordinance as authorized by the Zoning Board of Appeals only where strict application of the ordinance would cause undue hardship. For property located elsewhere in the Town and for reconstruction of destroyed nonconforming buildings, a departure from the requirements of this Zoning Ordinance as authorized by the Zoning Board of Appeals where strict application of the Zoning Ordinance to the petitioner and the petitioner's property would cause a practical difficulty. As used in this Code, variances may be authorized only for maximum height, minimum setbacks, minimum frontage, maximum building coverage or impervious surface, increases in nonconforming nonresidential uses over 25% and reconstruction of a destroyed non-conforming building.

Vegetated Strip - An area of land comprised of maintained grass or existing vegetation.

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

Visible - Capable of being seen without visual aid by a person of normal visual acuity.

Visual or Performing Arts Building - A facility whose principal use involves the staging of cultural events, including but not limited to concerts, plays, musicals, dance and film.

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

Warehouse Facility - An enclosed structure used primarily for the storage of goods or materials. Outdoor storage is not permitted, except for merchandizing purposes.

Water Body - Any great pond, river or stream.

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

Watershed - Any land area that drains by either surface or subsurface flow to a water body. This shall be defined as the highest elevations of land (ridge line) surrounding the body of water. All rain that falls in a watershed will flow toward the body of water within that watershed.

Wetland - A freshwater area identified on the basis of soils, vegetation and other criteria as wetlands, including but not limited to swamps, marshes and bogs.

Wetlands Associated with Great Ponds and Rivers - Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than l00 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Windfirm - The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Woody Vegetation - Live trees or woody, non-herbaceous shrubs.

Yard - An open space that lies between the required setback of the principal or accessory building(s) and the nearest lot line.

Yard, Front - The area of land between the front lot line and the nearest part of the existing or proposed principal or accessory building.

Yard, Side - The area of land between the side lot line and the nearest part of the existing or proposed principal or accessory building.

Yard, Rear - The area of land between the rear lot line and the nearest part of the existing or proposed principal or accessory building.

ARTICLE 3

GENERAL PROVISIONS

3.1 GENERAL RESTRICTIONS

3.1.1 Except as otherwise provided for in Section 3.2, no building shall hereafter be used or occupied and no building or part thereof shall be erected, moved or structurally altered unless it is in conformity with the standards of the district within which it is located and is in conformity with all other provisions of this Ordinance.

3.1.2 No part of a yard or other open space around any building required by this Ordinance shall be included as part of a yard or other open space similarly required for another building.

3.1.3 Except in accordance with provisions for Planned Residential Development and the Density Bonus for Affordable Housing, no lot shall be changed in space standards after the enactment of this Ordinance so as to reduce the space standards of any lot below the minimums imposed by this Ordinance or so as to create any lot which fails to meet the minimum space standards established by this ordinance.

3.1.4 If more than one residential dwelling unit is constructed on a single lot or parcel in any district except for Commercial, all dimensional requirements for that district shall be met for each additional dwelling unit

3.1.5 If one residential and one commercial structure, or two (2) or more commercial structures are sited on a single lot or parcel in the Commercial District, all dimensional requirements for the Commercial District shall be met.

3.1.6 No structure shall project into any minimum front, side, rear or shore setback, including structures that are attached or unattached to principal structures, structures that are open or enclosed, as well as porches, carports, balconies, decks or any platforms above normal grade level.

3.1.7 The use of any building, structure or land shall comply with the performance standards of this Ordinance, except as provided for in Section 3.2. The Code Enforcement Officer, when reviewing applications for permits required by law, shall determine if that use complies with all performance standards applicable.

3.1.8 When a lot is transected by a zoning district boundary, the standards set forth in this Ordinance for each district shall apply to the area of the lot in each district.

3.1.9 Excavation or filling shall be permitted in any district only to the extent such activities are necessary for and incidental to any permitted use or other lawful use.

3.1.10 No building or structure that is not a dwelling unit as defined in this Ordinance shall be used as a residence.

3.2 NONCONFORMANCE

3.2.1 General Provisions

A. Continuance: The lawful use of any building, structure or land that is made nonconforming by reason of the enactment of this Ordinance, or which shall be made nonconforming by reason of a subsequent amendment, may be continued, subject to the provisions below.

B. Transfer of Ownership: Ownership of lots, structures and uses that remain lawful but become nonconforming by the adoption or amendment of this Ordinance may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.

C. Vested Rights: Nothing in this Ordinance shall require any change in the plans, construction, or structure, or part thereof, for which a Building Permit has been issued, provided construction starts within sixty (60) days of the issuance of said permit.

3.2.2 Nonconforming Uses

A. Nonconforming Use Defined: A nonconforming use is any use of premises which is not permitted within the district in which it is situated, but is allowed to remain because it was in lawful existence at the time this Ordinance was enacted or subsequent amendment took place.

B. Repairs and Alteration: A building or structure devoted to a nonconforming use may be repaired, maintained or improved, provided that the number of square feet of floor area devoted to the nonconforming use is not increased except in accordance with the provisions of this section.

C. Abandonment: A nonconforming, nonresidential use of a building, structure or land shall be considered abandoned if the building or structure or use remains vacant for a period of twelve (12) months. Subsequent use shall conform to the regulations specified in this Ordinance for the district in which it is located. If a nonconforming use of a building, structure or land is superceded by a permitted use, the nonconforming use of a building, structure or land shall not thereafter be resumed.

D. Change of Use: A nonconforming use of a building, structure or land may be changed to another nonconforming use only when the impact of the new use on adjacent properties and upon the Town is less adverse than the impact of the former use, as judged by the Zoning Board of Appeals. Change of use of buildings or structure also requires Planning Board Site Plan Review. Once the use has been changed by permission of the Zoning Board of Appeals, the former nonconforming use shall be considered abandoned.

E. Extension of Nonconforming Use: A nonconforming use of part of a building or structure may be extended throughout other parts of a building or structure with site plan review.

F. Expansion of Nonconforming Use: One-time expansions of nonconforming nonresidential uses up to 25% of the gross floor area shall be allowed if the expansion meets the criteria of site plan review and if an increase in the number of nonconforming uses does not result. In cases of undue hardship, the Board of Appeals may grant variances for expansions above 25%.

G. Extensions of Residential Uses: Any nonconforming residential use of a building outside of the Shoreland District may be extended or expanded provided that said extension or expansion is in compliance with the space standards and other provisions of this Ordinance.

3.2.3 Nonconforming Structures

A. Nonconforming Structure Defined: A nonconforming structure is any structure that does not meet one or more of the space standards of this Ordinance. It is allowed solely because it was permitted at the time of adoption of this Ordinance or subsequent amendments.

B. Expansion: A nonconforming structure may be repaired, maintained or improved, but shall not be expanded, enlarged or increased unless such expansion or enlarged portion complies with the other space standards of this Ordinance. Expansions of nonconforming structures within the Shoreland District must comply with 9.12.3, in Article 9 of this Ordinance.

C. Destroyed or Demolished Nonconforming Structures: Any nonconforming structure which is located less than the required setback from any property line and which is removed or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the nonconforming setback requirement to the greatest practical extent as determined by the Code

Enforcement Officer in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity or to create any new nonconformity. If a permit for reconstruction or replacement is not obtained within one year of the date of the damage, destruction or removal, any later building or structure shall conform with the space standards of this Ordinance, unless a variance is granted by the Zoning Board of Appeals.

3.2.4 *Deleted*

3.2.5 Nonconforming Lots of Record

A. A single lot of record which, at the effective date of this Ordinance, does not meet the minimum lot size, or minimum road or shore frontage requirement, may be built upon without a variance, provided such lot is in separate ownership and not contiguous with any other lot in the same ownership and provided further that all other provisions of this Ordinance are met. (6/18/94)

B. If two or more contiguous lots or parcels are in single or joint ownership or record at the time of the adoption of this Ordinance, or any time thereafter, and if any of said lots or parcels does not individually meet the dimensional requirements of this ordinance or subsequent amendments, and if one or more of the lots are vacant or contain (s) only an accessory structure, the lots or parcels shall be combined to the extent necessary to meet all dimensional standards. This paragraph 3.2.5 B is intended to apply to all lots whether shown on an approved and recorded plan or not. (6/l8/94)

3.3 CHANGES AND AMENDMENTS

3.3.1 Procedures

This Ordinance may be amended and its regulations, boundaries, district classifications and standards changed according to the following procedures:

A. Amendments or changes may be initiated by the Planning Board, the Selectmen, or by a written petition of at least ten (10) percent of votes cast in the Municipality in the last gubernatorial election.

B. No request for amendments or changes shall be referred to the Selectmen for inclusion on the Town Meeting warrant until the Planning Board has held a public hearing on that request, notice of which shall be at least ten (10) days prior to such hearing in a newspaper of general circulation in the Town of Casco and to all abutters of the affected property if a zoning change is being considered.

C. An amendment to this Ordinance may be adopted by a majority vote at the Town Meeting.

D. *(Deleted.)*

E. Federal Insurance Administration and State Planning Office shall be notified before Flood Plain Management Regulations are amended based on modified data reflecting natural or man-made changes.

3.3.2 Contract Zoning

Revision to Contract Zoning Provisions of the Town of Casco Ordinance, amended 1/8/94.

A. Authority

Subject to conditions and/or restrictions and in accordance with the State of Maine Planning & Land Use Laws, 30-M.R.S.A. SECTION 4352, sub-section I, property in the Town of Casco may be rezoned by a process known as Contract Zoning.

B. Purpose

The Town of Casco Zoning Ordinance and the Comprehensive Plan provide for the orderly development and use of property. However, situations may arise where the unusual nature or unique location of a project or a proposed use of property cannot be accommodated under the Zoning Ordinance. Traditional procedures such as the granting of variances for dealing with the incompatibility may also prove to be inappropriate. In these special situations, more flexible and adaptable zoning methods may permit a project or use of property without, at the same time, compromising the intent of either the Town of Casco Zoning Ordinance or the Comprehensive Plan.

A Contract Zone, as defined by State statute, provides for property to be rezoned in order to accommodate an owner's intended use or development when zoning ordinance requirements cannot be met.

A Contract Zone, when approved, represents a deviation from Town of Casco zoning standards and, as such, is subject to the conditions established in the contract agreement, and is an amendment to the Casco Zoning Ordinance. In its consideration of a request for Contract Zoning, the Town of Casco, in agreement with a property owner, may find it necessary or appropriate to grant or impose certain conditions or restrictions upon the rezoned property that do not apply to other properties in Casco.

Contract Zoning shall adhere as closely as possible to zoning requirements and permitted use standards of the zoning district in which the property to be rezoned lies.

C. Procedure

l. Initiation of Request for Contract Zone with the Code Enforcement Officer

An applicant, planning a project, shall first consult with the Casco Code Enforcement Officer (CEO) to determine whether, in the opinion of the CEO, the proposal is consistent with the provisions of the Town of Casco Zoning Ordinance and the Comprehensive Plan.

a. If the proposal satisfies the objectives of the Town of Casco Comprehensive Plan but does not meet the requirements of the Town of Casco Zoning Ordinance, the applicant may initiate a Contract Zoning request.

b. If, in the opinion of the CEO, the proposed project is non-conforming with respect to both the Town of Casco Zoning Ordinance and the Casco Comprehensive Plan, the CEO may recommend that the applicant revise the proposal for acceptability under the governing documents.

c. If, in the opinion of the CEO, it is unclear whether the proposal falls within the Contract Zoning provisions, he may suggest that the applicant seek a pre-application conference with the Planning Board.

d. If the CEO finds the proposal suitable for Contract Zoning, the applicant shall draw up a preliminary proposal indicating the nature, scope, and location of the proposed project. This document shall be presented to the Planning Board as an application for contract zoning.

2. Application to the Planning Board

a. The Planning Board secretary shall schedule the application on the Planning Board agenda upon receipt of the appropriate fees.

b. The Town Clerk's office shall post notice of the date, time, and place of the Planning Board meeting at least fourteen (l4) days

prior to the Planning Board meeting and shall publish notice in a newspaper of general circulation within the town at least two (2) times. The date of first publication shall be at least ten (l0) days prior to the Planning Board meeting.

c. In addition, at least ten (l0) calendar days prior to the Planning Board meeting, the applicant shall notify property owners within five hundred (500) feet of the property lines of the proposed Contract Zone, with proof of mailing required. Owners of properties shall be those listed in the most recent tax records of the Town of Casco.

This notice shall contain information indicating the nature, scope, and location of the proposed project, as well as the Planning Board meeting information.

d. The Planning Board shall limit review of the applicant's proposal to material relevant to the Contract Zoning provisions contained in the Town of Casco Zoning Ordinance.

e. Planning Board review of the proposed project itself under the appropriate Town and State ordinances will proceed after approval of the Contract Zoning Agreement at a regularly scheduled annual or semi-annual Town Meeting.

3. Review of the Application by the Planning Board

a. In its examination to determine the suitability of a proposal for Contract Zoning, the Planning Board shall consider, among other factors, the following:

l) The reason why the applicant is requesting a Contract Zone Agreement;

2) Compatibility with the Comprehensive Plan;

3) The implications of the proposed project, or use of the property, for owners of surrounding properties, and the neighborhood in general;

4) The benefits and costs to the Town of Casco and the interests, safety, and general welfare of its citizens;

5) Input, where appropriate, from Town of Casco officials, town committees such as the Comprehensive Plan, Zoning Advisory, Conservation and Recreation committees, and town groups such as the Fire Department and Rescue Unit.

b. When negotiating the terms of a Contract Zoning Agreement, the Planning Board may consider, among other factors, the following:

l) Limitations on the number and types of use permitted;

2) Restrictions on the scale and density of the project;

3) Limitations on the hours of operation;

4) Specifications for the design, location, layout, and use of buildings and other improvements;

5) Schedules for commencement and completion of construction;

6) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;

7) Preservation of natural areas, including open spaces, views, and buffers;

8) Protection of land, island, and water resources;

9) Preservation and protection of historic and archaeological sites;

10) Contributions toward the provision of municipal services and infrastructure required by the project.

4. Joint Review by Planning Board and Board of Selectpersons

The Planning Board, upon reaching substantial agreement with the applicant, shall initiate, within thirty (30) days, a joint review of the proposed Contract Zoning Agreement with the Board of Selectpersons and the applicant.

The purpose of the joint review is to familiarize the Selectpersons with the proposed Contract Zoning Agreement, and to give the Selectpersons the opportunity to view the Proposed Contract Zoning Agreement in their role as administrators.

The review shall include the determination that:

a) The Town's interests are adequately protected and served by the proposed Contract Zoning Agreement;

b) The costs and benefits to the Town are reasonable.

When the Planning Board and the Board of Selectpersons have reached substantial agreement on the terms and wording of the proposed Contract Zoning Agreement, the applicant shall submit a letter confirming the applicant's substantial agreement on the terms and wording of the proposed Contract Zoning Agreement.

5. Continuation of Planning Board review of Proposed Contract Zoning Agreement.

The Planning Board shall complete its review and take a formal vote to submit the proposed Contract Zoning Agreement to public hearing.

6. Public Notice and Hearing

a. The Planning Board shall schedule a Public Hearing no later than thirty (30) days following its vote to submit the proposed Contract Zoning Agreement to public hearing.

l) Notice of this Public Hearing shall be posted in the Town Clerk's office at least fourteen (l4) days prior to the Public Hearing. It shall be published in a newspaper of general circulation within the Town at least two (2) times. The date of first publication shall be at least seven (7) days prior to the Public Hearing. Notice shall also be sent to the last known address of owners whose properties abut the property to be rezoned, with proof of mailing required. This notice shall contain a copy of the proposed conditions and restrictions together with a map showing the property to be rezoned.

2) The Public Hearing shall be conducted by the Planning Board Chair or Acting Chair.

3) A taped record of the Public Hearing shall be made for Public Record.

7. Final Review by the Planning Board

Following the Public Hearing, the Planning Board shall review all comments and recommendations from the Public Hearing, and make changes where deemed necessary.

In this final review, the Planning Board shall determine whether the proposed Contract Zoning Agreement:

a) Is consistent with the Casco Comprehensive Plan;

b) Establishes rezoned areas that are consistent with the existing and permitted uses of the original zone;

c) Includes only such conditions and restrictions that relate to the physical development or operation of the property.

If any substantive changes are made in the proposed Contract Zoning Agreement, another Public Hearing shall be held. If there are no substantive changes, then, upon final approval by the Planning Board, the proposed Contract Zoning Agreement shall be forwarded to the Board of Selectpersons.

8. Town Meeting

a. The Board of Selectpersons shall then place the proposed Contract Zoning Agreement on the Warrant for the next regularly scheduled annual or semi-annual Town meeting for decision by the voters.

b. The proposed Contract Zoning Agreement shall require approval by the voters of the Town of Casco at a regularly scheduled annual or semi-annual Town Meeting.

c. If the Contract Zoning Agreement is disapproved by Town Meeting vote, it may not be resubmitted for one year from the date of disapproval.

D. Administration

l. Zoning Amendment

Upon approval of the Contract Zoning Agreement by the Town Meeting, the Town of Casco Zoning Ordinance shall be amended to reflect the incorporation of the new zone. Conditions and restrictions pertaining to the rezoned area shall also become part of the record.

The rezoned area shall be shown on the Town of Casco zoning maps, and shall be referenced in the Town of Casco Zoning Ordinance.

2. Separability

Should any section or provision of the contract zoning provisions contained in the Town of Casco Zoning Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other article, section, or provision of the Casco Zoning Ordinance.

3. Effective Date of Contract Zoning Agreement

The date of the signing of the Contract Zoning Agreement shall occur no later than thirty (30) days following the date of the Town Meeting at which the Contract Zoning Agreement was approved.

Subject to approval by State and Federal regulatory agencies, the Contract Zoning Agreement shall be deemed to become effective and binding when signed. Its terms, conditions and restrictions together with the Town of Casco Zoning Ordinance, any applicable Town of Casco ordinances or regulations, and the Town of Casco Comprehensive Plan shall thereafter govern the proposed project and/or use.

4. Violation and Termination of Contract Zoning Agreement

A. If the developer is found by the CEO to be in violation of the terms of the Contract Zoning Agreement, enforcement shall follow the procedure established in Article 6 of the Casco Zoning Ordinance.

B. If the developer does not meet the time limits prescribed by the Contract Zoning Agreement, or abandons the project, the Contract Zoning Agreement shall become null and void. If this occurs, the property shall revert to the underlying zoning and shall be made to comply with requirements for said zone.

ARTICLE 4

ZONING DISTRICTS

4.1 ESTABLISHMENT OF DISTRICTS

The Town of Casco is hereby divided into the following districts:

1. Village (V)
2. Residential (R)
3. Commercial (C)
4. Streams and Wetlands Protection (SW)
5. Aquifer Protection Overlay (AP)
6. Manufactured Housing Park (MHP)
7. Resort Commercial Overlay (RC)

8. Shoreland District
   a. Resource Protection (RP)
   b. Limited Residential/Recreational (LRR)
   c. Limited Commercial/Residential (LCR)
   d. Stream Protection (SP)
   e. Watershed (WS)

4.2 OFFICIAL ZONING MAP

4.2.1 The Official Zoning Map is hereby adopted as part of this Ordinance. It shall be located at the town office and shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures of the town.

4.2.2 If action of the Town Meeting amends districts or district boundaries, such change shall promptly be entered on the Official Zoning Map and certified on the map as follows: "on (date), by the action of the Town Meeting, the following changes were made on the Official Zoning Map: (brief description of the nature of changes)," which entry shall be signed by the Planning Board and attested by the Town Clerk.

4.2.3 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes or additions, the Town Meeting may by resolution adopt a new Official Zoning Map which shall supercede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Planning Board attested by the Town Clerk, under the following words: "This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map (date of adoption of map being replaced) as part of the Zoning Ordinance of the Town of Casco,

Maine." The superceded Official Zoning Map shall be preserved together with available records pertaining to its adoption or amendment.

4.3 ZONING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundary of any district as shown on the Official Zoning Map, the following rules shall apply:

4.3.1 Where district boundaries are so indicated as to approximately follow lot lines, such lot lines shall be construed to be such district boundaries;

4.3.2 Where District Boundaries are indicated as approximately following the center lines of roads, streets, highways, streams, rivers or other public/semi-private rights-of-way, such center lines shall be construed to be such boundaries;

4.3.3 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline;

4.3.4 Where uncertainty exists in determining the precise location of any district boundary line, or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Zoning Board of Appeals with advice from the Planning Board, shall interpret the district boundaries.

4.4 DISTRICT STANDARDS

The following tables state purposes and land use standards for each of the zoning districts of this Ordinance. Except as otherwise provided in Section 3.2 (Nonconformance), any structure or land that hereafter is used or occupied, and any structure or portion thereof that is erected, moved, constructed, reconstructed, extended, enlarged, or altered shall be in conformity with the standards herein specified for the zoning district in which it is located and the performance standards of this Ordinance.

4.4.1 Village District (V)

A. **Intent**

To provide a variety of housing types and services within a compact area while reinforcing existing village characteristics. This district is established to combine the convenience of village life with the physical amenities of a rural environment and to encourage development near adequate roads and town services. Toward the achievement of these purposes, the following minimum standards are established.

B. **Permitted Uses**

1. One-Family or Duplex Dwellings
2. Manufactured Housing that complies with performance standards herein.
3. Accessory Residential Structures
4. Home Occupations that comply with performance standards herein.
5. Timber Harvesting
6. Agriculture

The following uses require site plan review:

7. Dwelling, Multiplex
8. Planned Residential Developments that comply with performance standards herein
9. Schools
10. Nursing Homes
11. Churches
12. Day Care Centers
13. Community Living Use
14. Residential Care Facilities
15. Municipal and State Facilities
16. Private Assembly
17. Public Assembly
18. Retail or Convenience Stores not to exceed 2,000 square feet of first floor area
19. Professional Buildings not to exceed 3,000 square feet of gross floor area
20. Restaurants and Take-Out Businesses
21. Motor Vehicle Service Stations
22. Bed and Breakfast Establishments
23. Visual and Performing Arts Buildings
24. Funeral Homes
25. Public Utilities as a Permitted Use (added 6/21/97)

All other uses are prohibited.

C. Space Standards

1. Minimum lot size: 60,000 square feet
2. Minimum land area per dwelling unit (for duplex, multiplex and PRDs): 60,000 s.f. of net residential area
3. Maximum building coverage: 20 percent
4. Minimum road frontage: 150 feet
5. Minimum setbacks:
   Front: 40 feet
   Side: 15 feet, except as provided in subsection 5.A below.

Rear: 15 feet

5.A. Reduced side setback for accessory structure: The minimum side setback for an accessory storage structure of 100 square feet or less of floor area, provided that all of the following conditions are met:

a. The accessory storage structure must meet all other setback requirements.
b. All structures larger than 100 square feet in area on the property abutting the side of the accessory storage structure shall be setback at least 25 feet from the shared property line.
c. The height of the accessory storage structure shall not exceed 12 feet.
d. No more than 1 accessory storage structure per lot shall be entitled to the 10 foot side setback. Any additional accessory structures must meet the full 25-foot setback requirement.
e. The use of the accessory storage structure shall be exclusively for storage. There shall be no human occupancy of the accessory storage structure and no cooking or bathroom facilities shall be permitted in the structure.
f. No variance shall be permitted from this 10-foot setback requirement.

6. Maximum building height: 35 feet

D. Other Standards

1. A 20-foot maintained vegetated strip is required in front setback.
2. Nonresidential uses are limited to one entrance/exit on Routes 302, 11, 85 and 121 unless a second entrance/exit is proposed by the owner/applicant and the Planning Board determines that all of the following conditions will be met and maintained:

a. If an MDOT entrance permit is required in accordance with State standards, the MDOT permit dated after the adoption of this standard (6/11/2003) shall be obtained prior to the Town considering a second curb cut.

b. The minimum frontage owned by the applicant in order for the Planning Board to consider a second curb cut shall be one hundred and fifty (150) feet. The Board of Appeals shall not have the authority to reduce this minimum frontage requirement in order for the Planning Board to consider a second curb cut.

c. No other reasonable alternative exists, as determined by the Planning Board.

d. The request for the second curb cut is based on demonstrated need and not convenience as determined by the Planning Board.

e. The width of the second cut shall be the minimum necessary, as determined by the Planning Board, to meet functional requirements.

f. The second curb cut shall not create or exacerbate an unsafe condition, as determined by the Planning Board, on the property where the second cut is proposed or for neighboring properties including those located on the opposite side of the road.

2. Nonresidential uses limited to one entrance/exit on Routes 302, 11, 85 and 121.

3. Nonresidential uses must meet standards of 4.4.3.D

E. Density Bonus for Affordable Housing

Single-family subdivisions comprised of twenty-five (25) percent or more of affordable housing units as defined shall have minimum lot sizes of 50,000 feet. Multiplex and Planned Residential Developments that include twenty-five (25) percent or more affordable housing units as defined shall have a minimum of 50,000 square feet of net residential area per dwelling unit.

4.4.2 Residential District (R)

A. Intent

To provide an area to accommodate controlled residential growth while preserving open space, protecting natural resources and maintaining the basic rural orientation of the community. Toward the achievement of these purposes, the following minimum standards are established.

B. Permitted Uses

1. One-Family or Duplex Dwellings
2. Manufactured Housing that complies with performance standards herein.
3. Accessory Residential Structures
4. Home Occupations that comply with performance standards herein.
5. Agriculture that complies with performance standards herein.
6. Animal Husbandry that complies with performance standards herein.
7. Timber Harvesting

The following uses require site plan review:

8. Dwelling, Multiplex
9. Planned Residential Developments that comply with performance standards herein.
10. Schools
11. Nursing Homes
12. Churches
13. Day Care Centers
14. Residential Care Facilities
15. Community Living Use
16. Municipal and State Facilities
17. Private Assembly
18. Public Assembly
19. Bed and Breakfast Establishments
20. Public Utilities
21. Campgrounds that comply with performance standards herein.
22. Commercial Recreation: Outdoor
23. Cemeteries
24. Visual and Performing Arts Buildings
25. Mineral Extraction that complies with performance standards herein.

<u>All other uses are prohibited.</u>

C. <u>Space Standards</u>

1. Minimum lot size: 80,000 square feet
2. Minimum land area per dwelling unit (for duplex, multiplex and PRDs): 60,000 s.f. of net residential area
3. Maximum building coverage: 15 percent
4. Minimum road frontage: 200 feet
5. Minimum setbacks:
   - Front: 50 feet
   - Rear: 25 feet
   - Side: 25 feet, except as provided in subsection 5.A below.

5.A. Reduced side setback for accessory structure: The minimum side setback for an accessory storage structure of 100 square feet or less of floor area, provided that all of the following conditions are met:

a. The accessory storage structure must meet all other setback requirements.

b. All structures larger than 100 square feet in area on the property abutting the side of the accessory storage structure shall be setback at least 25 feet from the shared property line.
c. The height of the accessory storage structure shall not exceed 12 feet.
d. No more than 1 accessory storage structure per lot shall be entitled to the 10 foot side setback. Any additional accessory structures must meet the full 25-foot setback requirement.
e. The use of the accessory storage structure shall be exclusively for storage. There shall be no human occupancy of the accessory storage structure and no cooking or bathroom facilities shall be permitted in the structure.
f. No variance shall be permitted from this 10-foot setback requirement.

6. Maximum building height: 35 feet

4.4.3 Commercial District (C)

A. Intent

To provide suitable locations for the development of particular types of commercial use; to encourage attractive commercial development; to generate convenient shopping areas for local residents, and seasonal residents and visitors, to promote local areas siting for public oriented service; and to promote safe and uninterrupted traffic flow by limiting the number of access points along Routes 302, 11 and 121. Toward the achievement of these purposes, the following Land Use Standards are established.

B. Development

A conceptual plan for residential, and/or commercial use of each parcel shall be submitted to the CEO at the time of application for building permit. When Planning Board review is necessary, the conceptual plan will be included. The plan shall address such issues as curb cuts, waste water management, already existing buildings, and potential lot subdivision and interior roads. Where applicable, clustering shall be possible.

C. Permitted Uses

1. One Family Dwellings (See General Townwide Performance Standards)
2. Modular Housing (See General Townwide Performance Standards)
3. Timber Harvesting
4. Agriculture that complies with performance standards herein.
5. Mineral Exploration
6. Home Occupation

7. Businesses under two thousand five hundred (2,500) square feet may be approved by the Code Enforcement Officer (CEO). (See Site Plan Review)

The following uses require site plan review

8. Minor Residential Subdivisions.
9. Commercial Subdivisions
10. One (1) Residence and One (1) Commercial Use on the same lot, providing the lot has a minimum of 80,000 square feet and 300' of road frontage.
11. Two (2) or more Businesses in one or more structures on the same lot, providing the lot has a minimum of 80,000 square feet.
12. Retail Trade
13. Commercial Sales and Service: Indoor and Outdoor
14. Business and Professional Offices
15. Motor Vehicle Sales
16. Motor Vehicle Service Stations
17. Motor Vehicle Repair Garages
18. Restaurants
19. Drive-through Facilities
20. Bed and Breakfast Establishments
21. Hotels/Motels
22. Commercial Recreation: Indoor and Outdoor
23. Visual and Performing Arts Buildings
24. Public Utilities
25. Municipal and State Facilities
26. Churches
27. Public Assembly
28. Private Assembly
29. Schools
30. Residential Care Facilities
31. Nursing Homes
32. Medical Facilities/Walk-in Services
33. Day-Care Centers
34. Construction Services
35. Light Industrial Uses That Meet Performance Standards
36. Truck Facilities
37. Enclosed Warehousing and Distribution Facilities
38. Junkyards
39. Mineral Extraction
40. Mineral Processing
41. Kennels
42. Veterinary Services

All other uses are prohibited.

D. Space Standards

1. Minimum Lot Size: Eighty thousand (80,000) square feet.
2. Maximum Impervious Surface to Lot Area: (See Site Plan Review)
   a. Forty (40) percent
   b. Forty (40) percent coverage of lot may be expanded up to seventy-five (75) percent with Planning Board approval, dependent on adequate provisions for disposal of surface water.
3. Minimum Road Frontage
   a. On Routes 302, 11 and 121; three hundred (300) feet.
   b. On Routes 302, 11, and 121, in development of land under one ownership that aggregates more than three hundred (300) feet of continuous road frontage, the Planning Board may require access from service roads.
   c. On Service and/or Internal Roads: two hundred (200) feet.
4. Minimum Setbacks:
   a. On Routes 302, 11 and 121
      1) Front:
         a) Buildings shall be set back eighty (80) feet from the Right-of-Way.
         b) Setback shall be measured to the building line.
      2) Side: Forty (40) feet.
      3) Rear: Forty (40) feet.
   b. For Service and Interior Roads
      1) Front: Fifty-five (55) feet to the front of the building. The first ten (10) feet of the setback shall be developed as a landscaped buffer strip, except for approved curb cuts.

      2) Side: If the building is of flammable material, forty (40) feet. If the building is of non-flammable material, twenty (20) feet.

      3) Rear: If the building is of flammable material, forty (40) feet. If the building is of non-flammable material, twenty (20) feet.

5. Maximum Building Height: Thirty Five (35) feet.

   Any request for height greater than thirty five (35') feet but not greater than forty five (45') feet shall require Planning Board approval subject to fire protection.

E. Other
   1. Standards Curb Cuts

a. Lots fronting directly on Routes 302, 11, and 121 shall be limited to one (1) curb cut. Additional curb cuts shall require Planning Board approval.

b. Lots fronting on interior or service roads shall be limited to one curb cut. Additional curb cuts shall require Planning Board approval.

2. Buffers

a. On Routes 302, 11 and 121

1) Front Buffers.

Front buffers shall be twenty-five (25) feet in depth starting at the front property line, and extending along the entire road frontage of the lot, except in the area of the curb cut(s). The owner, the owner's agent or the tenant shall landscape and maintain the buffer, which shall consist of a base of bark mulch, stone or grass, with lot shrubs, flowering plants or a combination of both, arranged in such a fashion so as not to obstruct the line of sight of drivers of motor vehicles using the highway and/or access roads.

2) Side and Rear Buffers where Commercial and Residential Uses Abut: When a new Commercial use is located on a lot that adjoins a lot that is presently used primarily for residential purposes, the owner or the owner's agent or tenant shall provide and maintain a fifteen (15) foot deep landscape buffer along the side and/or rear lot lines which abut the residential use or uses; this landscape buffer shall consist of natural features, plantings and/or fencing in order to provide an effective visual and physical screen between commercial and residential uses.

3) Side and Rear Buffers for Commercial Uses:

a) A fifteen (15) foot buffer consisting of a combination of landscape planting (trees, shrubs, flowering shrubs/plants, with grass, bark mulch, crushed stone) shall be well maintained by the commercial lot owner or the owner's representative.

4) Buffers where the Commercial District abuts with any other District:

a) A forty (40) foot buffer strip of shrubs and trees that create a visual screen shall be well maintained by the commercial lot owner or the owner's representative.

b). Buffering on Interior or Service Roads

1) Side and Rear buffering between lots:

A minimum of five (5) feet on each lot.

2) Required buffering shall consist of natural features, low planting and/or fencing, and shall be maintained to provide an effective visual and physical break. (See Site Plan Review)

3. When two (2) abutters bring a joint proposal to Planning Board, the Board may waive side and/or rear setbacks, and side and/or rear buffers. The Planning Board shall have the authority to require the applicant(s) to record a copy of the Planning Board's final approval at the Cumberland County Registry of Deeds when the setbacks are waived.

4. Outdoor storage areas shall be fenced.

5. Outdoor storage in the front setback of Routes 302, 11, and 121 is prohibited.

6. Outdoor storage in the setback of service and/or interior roads is prohibited.

7. Display of goods and/or products is prohibited in all buffer areas.

8. Signs (See Sign Standards 5.2.24).

9. Hazardous Materials

   a. The manufacturing and processing of hazardous materials may be permitted with specific Planning Board approval.

   b. The use of hazardous materials as part of a general operation of a business may be permitted with Planning Board approval.

   c. Retail sales and/or distribution, and storage of hazardous materials related to same, may be permitted with Planning Board approval.

   d. Any use, reprocessing, transportation or storage of hazardous materials shall meet all applicable federal, state, and local standards.

10. Performance Standards

    General Town-wide Performance Standards shall also apply.

4.4.4 Streams and Wetlands Protection District (SW)

A. Intent

To protect the water quality of streams and brooks that flow into Crooked River and Casco's lakes and ponds and of wetland areas not protected under Shoreland Zoning. Buffering these areas will help protect them from the adverse impacts of development or environmental occurrences and maintain the high quality of Casco's larger water bodies. Toward the achievement of these purposes, the following minimum standards are established.

B. Applicability

These standards shall apply to all land areas within 130 feet, horizontal distance, of the Normal High Water Mark of any stream or wetland as defined, exclusive of ponds and rivers protected under Shoreland Zoning.

C. Permitted Uses

1. Recreational uses not requiring structures.
2. Timber Harvesting that complies with Shoreland Protection performance standards herein.

The following uses require Planning Board review:

3. Road and driveway crossings where necessary to provide access to lots.

All other uses are prohibited.

D. Space Standards

1. None -- no structures permitted.
2. Areas within the Streams and Wetlands District composed of buildable land, as defined herein, may be included in determining the net residential area of contiguous land under the same ownership that lies outside the Streams and Wetlands District.

4.4.5 Manufactured Housing Park District (MHP)

A. Intent

To allow an areas for the siting of Manufactured Housing Parks. Toward the achievement of this purpose, the following minimum standards are established.

B. Permitted Uses

1. Manufactured Housing Parks that comply with performance standards herein and that are approved under site plan review.
2. All uses permitted in the Residential District (subject to site plan review where indicated).

C. Space Standards

1. For permitted uses other than Manufactured Housing Parks, Residential District space standards apply.

2. For Manufactured Housing Parks, the following standards apply:

   a. Minimum park size: 200,000 square feet
   b. Minimum road frontage: 500 feet for park
   c. Minimum width of park's rear property line: 300 feet
   d. Minimum land area per manufactured dwelling unit: 20,000 square feet of net residential area
   e. Minimum distance between buildings: 50 feet
   f. Minimum setback from park property line: 200 feet.
   g. Minimum lot size for individual lots within park: 20,000 square feet
   h. Minimum setbacks from individual lot lines within park: 25 feet
   i. Maximum building height: 25 feet

D. Other Standards

The following standards apply to Manufactured Housing Parks within this district. Other performance standards for manufactured home parks are described in 5.2.13 of this Ordinance.

1. Manufactured homes within the park shall meet the definition of Manufactured Housing unit herein.
2. Manufactured Housing Parks shall not be be subdivided, for sale of individual lots, or condominiumized, for sale of individual units, without prior review and approval of the Casco Planning Board.
3. No parking or construction shall be permitted within park setbacks.
4. Agriculture and Animal husbandry are prohibited.
5. Buffering, consisting of natural features, planting and/or fencing, shall be required and maintained in the park setbacks to provide an effective visual and physical screen between park boundaries and surrounding areas.

4.4.6 Aquifer Protection Overlay District (AP)

A. Intent

To protect Casco's underground water supply by restricting uses and activities on land overlying aquifers and aquifer recharge areas. Toward the achievement of this purpose, the following minimum standards are established.

B. Permitted Uses

Same as underlying district (subject to site plan review where indicated) except for prohibited uses listed herein.

C. Prohibited Uses

1. Multiplex and PRDs
2. Engineered Sewerage Systems
3. Industrial and Manufacturing Uses, including Light Industrial Uses
4. Outdoor Storage
5. Uncontained Salt and Sand Piles
6. Uncontained Manure Storage
7. Storage of Hazardous Materials
8. Junkyards
9. Restaurants
10. Hotels
11. Auto Service Stations
12. Auto Repair Garages
13. Truck Facilities
14. Construction Services

D. Space Standards

When more restrictive than those of the underlying zone, the following space standards shall be applied:

1. Minimum lot size: 120,000 square feet
2. Minimum road frontage: 300 feet
3. Maximum impervious surface to lot area: 10 percent
4. Maximum building height: 35 feet

E. Other Standards

1. All spreading or disposal of manure shall conform to "Best Management Practices" handbook published by Maine Department of Agriculture, 1988, and subsequent revisions.

2. Erosion and sedimentation shall be minimized by adherence to erosion control management practices contained in the Environmental Quality Handbook, 1986, published by the Maine Soil and Water Conservation Commission, and periodically amended.

F. Appeal

Owners who contest the placement of their property in the Aquifer Protection District may appeal to Planning Board for map change in accordance with the procedures of 3.3 of this Ordinance. In all cases, the burden of proof shall be on the

owner to demonstrate that his property should not be included within the Aquifer Protection District.

4.4.7 Resort Commercial Overlay District (RC)

A. Intent

To provide areas for the development of resort/recreation-oriented commercial activities consistent with the Comprehensive Plan goal of promoting multi-season recreational industry and providing lodging for transient guests. Toward the achievement of this purpose, the following minimum standards are established.

B. Permitted Uses

1. Same as underlying district (subject to site plan review where indicated).

In addition, if not already permitted in the underlying district, the following uses are permitted, subject to site plan review.

2. Hotels and Motels
3. Commercial Recreation: Outdoor
4. Commercial Recreation: Indoor
5. Private Clubs
6. Public Assembly
7. Private Assembly
8. Restaurants
9. Campgrounds
10. Retail Trade directly related to resort/recreational activities.
11. Commercial Sales and Service directly related to resort/recreational activities.
12. Day Care Centers

C. Space Standards

1. Same as underlying district.
2. Hotels/Motels: Minimum lot size for district, plus 10,000 square feet of net residential area per lodging unit.
3. In no case shall the impervious surface for a site or parcel exceed twenty (20) percent.

D. Other Standards

1. Buffering, consisting of natural features, plantings and/or fencing, shall be required and maintained to provide an effective visual and physical screen

between residential and nonresidential uses, or between other incompatible uses.

2. Resort Commercial Overlay Districts shall not encompass any part of a Shoreland District.

ARTICLE 5

PERFORMANCE STANDARDS

5.1 ***Deleted***

5.2 TOWNWIDE STANDARDS

The following minimum standards of performance govern uses, activities and structures within the Town of Casco, including the Shoreland District, unless preempted by more restrictive standards in other provisions of this Ordinance.

5.2.1 Accessory Buildings

A. A garage or other accessory building shall conform to setback requirements.

B. All accessory buildings shall be set back at least one hundred (100) feet, measured horizontally, from the normal high water mark of any pond or river as defined.

5.2.2 Access to Property

A. Each property shall be provided with vehicular access to the property by abutting roads or streets. Private rights-of-way shall be protected by permanent easements.

B. No driveway or other graded access shall be constructed or re-constructed, or grade change made, without inspection of site and approval by the CEO and/or the Road Commissioner.

C. Driveways shall provide safe and suitable vehicular access to and from the property at all times.

D. All driveways shall be installed and maintained to the satisfaction of the CEO and/or Road Commissioner. The driveway shall be maintained in such a condition so as not to constitute a water or ice hazard upon a road, public or private, on which the driveway joins.

E. The minimum improved width for a private right-of-way shall be as follows:

i. 12 feet for a private right-of-way serving 1 or 2 dwellings.
ii. 16 feet for a private right-of-way serving between 3 and 5 dwellings.
iii. 20 feet for a private right-of-way serving between 6 and 10 dwellings.

F. Any private right-of-way that may serve as the access to additional lots in the future shall have a minimum width of 50 feet.

5.2.3 Agriculture

A. All spreading or disposal of manure shall be accomplished in conformance with **Maine Guidelines for Manure Sludge Disposal on Land** published by the University of Maine Soil and Water Conservation Commission, in July 1972 or subsequent revisions thereof.

B. Agricultural practices shall be conducted in such manner as to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters.

C. There shall be no tilling of soil within 100 feet measured horizontally, of any lake, pond, stream or wetland.

D. Farm buildings, other than dwellings, shall not be erected within fifty (50) feet of a neighboring property line or 100 feet from an existing dwelling on neighboring land, whichever is farthest.

E. Where soil in excess of 20,000 sq. ft. lying either wholly or partially within a limited Commercial/Residential District or a Limited Residential-Recreational District is tilled, such tillage shall be carried out in conformance with the provisions of a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission, and is approved by the Cumberland County Soil and Water Conservation District. The number of the plan shall be filed with the Planning Board. Non-conformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.

5.2.4 Animal Husbandry

A. Animal husbandry shall be conducted only on lots 80,000 square feet or greater and conform to permitted uses of the applicable zoning district.

B. Feed lots, fenced runs, pens and similar intensively used facilities for animal raising and care shall not be located within 100 feet of a neighboring property line, excluding pastures, or within 100 feet, measured horizontally, of any lake, pond, stream or wetland.

C. Nothing shall prohibit the keeping of household pets such as dogs and cats, unless their number or other factors qualifies their keeping as a kennel.

5.2.5 Buffer Zones

No building shall be erected or any use permitted in non-residential districts which abut residential districts unless the following side and rear yard requirements are satisfied:

A. All side and rear yards abutting residential districts shall maintain the district boundary in its natural state to provide a visual screen between districts at least fifty (50) feet wide.

B. Where no natural buffering can be maintained, all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen between districts. Because of varying site conditions, landscaping for the purposes of this section may include tree plantings, hedges, fencing, walling and combinations thereof.

C. Fencing and screening, when necessary, shall be properly maintained and located or constructed in such a manner that it can be maintained from the property.

D. The buffer zone shall be located in the nonresidential district.

E. All buffer zones shall be maintained in a tidy and sanitary condition by the owner.

5.2.6 Campgrounds

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

A. Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria.

1. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways.

2. In addition to the above, a minimum of 500 sq. ft. of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. The campground shall also provide one (1) parking space for each employee and one (1) visitor's parking space for every four (4) camping sites. These spaces shall be a minimum of 200 square feet plus maneuvering space.

3. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.

B. Campgrounds without water-carried sewage facilities shall contain a minimum of 20,000 sq. ft., not including roads and driveways, for each recreational vehicle, tent or shelter site. In addition, a minimum of 500 square feet of off-street parking plus

maneuvering space shall be provided for each recreational vehicle, tent or shelter site.

C. Campgrounds shall not be run for business nor shall they be occupied during the year before May 1 or after November 1.

D. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of 100 feet from the exterior lot lines of the camping area and 100 feet, horizontal distance, from the normal high water elevation of any water body.

E. All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than 100 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

5.2.7 Corner Clearances

For the purposes of traffic safety in all districts, no building, structure or visual obstruction may be erected, and no vegetation may be maintained above a height of three (3) feet above the plane through the curb grades of intersecting streets within a triangle, two sides of which are the edges of the public ways for twenty (20) feet measured from their point of intersection, or in the case of rounded street corners, the point of intersection of their tangents.

5.2.8 Erosion and Sedimentation Control

A. Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner as to prevent, to the maximum extent possible, erosion and sedimentation of surface waters.

B. On slopes greater than twenty-five percent (25%), there shall be no grading or filling within 130 feet, horizontally measured, of the normal high water mark of any pond, river, stream, brook or wetland except to protect the shoreline and prevent erosion.

C. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.

D. Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.

E. The disturbed area and the duration of exposure shall be kept to a practical minimum and disturbed soils shall be stabilized as quickly as is practicable.

F. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.

G. The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.

H. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.

I. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.

J. It is the responsibility of any person doing any act on or across a communal stream, watercourse or swale or upon the floodway or right-of-way thereof to maintain as nearly as possible in its present state the stream, watercourse, swale, floodway or right-of-way during the duration of such activity and to return it to its original or equal condition after such activity is completed.

K. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

5.2.9 Home Occupations (1/9/93)

An occupational or professional use that:

l. is conducted within a dwelling, or accessory structure to a dwelling, or upon the property on which the dwelling or accessory structure is located;

2. is customarily incidental, secondary, and accessory to the residential use of the dwelling, accessory structure or property; and

3. does not change the character thereof.

A. Home Occupations Standards

1. The occupation or profession shall be carried on wholly within the existing principal building or within a building or other structure accessory thereto, or on the property.

2. No external alterations shall be permitted which would change the residential character of the structure, the property, or the neighborhood.

3. Not more than one (1) person, in addition to the owner and family, shall be employed in the home occupation.

4. There shall be no exterior display other than one (1) not exceeding four (4) square feet in surface on either side, which may announce the name, address and profession or home occupation of the occupant of the premises on which said sign is located. Directional signs may be used at the discretion of the CEO.

5. There shall be no artificial outdoor illumination of any kind for permitted home occupations on the property, including off-street parking areas, the house, or any accessory structures, other than the normal and customary outdoor lighting for single-family houses (such as a customary porch light or garage light or walk-way light).

6. There shall be no exterior storage of materials used in the home occupation.

7. Noise, vibrations, smoke, fumes, dust, electrical disturbance, odors, heat, or glare generated by the home occupation shall not become a nuisance.

8. The owner or operator of the home occupation shall promptly dispose of all waste generated by the home occupation, and such disposal shall comply with all applicable federal, state and local laws, statutes, rules, regulations, ordinances, codes and orders.

9. No traffic shall be generated by such home occupation in substantially greater volumes than would normally be expected in the neighborhood.

10. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of the one (l) employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours.

11. No home occupation may utilize more than twenty-five percent (25%) of the gross floor area of the dwelling (excluding basement floor areas) or more than 600 square feet of gross floor area in an accessory structure. The only exception is Bed & Breakfast establishments of three (3) guest rooms or less.

B. Permits and Fees

The operation of any home occupation requires a Home Occupation permit to be

obtained from the Code Enforcement Officer. A permit is required for each home occupation, for which a one time fee may be assessed.

5.2.10 Junk Yards

Before granting approval for a junk yard, the Planning Board shall find that the following conditions have been met:

A. The proposed junkyard is shown to have no detrimental effect on adjacent land uses.

B. The proposed junkyard site is not visible from a public road or street.

C. The proposed junkyard shall be entirely enclosed by a solid wall or fence with access only through solid gates, and such fence or wall shall be kept in good repair and neatly painted.

D. The contents of the proposed junkyard shall not be placed higher than the fence or wall herein required.

E. The proposed junkyard is in conformance with this Ordinance and any other ordinances of the Town of Casco pertaining to the protection of the quality of surface and ground water.

5.2.11 Light Industrial Use.

A. There shall be no exterior storage or assembly of materials or products, except the outdoor storage of lumber and temporary display of goods.

B. There shall be no activity that is defined as a high hazard by Section 305.0 of the BOCA Basic Building Code/l98l.

C. Noise levels at the property boundary shall not exceed 65 dBA.

D. No vibrations, smoke, heat or glare, fumes, dust or odors shall be noticeable at the property line.

E. The proposed use shall not adversely affect the value of adjacent properties.

F. The proposed use shall not create unsafe traffic conditions or excessive traffic.

5.2.12 Manufactured Housing

Standards for Manufactured Housing not in Manufactured Housing Parks.

A. All bulk and space standards of the appropriate district shall be met.

B. The wheels and undercarriage shall be removed and the manufactured home shall be placed on a foundation.

C. The foundation shall, as a minimum standard, consist of either:

1. A continuous, perimeter concrete wall extending at least four (4) feet below finished grade. The wall shall be a minimum of eight (8) inches thick, reinforced, cast in place concrete. Steel reinforcement shall be provided for temperature and shrinkage stresses and suitable support shall be provided at the top of the formation to counteract external foundation forces; or

2. A six (6)-inch thick reinforced concrete slab, the horizontal dimensions of which are the same or larger than the trailer. The concrete slab shall be placed on not less than a twelve (12) inch layer of well graded compacted gravel on a stable subgrade. Suitable masonry piers shall be placed from the concrete slab to the trailer girders and hold-down wires or chain anchored into the slab shall be provided. A suitable attached skirt extending from the concrete slab to the trailer shall be provided.

D. In the absence of a full basement, suitable screening shall be provided to screen the oil tank.

5.2.13 Manufactured Housing Parks

A. Manufactured Housing Parks shall conform to all standards of the Manufactured Housing Park District.

B. Manufactured Housing Parks shall conform to all the standards of the Town's Flood Plain Management Ordinance.

C. All Manufactured homes in Manufactured Housing Parks are required to rest on gravel pads of at least (2) two feet depth and of adequate size to accommodate the entire trailer. All manufactured homes once situated on the gravel pad shall be skirted.

D. Manufactured Housing Park Operators shall be responsible for providing to the Casco Board of Selectmen before April 1st of each year a complete list of all manufactured homes in their respective parks and the owners' names and mailing addresses. Park operators must file a notice with the Town of Casco Tax Collector's Office five (5) days prior to a manufactured housing unit being removed from the Manufactured Housing Park.

E. All grounds in Manufactured Housing Parks shall be kept clean and free of litter. Lawns shall be provided and maintained.

5.2.14 Mineral Exploration, Excavation, Removal and Filling of Lands

A. Mineral Exploration: Exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance. A permit from the Planning Board shall be required for mineral exploration within the Shoreland District or which exceeds the above limitation.

B. Excavation, Removal and Filling of Lands

1. This Section shall not prohibit normal excavation, removal or fill for construction of a building and driveway for which a building permit has been issued.

2. No topsoil, rock, sand, gravel and similar earth materials in excess of twenty (20) cubic yards during a calendar year may be removed from locations where permitted under the terms of this Ordinance, and no earth material in excess of forty (40) cubic yards during a calendar year shall be used for filling of lands until a special permit for such operations has been issued by the Code Enforcement Officer to the owner upon approval by the Planning Board in accordance with the provisions of this Ordinance, and provided that:

a. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon the completion of operations, it shall be at a slope not steeper than fifty percent.

b. The proposed operation meets the Erosion and Sedimentation Control Standards of 5.2.8.

c. The operation is shielded from surrounding property with adequate screening and creates no disturbance of a water source.

d. No excavation shall be extended below the grade of adjacent streets unless 100 feet from the street line or unless provisions have been made for reconstruction of the street at a different level.

e. Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.

f. A surety bond, one payable to the Town of Casco and issued by a commercial surety company authorized to do business within the State of Maine, is posted by the owner with the Treasurer of Casco in an amount recommended by the Selectmen or their agent and approved by the Planning Board as sufficient to guarantee conformity with the provisions of the granting of approval.

3. The plan review by the Planning Board shall take into consideration the following items. The Planning Board may impose such conditions as necessary to safeguard the health, safety and welfare of the community:

a. Fencing, landscaped buffer strips and other public safety considerations;

b. Advertising signs, lighting designed to prevent public nuisance conditions or undesirable aesthetic effects in the neighborhood;

c. Parking space, loading and unloading areas;

d. Entrances and exits;

e. Routes for transporting material;

f. Time period for operation;

g. Hours of operation;

h. Methods of operation;

i. Weights and loading limit of trucks;

j. Safeguards against sand and gravel spillage upon public streets;

k. Complete rehabilitation proposals;

l. Submission of a Sedimentation and Erosion Control Plan approved by a qualified agency or individual designated by the Planning Board.

m. Submission of a stormwater management plan approved by a qualified agency or individual designated by the Planning Board.

n. Limitations on the amount, type and location of the filling operation because of potential environmental degradation.

5.2.15 Net Residential Area.

Net Residential Area – Shall pertain to and only be applied to land being subdivided, and subject to Planned Residential Development subdivisions as defined by Section 5.2.20. B.1, 2, and 3 of this Ordinance. The net area of a parcel or lot of land that is generally suitable in its natural state, for residential development. The net residential area shall be determined by subtracting unsuitable or marginal areas from the gross area of the parcel.

A. The following land areas shall be considered unsuitable for development and 100 percent of these areas shall be deducted from the gross land area.

1. Land with sustained slopes of twenty-five (25) percent or more.

2. Land that is cut off from the main parcel by a road, by existing land uses or where no means of access has been provided, so that the land is isolated and unavailable for building purposes or common uses.

3. Land situated below the normal high water mark of any waterbody, or of any inland wetland as defined herein.

4. Land within the 100-year floodplain as identified by federal Flood Boundary and Floodway Maps or federal Flood Insurance Rate Maps.

5. Land where topsoil has been removed without a permit, or where topsoil removal has taken place without acceptable reclamation procedures.

6. Land within a Resource Protection Subdistrict.

7. Land which has been created by filling or draining a pond or wetland.

8. Land which is part of a right-of-way, or easement, excluding gas pipeline or transmission line rights-of-way and easement but including rights-of-way and easements required for improvements to projects.

9. Land area consisting of unreclaimed gravel pits.

10. Land that has been clear cut as defined.

11. Very Poorly Drained Soils as measured from a high intensity soils map* prepared by a Maine Certified Soils Scientist in accordance with the National Cooperative Soil Survey Classification. These soils include but are not limited to the following (previously used mesic soil names in parenthesis):

Burnham	Searsport (Scarboro)
Biddeford	Sebago
Chocorua	Togus
Halsey	Washburn
Medomak (Saco)	Washkish
Ossipee	Whately
Peacham (Whitman)	Vassalboro
Rifle	

B. The following land areas shall be considered marginally suitable for development and fifty (50) percent of these areas shall be deducted from the balance of A. above.

1. Poorly Drained Soils and Somewhat Poorly Drained Soils as measured from a high intensity soils map* prepared by a registered soils scientist in accordance with the National Cooperative Soil Survey Classification. These soils include but are not limited to the following (previously used mesic soil names in parenthesis):

Atherton	Moosilauke (Walpole)
Aurelie	Naskeag
Brayton (Ridgebury)	Naumberg (Au Gres)
Cabot	Rounabout (Raynham)
Charles (Limerick)	Rumney
Colonel	Scantic
Easton	Swanton
Fredon	Swanville
Lamoine	Telos
Lyme (Leicester)	Westbury
Monarda	

C. Fifteen (15) percent of the area remaining after subtracting A and B above from the gross land area shall be deducted as an allowance for roads and parking, whether or not the actual area devoted to roads is greater or less than fifteen (15) percent.

D. No building or structure shall be sited in areas treated as 100 percent deductions from the parcel's net residential area. Siting of structures in areas treated as fifty (50) percent deductions shall be discouraged but permitted where the applicant/developer demonstrates that measures will be taken to minimize erosion, sedimentation, and seasonal wetness, that these areas are stable for the siting of structures, and that proposed subsurface waste disposal systems will comply with the Maine State Plumbing Code.

*E. In cases where the requirement of a high-intensity soils map is waived, deductions for unsuitable soils shall be determined in the following manner:

1. One hundred (100) percent of land areas with a water table within six (6) inches of the surface for three (3) or more months a year shall be deducted. In making this determination, the Planning Board shall consult medium-intensity soils maps, perform site visits, consult experts and review other available information.

2. If the applicant wishes to contest the Planning Board's determination of unsuitable soils on the site using the above method, the applicant may submit for the Board's consideration a high-intensity map prepared by a Maine Certified Soils Scientist in accordance with the National Cooperative Soil Survey Classification.

5.2.16 Nuclear Facilities

A. The following uses are prohibited within all districts of the Town: nuclear power generating facility, nuclear energy center, nuclear powered facility, nuclear fuel enrichment, reprocessing, waste storage or disposal facility, use of recycled plutonium, and transport of nuclear fuels or wastes.

5.2.17 Off-Street Loading

A. In any district where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely off public ways and entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way.

B. Off-street loading areas shall be logically and conveniently located for bulk pick-ups and deliveries, and accessible to expected vehicles when required off-street parking spaces are filled. Off-street loading space shall not be included as off-street parking space in computation of required off-street parking space.

5.2.18 Off-Street Parking

A. In any district where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged, unless there is provided for such extension, construction or enlargement, off-street automobile parking space within 300 feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements.

B. An area of 200 sq. ft., exclusive of maneuvering space, shall be considered as one off-street parking space.

C. No required parking space shall for the purpose of this Ordinance, serve more than one use.

D. No off-street parking facility shall have more than two (2) entrances and exits on the same street, and no entrance or exit shall exceed thirty (30) feet in width.

E. Non-residential parking areas with more than two (2) parking spaces shall be so arranged that vehicles can maneuver within such areas and exit onto the street in a forward motion.

F. No parking lot shall be constructed closer than five (5) feet from any property line unless a common parking area is planned between lots.

G. A system of surface drainage shall be provided in such a way that the water runoff shall not run across any public sidewalk or street.

H. Parking requirements shall be calculated utilizing one of the following formulas:

Use	Parking Spaces Required (Minimum)
Lodging Accommodations	1 for each lodging unit and 1 for each employee
Residential	2 per dwelling unit
Church	1 per 3 seats in principal assembly room
School	1 per 3 seats in principal assembly room or 2 per classroom, whichever is greater
Private Club or Lodge	1 per 4 members
Hospital and Nursing Homes	1 per 3 beds and 1 for each employee based on the expected average employee occupancy
Retail, Trade, Commercial Sales and Service	1 for every 200 sq. ft. of gross leasable floor area.
Business and Professional Buildings	1 for every 250 square feet of gross leasable floor area.
Eating, Drinking, Amusement and Recreation Establishment	1 for ever 3 seats and 1 for each employee
Auto Service Station and	l for each reg. employee plus l for each

Auto Repair Garage	50 s.f. of floor area used for service work.
Funeral Homes.	1 for every 75 sq. ft. of floor space in slumber rooms, parlors, and individual service rooms.
Industrial, Public Utilities, Warehouse and Storage Facilities, Truck Facility, and Construction Services	1 for each employee, based on the highest average employee occupancy on the largest shift plus one for each vehicle used in conduct of the enterprise.

Adequate spaces shall be provided to accommodate customers, patrons and employees of all other uses not specifically listed above.

I. In specific cases where it is demonstrated that a particular building can be occupied or use carried with fewer parking spaces than required under this section, the Zoning Board of Appeals may reduce the requirement for off-street parking upon finding that such reduction will not detract from neighborhood values, inconvenience the public, or increase congestion in the street. The granting of such reduction shall not be construed as the granting of a variance to relieve undue hardship.

5.2.19 Open Space

A. Further subdivision of open space or its use for other than noncommercial recreation or conservation, except for easements for underground utilities, shall be prohibited and shall be so stated by deed restrictions recorded on the plan. Structures and buildings accessory to noncommercial recreation or conservation uses may be erected on open space.

B. Open space areas, except for the required buffer strips, shall be contiguous, where possible.

C. Common open spaces shall be shown on the subdivision plan and with appropriate notation that it shall not be further subdivided for any other use.

D. When reviewing the location and type of open space designated in the subdivision, the Planning Board shall consider the following criteria:

1. Individual lots, buildings, streets, and parking areas shall be designed and situated:
   a) to minimize alterations of the site;
   b) to avoid the adverse effects of shadows, noise and traffic to the residents of the site;
   c) to relate to the surrounding properties and to preserve existing views.

2. Open space shall include irreplaceable natural features located on the tract such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings.

E. Ownership and Maintenance

1. Unless deeded to the Town of Casco and accepted by the Selectmen or deeded to the Loon Echo Land Trust or some other conservation trust or association, maintenance shall be the responsibility of all owners of lots and/or units.

2. A homeowner's association shall be organized, one of whose purposes shall be the maintenance of common open space. Membership shall be compulsory and assessments, sufficient to provide for adequate maintenance, shall be levied.

3. All relevant legal papers shall be submitted to the Planning Board for review and approval before the plan is approved.

4. Until fifty-one (51) or more percent of all lots and/or units have been sold, the subdivider/developer shall be responsible for maintenance of the common open space.

5. Owners of multi-family rental developments are responsible for maintenance.

5.2.20 Planned Residential Development

A. Purpose. The purpose of these provisions is to encourage greater flexibility and more creative design for the development of single-family dwellings and multiplex than generally is possible under strict application of the space standards of this Ordinance. It is intended to encourage a pattern of residential development which will result in the following attributes.

1. Preservation of Casco's rural character by retention of open space.

2. Preservation to the greatest extent possible of existing landscape features and the utilization of such features in a harmonious fashion.

3. Protection of environmentally sensitive areas.

4. Economical and efficient building arrangement, traffic circulation and utility construction.

5. Recreation facilities that may be better located and used than would otherwise be provided under more conventional land development.

6. Planned variety and coordination in the location of structures and building forms and relationships.

B. General Requirements

1. PRDs are permitted in Village and Residential Districts and, in the Limited Residential/Recreational Shoreland Sub-District, shall conform and be subject to net residential density calculation.

2. All single-family subdivisions of twenty (20) lots or more shall be reviewed by the Planning Board as PRDs and be subject to the net residential calculation for PRDs.

3. All multiplex developments of ten (10) dwelling units or more shall be reviewed by the Planning Board as PRDs and be subject to the net residential calculation for PRDs.

4. In the Village District, subdividers/developers of parcels five (5) acres or larger may choose to have their projects reviewed as PRDs.

5. In all other Districts in which they are allowed, subdividers/developers of parcels ten (10) acres or larger may choose to have their projects reviewed as PRDs.

6. All PRDs shall meet the use standards of the districts in which they are located.

7. All PRDs shall meet the requirements of the Subdivision Ordinance and Site Plan Review provision of this Ordinance.

8. Allowable densities for PRDs shall be based on net residential density, and shall be calculated in the following manner:

   a. Determine the net residential area of the parcel (See Definitions and 5.2.15).

   b. Divide the net residential area by the minimum land area per dwelling unit size for the particular district to establish the maximum net residential density for the project.

   c. Except for projects qualifying for the affordable housing density bonus, in no case shall the density of a PRD or multiplex project exceed the

density established by the minimum land area per dwelling unit for the district where the project is located.

C. Single-Family PRD Standards

1. Except in the Village District, lot sizes may be reduced below the minimum lot size normally required in the zoning district (see #2 and #3 below) as long as the residual open space created by such reductions, plus the areas which are subtracted from gross area to calculate net residential area, are designated as open space.

2. Except in the Village District, lot areas for individual lots may be reduced up to twenty-five (25) percent below the minimum lot size required in the zoning district. In no case shall lot sizes for PRDs be less than 50,000 square feet.

3. Except in the Village District, frontage for individual lots may be reduced up to twenty-five (25) percent below the minimum frontage required in the zoning district. In no case, including instances when lots front a cul-de-sac, shall road frontages be less than seventy-five (75) feet.

4. Front, side and rear setbacks shall not be reduced below the minimum standards required in the zoning district.

5. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the zoning district.

6. A setback of one hundred (100) feet on an arterial street is required and shall include a fifty (50) foot landscaped strip.

7. No building or structure shall be sited in areas treated as 100 percent deductions from the parcel's net residential acreage. Siting of structures on areas treated as fifty (50) percent deduction (poorly drained soils) is discouraged but is permitted where the applicant/developer demonstrates that no adverse impacts will result.

D. Multiplex PRD Standards

1. Front, side and rear setback for the perimeter of multiplex PRD developments shall be double the minimum front, side and rear setbacks required in the zoning district.

2. Distances between detached multiplex clusters shall be at least fifty (50) feet.

3. A setback of one hundred (100) feet on an arterial street is required and shall include a fifty (50) foot landscaped strip.

E. PRD Open Space Standards

1. The total area of open space within the development shall equal or exceed the sum of the areas by which the building lots in single-family subdivisions are reduced below the minimum net residential area per dwelling unit required in the zoning district.

2. In no case shall a Planned Residential Development reserve less than fifteen (15) percent of the gross area as open space. Street right-of-ways and impervious surface areas shall be excluded from the calculation of minimum dedicated open space.

3. All open space with PRDs shall also comply with Section 5.2.19, Open Space Performance Standards.

F. Location of Buildings

1. Buildings shall be oriented with respect to scenic vistas, solar access, natural landscaped features, topography, and natural drainage areas, in accordance with an overall plan for site development.

2. Buildings shall be compatible in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development with other permitted uses within the district.

G. Utilities

1. Water Supply

a. All dwellings in the development shall be connected to a common water supply and distribution system or individual on-site water systems.

b. The subdivider/developer must clearly demonstrate that adequate ground water or treated surface water is available for all and that the water source is safe from both on-site and off-site contamination.

2. Sewer

a. All structures with required plumbing in the development shall be connected to individual septic systems or a private central collection and

treatment system in accordance with the minimum standards set forth in the Maine State Plumbing Code.

b. If a central collection and treatment system is proposed for a single-family PRD, the applicant/ developer must show that at least one (1) site on each lot has soils suitable for on-site subsurface waste disposal in accordance with the minimum standards set forth in the Maine State Plumbing Code.

c. If a central collection and treatment system is proposed for a multiplex PRD, the applicant/ developer must show that a second site on the parcel has such size, location and soil characteristics, as to accommodate a system similar to the one proposed for the primary site.

5.2.21 Road Construction

A. Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.

B. Additionally, all roads constructed shall conform with the following standards:

1. Road crossings of watercourses shall be kept to the minimum number necessary;

2. Bottoms of culverts shall be installed at streambed elevation;

.

3. All cut of fill banks and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible; and

4. Bridges or culverts of adequate size and design shall be provided for all road crossings of watercourses which are to be used when surface waters are unfrozen.

5.2.22 Ruins

No owner or occupant of land in any district shall permit fire ruins or other ruins to be left. Within one (1) year from the date of the disaster, the owner or occupant shall remove the ruins to clear ground level and fill the foundation where necessary. If the ruins are deemed to be a hazard to safety or health of the Town, the Code Enforcement Officer may direct the owners to remove them or remove them at the owners expense.

5.2.23 Sanitary Provisions

A. All subsurface sewage disposal systems shall be located in areas of suitable soil and comply with the minimum standards set forth in the State Plumbing Code.

B. All subsurface sewage disposal systems shall be located in areas of suitable soil at least 1,000 feet in size.

C. The minimum setback for subsurface sewage disposal facilities shall be no less than 100 horizontal feet from the normal high water mark of a waterbody. This requirement shall not be reduced by variance.

D. No materials of any kind shall be permanently or temporarily placed or deposited directly into or in the flood plains of any river or stream, lake or ponds, or on the ice thereof where such material may fall or otherwise find its way into said water courses, nor shall such material be placed or deposited directly in pits, wells or on ground surface except in conformity with the State Plumbing Code and local ordinances.

E. A marina shall provide, for use by its customers, shower and toilet facilities and shall also provide an environmentally safe means of removing accumulated waste matter from boats which have self-contained sanitary waste disposal units.

F. No dwelling or structure shall be converted from seasonal to year round use that is located within 250 feet of the high water mark of any lake, pond, river, stream or body of water more than one acre in size, including abutting wetlands, until the owner shall prove that the subsurface disposal system is located at least l00 feet from the high water mark of that water body and was legally installed after July l974, or a performance bond equal to the estimated cost of the system shall be posted to insure that the new subsurface disposal system will be installed at least l00 feet from the high water mark, prior to completion or occupancy of the building. Any existing bedrooms or other rooms that could be used as bedrooms that may have been added or will be added must be calculated as bedrooms for septic system design. Any increase in the number of bedrooms or potential bedrooms above the original subsurface disposal system design shall mandate the installation of a new or expanded subsurface disposal system.

5.2.24 Signs

Sign: Any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. Also see the following for more information pertaining to Signs: Casco Ordinance:

l. 9.13.9. Signs: Land Use Standards in the Shoreland Zone;

2. Table 1:Shoreland Use Table, #31. Signs.

3. 5.2.9 Home Occupations: C.

4. 5.2.14 Mineral Exploration, Excavation, Removal, and Filling of Lands: B.3.b. Advertising Signs.

5. Article 7 Site Plan Review: 7.5.1 G. Advertising Features.

6. State of Maine Department of Transportation (MDOT) Regulations 1: Chapter 200 - Regulations for the Installation of Official Business Directional Signs. (Copy available at Town Office).

A. Purpose

The purposes of this section are to reduce distractions and obstructions from signs that may adversely affect traffic safety, to alleviate hazards caused by signs projecting over or encroaching upon public ways, and to enhance the physical appearance of the community, especially as viewed from roadways.

B. Applicability

1. No outdoor sign visible from a public way shall be erected, altered or changed except in conformity with the provisions of this Ordinance.

C. Definitions

l. Sign area. Sign area is the area which encompasses the facing of a sign, including copy, insignia, background and borders. Where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured. A sign with a double sign board or display area shall be considered to be one sign for the purpose of this section and only one side shall be considered in computing sign area.

2. Ground or Freestanding Sign. An outdoor sign which is directly and permanently supported and physically separated from any other structure.

3. Wall Sign. An outdoor sign which is attached flat to, painted on, or does not project more than four (4) inches from the wall.

4. Projecting Sign. An outdoor sign which is attached to a wall, projects out from that wall, and clears the ground or sidewalk by at least eight (8) feet.

5. Portable Sign. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels. Portable signs shall be considered temporary signs.

6. Roof Sign. An outdoor sign which is attached flat to, painted on, or does not project more than four (4) inches from the roof.

7. Temporary Sign. An outdoor sign that is displayed for no more than seventy-two (72) hours in any 30 day period, used as part of temporary activities or the merchandising of products. Signs displayed for longer than this period shall either be removed on order of the Code Enforcement Officer or be in conformance with provisions regarding signs in 5.2.24 of this ordinance.

D. Nonconformance

l. The use of any sign lawfully in existence at the time of adoption of this Ordinance may continue although the sign does not conform to the provisions of this Ordinance.

2. Normal maintenance and repairs are permitted, but the sign shall not be altered, enlarged or rebuilt except in conformance with this Ordinance.

E. Signs Prohibited in all Districts

1. No outdoor sign shall be attached to any tree, fence or utility pole or be painted upon or otherwise directly affixed to any rock, ledge or other natural feature.

2. No outdoor sign shall be erected at a location where, by reason of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic, or may be confused with any authorized traffic sign, signal or device.

3. No sign shall have visible moving parts or moving message.

4. No sign shall have blinding, moving or glaring illumination, or have blinking or flashing lights.

5. No permanent sign shall include banners, pennants, ribbons, streamers or similar devices.

6. No signs shall project over, or into, a public right-of-way.

7. Billboards are prohibited in all districts.

8. Roof signs are prohibited in all districts except for the Commercial District. (Amended 6/17/95)

9. No freestanding sign shall be erected in a floodplain.

F. Signs Allowed Without Permit.

l. Temporary signs as defined herein.

2. The following signs are permitted within all districts without a permit provided they do not exceed four (4) square feet of sign area:

a. Historic, preservation, and cultural markers as approved by Town, State, or National organization, with review by CEO.

b. No trespassing/hunting signs.

c. Trail markers.

d. Real estate signs advertising the sale, lease, or rent of the premises on which the sign is located must be removed within ten (l0) days of said sale, lease, or rental. Such signs must be on property they advertise.

e. Construction: Temporary signs relating to a development.

f. Home sale signs advertising home, garage, barn, yard, or moving sales for no more than ten (l0) days at one time or twenty (20) days per calendar year.

g. Non-profit organization activities.

h. Political signs.

i. Directional signs indicating driveway ingress and egress, with no advertising material.

j. Informational signs such as employee/visitor parking, hard hat area, safety, etc.

k. Signs indicating open, closed and hours.

l. No more than one directional real estate sign indicating only "Real Estate for Sale" may be placed at an intersection at any one time. That

sign shall not set so it will obstruct the line of sight of vehicular traffic. The sign shall be no larger than three (3) square feet. (Added 6/21/97)

G. Sign Standards

l. New signs including ground or freestanding sign, wall sign, projecting sign, portable sign, temporary sign, must conform to all sign standards.

2. All signs must be on the property of the advertised business except for business directional signs and seasonal signs as defined herein.

3. All signs and their supporting structures shall be properly maintained to prevent rust, rot, peeling or similar deterioration. Any sign which is or becomes in disrepair shall be removed upon order of the Code Enforcement Officer (CEO) if not repaired after thirty (30) days notice. The area surrounding signs shall be kept clean and attractive.

4. Any outdoor sign which advertises, identifies or pertains to any activity no longer in existence shall be removed by its owner or person otherwise responsible within thirty (30) days from the time the activity ceases existence. This provision does not apply to seasonal activities during the regular periods in which they are closed.

5. Seasonal signs are permitted when erected by growers of agricultural products advertising those products when products are offered for sale on premises where they are grown. Signs may advertise only those products that are available for immediate purchase.

   A grower may not erect more than four (4) signs. A sign may not exceed eight (8) square feet in size and must be located within five (5) miles of the farm stand. Such signs may be erected on private property with the landowner's written consent.

6. No signs shall have a height greater than twenty-five (25) feet above the natural ground level of the land upon which it is located. Allowances will be at the discretion of the CEO depending upon variables or land contours.

7. Wall signs shall occupy no more than twenty-five (25) percent of the wall to which they are affixed or attached, or shall not exceed the maximum sign area permitted in that District, whichever is less.

8. Projecting signs shall not extend above the second floor nor be lower than eight (8) feet from ground level.

9. In the Commercial District, no individual sign shall have more than eighty (80) square feet of sign area.

10. In the Village District, Resort Commercial Overlay District and Limited Commercial/Residential Shoreland District, no individual sign shall contain more than forty (40) square feet of sign area.

11. In no case shall the sign area for a single property exceed one hundred sixty (l60) square feet.

12. Illumination (internal and external) of signs is permitted for commercial operations within the Commercial and Village Districts. All permanent illuminated signs shall be wired according to Maine State Electrical Code.

13. Any sign erected after the date of adoption of this ordinance shall be subject to any future change pertaining to illumination.

14. No sign shall be closer than twenty (20) feet to a side or back lot line.

l5. Signs may be placed up to the road Right of Way (ROW), but not closer than five (5) feet from the pavement.

16. The supporting structure of a free-standing sign shall not exceed two (2) vertical and two (2) horizontal supporting members. If any supporting members exceed eight (8) inches in width, thickness, or diameter, that support shall be included in the total sign area. (Amended 6/l8/94)

17. Roof signs shall be permitted only in the Commercial District. A roof sign shall occupy no more than twenty-five (25) percent of the roof to which it is affixed or attached, or shall not exceed the maximum sign area permitted in that District, whichever is less. The sign shall be parallel to the plane of the roof, and shall extend no more than four (4) inches from the roof surface. (Amended 6/l7/95)

H. Proximity of Signs (Adapted from State Regulations)

l. Where permitted, sign structures adjacent to Routes 302, ll, l2l, and 85 shall be spaced at least 300 feet apart OUTSIDE the built-up areas of the town.

2. Where permitted, sign structures adjacent to Routes 302, ll, l2l, and 85 shall be spaced at least l00 feet apart WITHIN the built-up areas of the town.

3. The distance measured between signs shall be based on the distance measured at the nearest edge of the pavement.

I. Permits, Fees and Enforcement

l. The erection of any sign, other than those noted in subsection F. above requires a sign permit to be obtained from the Code Enforcement officer. A permit is required for each new sign.

2. Application for a permit is to be made on forms prescribed by the Selectmen.

3. When applying for a sign permit, the applicant shall pay a sign permit fee prescribed by the Selectmen. No sign permit shall be issued until the fee has been paid.

4. The enforcement and penalty provisions of this Ordinance shall apply to provisions governing signs.

5.2.25 Steep Slopes

No dwellings shall be constructed on, or grading pursuant to such construction take place on sustained slopes in excess of twenty-five (25) percent.

5.2.26 Soils

All land uses shall be located on soils which are suitable for such proposed uses from the point of view of preventing adverse environmental impacts including erosion, mass soil movement, and water pollution. In cases of proposed structural development or other similar intensive land uses, the determination of soil conditions shall be based on a soils report, identifying soil boundaries and names, prepared by a State-certified soil scientist, geologist, licensed site evaluator or registered professional engineer based on an on-site investigation. Suitability considerations shall be based primarily on suitability as described by the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

5.2.27 Temporary Activity

A. Definition

1. An activity that is of a decidedly temporary nature or short duration which will, because of unusual circumstances, be unable to meet the minimum standards of this Ordinance, may be allowed under the provisions of a Special Permit issued by the Code Enforcement Officer.

B. Conditions of Issuance of permit

1. The proposed activity or use will not continue beyond a maximum time of one (1) week;

2. Upon expiration of the Special Permit, the activity must be immediately discontinued or brought into conformance with the minimum standards of this Ordinance or be in violation of this Ordinance;

3. The proposed activity will not create, cause or increase any health, safety or public nuisance problems;

4. The proposed activity will not cause immediate or future damage to future properties; and

5. Reasonable provision is made to prevent or minimize health/environmental impacts of the proposed activity.

C. Exceptions

The following temporary activities are permitted without issuance of a permit:

1. Activities associated with Casco Home Days;

2. Garage Sales that last seven (7) days or less.

5.2.28 Temporary Structures

Temporary structures used in conjunction with construction work shall be permitted during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six (6) month period and may be renewed by the Code Enforcement Officer.

5.2.29 Water Quality Protection

No activity shall store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature, such that it will run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

5.2.30 Chimney Regulations

All solid fuel burning appliances require chimneys of fire resistant masonry material except others where provided by law. (6/20/92)

ARTICLE 6

ADMINISTRATION

6.1 ADMINISTRATION OF PERMITS

6.1.1. Building Permit

A. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Code Enforcement Officer to the owner of record or his authorized agent. No building permit shall be issued except in conformity with the provisions of this Ordinance, and all other applicable ordinances of the Town of Casco and any conditions imposed pursuant to said ordinances.

B. The building permit shall be valid for one (1) year from the date of issue. If construction has not been completed within the twelve-month period, the permit may be reviewed without charge for a second twelve-month period. Thereafter, if construction has not been completed, a new permit shall be applied for and the fee paid. Except as provided for in Chapter 3.2.3C. in which case the permit is only good for twelve months from the incident. (5/31/89))

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

6.1.2. Application for Building Permit

All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, the location and dimensions of the proposed building, and the proposed sewage disposal system as required by the Maine State Plumbing Code. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and to provide for the enforcement of this Ordinance, including but not limited to a survey of the property performed by a professional surveyor. Applications shall be accompanied by a fee established in the Town Fee Schedule and revised periodically by the Selectmen.

6.1.3. Certificate of Occupancy

A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a Certificate of Occupancy shall have been issued by the Code Enforcement Officer and endorsed to the effect that the proposed use of the building or land conforms with the requirements of this Ordinance. The Certificate of Occupancy shall be issued in conformity with the provisions of this Ordinance upon completion of the work provided that such safeguards as will protect the health, welfare, and safety of the occupants and the public are met. Where a certificate of occupancy is sought for a structure abutting a new, expanded or improved road, the Code Enforcement Officer shall have the authority to require that a survey of the road and a plan showing the construction details be submitted prior to the issuance of a Certificate of Occupancy.

B. A temporary Certificate of Occupancy may be issued by the Code Enforcement Officer for a period of six (6) months during construction or alterations for partial occupancy of a building pending its completion, provided that such safeguards as will protect the health, welfare, and safety of the occupants and the public.

C. The Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy.

D. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance.

6.1.4. *Deleted*

6.l.5. Fee Schedule

Fee schedule charged according to current Town Fee Schedule as determined by municipal authorities.

6.2 ENFORCEMENT

6.2.1. Code Enforcement Officer

It shall be the duty of the Code Enforcement Officer of the Town of Casco to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or

shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

6.2.2. Legal Action and Violation

When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer shall notify the Selectmen who shall then initiate any and all actions to be brought in the name of the Town.

6.2.3. Fines

Any person, firm or corporation being the owner of or having control of or use of any building, structure or land who violates any of the provisions of this Ordinance, or any condition imposed by the Code Enforcement Officer, Planning Board or Zoning Board of Appeals pursuant to the provisions of this Ordinance, commits a civil violation and shall be liable for a civil penalty of no less than $100 or no more than $2,500 for each violation. Each day such a violation is permitted to exist after notification thereof, shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Casco.

6.3 ZONING BOARD OF APPEALS

6.3.1. Appointment and Composition

There shall be a Zoning Board of Appeals of five (5) members, all of whom shall be residents of the Town of Casco. The members of the Board shall be appointed by the Selectmen. Terms of members shall be for three (3) years except that initial appointment shall be such that the terms of office of no more than two (2) members shall expire in a single year. The members of the Board shall annually elect a Secretary and Chairman who shall provide for the keeping of the minutes of the proceedings of the Zoning Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum and a majority shall consist of three (3) members.

6.3.2. Powers and Duties

The decision of the Code Enforcement Officer may be appealed to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Superior Court according to the provisions of Maine Revised Statutes. The Zoning Board of Appeals shall have the following powers and duties:

A. Administrative Appeal

(1) The Zoning Board of Appeals shall hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the

Code Enforcement Officer in the enforcement of this Ordinance. The action of the Code Enforcement Officer may be modified or reversed by the Zoning Board of Appeals by concurring vote of at least three (3) members of the Board.

(2) The Zoning Board of Appeals shall hear and decide where it is alleged that there is an error in a decision by the Planning Board under the site plan review provisions in Article 7 of this Ordinance. Such review shall be appellate in nature and shall, notwithstanding the provisions of Section 6.3.5, be conducted in accordance with the requirements set forth in Section 7.5.3.

B. Variance Appeals

1. For increases in nonconforming nonresidential uses over 25%, the Zoning Board of Appeals shall hear and decide appeals requesting such variance from the terms of this Ordinance as will not be contrary to the public interest where, owning to special conditions, a literal enforcement of the provisions of this Ordinance would result in undue hardship. A variance may be granted only by majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance. The words "undue hardship" as used in this subsection 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;

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

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

The petitioner shall submit specific information to substantiate that the land in question cannot yield a reasonable return.

This information shall include statements in writing, which may be accompanied by diagrams and/or photographs which shall become part of the record of such petition, demonstrating the following:

a. The nature of the hardship to the property under appeal and the physical circumstances that allegedly would occasion such unusual difficulty or special hardship. A financial hardship does not necessarily constitute grounds for granting a variance.

b. That such physical circumstances are peculiar to the property under appeal, and are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zoning district.

c. That the relief sought would not adversely affect property adjoining or nearby in the same neighborhood or the same zoning district and would not endanger the public health, safety or convenience and would not impair the integrity of the Casco Zoning Ordinance.

2. For property located elsewhere in the Town and for reconstruction of destroyed nonconforming buildings, the Board may grant a variance from the dimensional standards of this Ordinance when strict application of the Ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties.

c. The practical difficulty is not the result of action taken by the petitioner or a prior owner.

d. No other feasible alternative is available to the petitioner,

e. The granting of an easement will not unreasonably adversely affect the natural environment; and

f. The property is not located in whole or in part within the shoreland Zone.

As used in this Ordinance, "dimensional standard" means and is limited to Ordinance provisions relating to lot area, lot coverage, frontage and setback requirements and "practical difficulty" means that strict application of the Ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner. A variance may be granted only by majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance.

3. Except where specifically limited or prohibited, variances may be authorized only for maximum heights, minimum setbacks, maximum building coverage or impervious surface, minimum frontage, 15% expansion of nonconforming uses, and reconstruction of destroyed nonconforming buildings. Only the minimum variance which will alleviate the hardship shall be granted.

C. Miscellaneous Appeals.

To hear and decide only the following miscellaneous appeals. Such appeals may be granted only by a majority vote of those members present and voting.

1. Where uncertainty exists, to determine the precise location of any Zoning District Boundary lines as specified in Section 4.3

6.3.3. Conditions Attached to Appeals

The Zoning Board of Appeals may attach such condition(s), in addition to those required by other provisions of this Ordinance, as it finds necessary to insure compliance with all standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to specifications for type of vegetation, increased setbacks and yards, specified sewage disposal and water supply facilities, retention of natural features and topography, landscaping and planting screens, hours of operation, operation controls, professional inspection and maintenance, sureties, location of piers and docks, parking and signs, lighting and types of construction.

6.3.4. Meetings

The Zoning Board of Appeals shall schedule meetings once a month. The Board shall not be required to hold a meeting if no appeals are pending at the scheduled date.

6.3.5. Appeal Procedure

A. When the owner of property or authorized agent is informed by the Code Enforcement Officer that an appeal or a variance is required, an application for the permit or variance shall be filed with the Town Clerk on forms provided for this purpose. The application shall be accompanied by a filing fee which shall be established by the Selectmen, all information which is required for application for a building permit, and other information required by this section of the Ordinance. The applicant may submit any additional information relevant to the appeal.

B. An administrative appeal shall be commenced within 45 days of the order, decision, interpretation or ruling of the Code Enforcement Officer. A variance appeal or miscellaneous appeal which does not allege an error in any order, decision, interpretation, or ruling of the Code Enforcement Officer may be commenced at any time.

C. Before taking action on any appeal or application, the Zoning Board of Appeals shall hold a public hearing. Notice of such hearings shall be posted at the Town Office at least seven (7) days prior to the hearing. In addition, notice of the agenda of the public hearing shall be published in summary form in a newspaper of general circulation in the Town of Casco at least seven (7) days prior to the hearing. The applicant shall notify, by registered mail return receipt, the appellant and the owners of property within 500 feet of the property for which an appeal is taken of the nature of the appeal and of the time and place of the public hearing thereon.

D. For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor of Taxes for the Town of Casco as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Zoning Board of Appeals.

E. At any hearing a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

F. The Code Enforcement Officer or designated assistant shall attend all hearings and may present to the Zoning Board of Appeals all plans, photographs or other material deemed appropriate for an understanding of the appeal.

G. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

H. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair. The Zoning Board of Appeals may adopt additional rules of procedure governing conduct of meetings.

I. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis thereof, upon all material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be given in writing to the petitioner, his representative

or agent, the Planning Board, the Code Enforcement Officer and the Municipal Officers within seven (7) days of the Zoning Board of Appeals decision.

J. A permit or variance secured by vote of the Zoning Board of Appeals under the provisions of this Ordinance shall expire if the work or change involved is not commenced within one year of the date on which the appeal or variance is granted, or if the work or change is not substantially completed within eighteen (18) months of the date on which such appeal or variance is granted.

K. If the Zoning Board of Appeals shall deny an appeal or application, a second appeal of a similar nature for the same property may not be brought before the Board within one (1) year from the date of the denial by the Board of the first appeal or application, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts was made.

L. An appeal from any order, relief or denial may be taken to Superior Court by any party within forty five (45) days after the decision is rendered.

6.4 PERFORMANCE GUARANTEES

A. The developer shall, in an amount set by the Board of Selectmen, file with the Town, prior to final approval of the major subdivision or a project for which Site Plan Review is required, a performance guarantee in the form of a certified check payable to the Town of Casco, an irrevocable letter of credit to cover the full cost of required improvements, or some other form of surety that is acceptable to the Board of Selectmen. For the purposes of this section, required improvements shall mean all public and private roads, all drainage structures and ditches, all erosion-control measures, all utilities, including water supply and sewerage system, all landscaping and all recreation facilities. Any such guarantee shall be satisfactory to the Board of Selectmen and the municipal attorney as to form, sufficiency, manner of execution and surety.

B. A period of one year (or such period as the Board of Selectmen may determine appropriate, not to exceed three (3) years) shall be set forth in the surety as the time within which required improvements must be completed.

C. At the discretion of the Selectmen, the developer may be allowed to submit individual sureties for each phase of a project's development. If this option is chosen, prior to submission of each individual surety, the subdivider shall submit to the Town a written statement detailing completion dates for all roads and other public improvements planned for that phase.

D. Inspection of Required Improvements

1. At least fifteen (15) days prior to commencing construction of required improvements, the subdivider shall notify in writing the Code Enforcement Officer of the time such construction will commence.

2. The Town Manager shall cause inspection to be made to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board. Inspection shall be made of all required public improvements as defined above.

3. The developer's project engineer (registered Maine Engineer), hereinafter referred to as the Inspecting Engineer, shall certify to the Town Manager the completion of all phases of construction. In the event that the developer does not have a Registered Maine Engineer, the Town shall hire one at the developer's expense to do all inspections and recertifications.

4. If the Inspecting Engineer shall find, upon inspection of the improvement performed before the expiration date of the performance guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Manager, Road Commissioner and Code Enforcement Officer. The Town Manager shall then notify the developer and, if necessary, the financial institution, and take all necessary steps to preserve the municipality's rights under the surety or letter of credit. No plan shall be approved by the Planning Board as long as the developer is in default on a previously approved Plan.

5. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the inspector that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the Inspecting Engineer may, upon approval of the Town Manager, authorize modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The Inspecting Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board.

6. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the Town Meeting.

E. Release of Performance Guarantee

1. The performance guarantee shall not be released by the Town Manager until:

   a. The Inspecting Engineer has completed his final inspection of the project and has submitted a written report stating that all required public improvements as defined above have been completed in accordance with approved plans and specifications.

   b. The Town Manager and Code Enforcement Officer have examined the site, have reviewed the Inspecting Engineer's report and concur with his findings.

2. Performance guarantees collected on phased work segments shall be released in the same manner as outlined above, upon the completion of each phase.

ARTICLE 7

SITE PLAN REVIEW

7.1 PURPOSE

The purpose of this Article is to provide for site plan review of multi-family residential, commercial, industrial, and institutional projects which are of a scale that they may affect the physical and visual environment, the provision of public services, and the value and rights of adjoining properties and thereby to protect the health, safety and welfare of the citizens of Casco.

7.2 APPLICABILITY

7.2.1 Site Plan Review and approval shall be required for the following activities:

A. Proposals for new construction of non-residential buildings or structures, including accessory buildings or structures.

If the total floor area of proposed new construction is more than 2,500 square feet, then the Planning Board shall conduct site plan review.

If the applicant for a building permit for a building or structure having a total floor area of 2,500 square feet or less seeks a waiver of one (l) or more standards of this Ordinance, then such a proposal shall receive site plan review by the Planning Board.

When the total floor area of the proposed new construction is 2,500 square feet or less, and no waiver is requested, the code enforcement officer either shall perform site plan review or refer the application to the Planning Board for site plan review.

B. Proposals for the enlargement of nonresidential buildings or structures, including accessory buildings or structures.

If the proposal is for the enlargement of a nonresidential building or structure including accessory buildings or structures by more than 2,500 square feet of total floor area within a five-year period, the proposal shall be reviewed by the Planning Board.

If the applicant for a building permit for an enlargement of a building or structure, where the enlargement has a total floor area of 2,500 square feet or less within a five-year period, seeks a waiver of one or more standards of this ordinance, then such a proposal shall require site plan review by the Planning Board.

When the square footage of said proposed enlargement is 2,500 square feet or less within a five-year period, and no waiver is requested, then the code enforcement officer either shall perform site plan review or refer the application to the Planning Board for site plan review.

C. Proposals for new construction of multi-family dwellings, or for conversion of single-family to multi-family use, or for enlargement of multi-family dwellings, either by addition of units within an existing structure or expansion of the structure to accommodate new units.

D. Proposals to convert residential uses to nonresidential uses.

E. Proposals to pave, strip, grade or remove earth materials from vegetated areas of more than ten thousand (10,000) square feet within a five (5)-year period.

F. Proposals for Manufactured Housing Parks within the Manufactured Housing Park District.

G. Uses listed in Section 4.4, District Standards, and in other sections of this Ordinance, as requiring Site Plan Review, except where the proposed use is to be located in an existing building or structure that is within the Village District or Commercial District and the proposed use is determined by the Code Enforcement Officer to be less adverse in impact than the current or former use of the existing building or structure.

7.2.2 No building permit shall be issued for multi-family residential, commercial, industrial and institutional projects as listed in 7.3.1 above until the plans, drawings, sketches, and other documents required under this Article have been reviewed and approved by the Planning Board.

7.2.3 Construction, site development and landscaping shall be carried out in accordance with the plans, drawings, sketches, and other documents approved by the Planning Board, unless altered with Planning Board approval. Nothing in this article shall be construed to prevent ordinary maintenance and improvement of existing structures and facilities.

7.2.4 When a development is subject both to Site Plan Review and to Subdivision Review, the Planning Board shall conduct a concurrent review. Procedures of Subdivision Ordinance shall be used. Criteria and standards of Site Plan Review shall be employed in addition to the requirements, improvements and standards of the Subdivision Ordinance.

7.3 ADMINISTRATION

7.3.1 The following procedure and requirements shall apply to all applications for Site Plan Review:

A. Prior to formal application, the applicant or his authorized agent may request a pre-application conference with the Planning Board or its designated staff to discuss the plan and its compliance with Town standards. Comments made at such a meeting shall be advisory in nature; no formal action shall be taken by the Planning Board at a pre-application conference.

B. All applications for Site Plan Review shall be made in writing to the Code Enforcement Officer on forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner, and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application.

C. The Planning Board shall be empowered to impose application fees as set by the Selectmen and listed in the Town Fee Schedule.

D. The Planning Board may require the applicant or his authorized agent to deposit in escrow an amount of money sufficient to cover the costs for any professional review of the site plan documents which the Planning Board may feel are reasonable to protect the general welfare of the town. Such amount of escrow shall not exceed the limits set by the Town Fee Schedule. This escrow payment shall be made before the Planning Board engages any outside party to undertake this review and to make recommendations to the Planning Board. Any part of this escrow payment in excess of the final costs for the review shall be returned to the applicant or his agent.

E. At least fifteen (15) working days prior to the Planning Board meeting at which the applicant wishes to be heard, the applicant shall submit a letter of intent to appear before the Planning Board.

F. Twelve (12) copies of the completed application for Site Plan Review, together with the documentation required in these regulations shall be submitted at least ten (10) working days prior to the Planning Board meeting at which the applicant wishes to be heard. However, any application which does not include the documentation required by these regulations will not be scheduled for review by the Planning Board and shall be returned to the applicant by the Code Enforcement Officer with an indication of the additional information required.

G. The Planning Board shall be the ultimate authority on the completeness of an application and shall make a finding of fact during its initial review as to whether the application is complete. Within sixty (60) days of receipt of a completed application, the Planning Board shall act to approve, approve with conditions, or disapprove the site plan as submitted or amended, unless the Planning Board and applicant agree to a continuance. If the Planning Board shall vote to disapprove an application, the

applicant or authorized agent shall be notified in writing and the specific cause of disapproval shall be noted.

H. Prior to taking final action on any Site Plan Review application, the Planning Board shall hold a hearing to afford the public the opportunity to comment on the application. Notice of the date, time, and place of such hearing shall be published in a newspaper of local circulation at least ten (10) calendar days prior to the hearing. In addition, at least ten (10) calendar days prior to the public hearing, the applicant shall notify owners within 500 feet of the property lines of the proposed development with proof of mailing by certified mail, return receipt required. Owners of abutting properties shall be those listed in the most recent tax records of the Town of Casco. (Amended 6/l8/94)

I. Proposals for Site Plan Review must also comply with all other applicable state and local regulations. Where review by a state agency or other local board is required, it shall be desirable for such review to occur concurrently with that of the Planning Board. Where approval of the Zoning Board of Appeals is necessary, such approval shall be obtained prior to the Planning Board's consideration of the application. Final approval by all other levels of government must be received before final Planning Board action on the application.

7.4 SUBMISSION REQUIREMENTS

7.4.1 When the owner of the property or his authorized agent makes formal application for Site Plan Review, his application shall contain at least the following exhibits and information:

A. A fully executed and signed copy of the application for Site Plan Review.

B. Twelve (12) copies of a site plan drawn at a scale sufficient to allow review of the items listed under 7.6, Criteria and Standards, but at not more than fifty (50) feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:

1. Owner's name, address, and signature.

2. Names and addresses of all abutting property owners.

3. Sketch map showing general location of the site within the Town.

4. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.

5. The bearings and distances of all property lines and the source of this information.

6. Zoning classification(s) of the property and the location of zoning district boundaries if the property is located in two or more zoning districts.

7. Soil types and location of soil boundaries as certified by a registered engineer or certified soil scientist.

8. The location of all building setbacks as required by this Ordinance.

9. The location, size, and character of all signs and exterior lighting.

10. The lot area of the parcel, street frontage and the zoning requirements for minimum lot size and frontage.

l1. The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping.

12. The location of all buildings within fifty (50) feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.

13. Existing and proposed topography of the site at two (2) foot contour intervals if major changes to the existing topography are being proposed.

C. A storm-water drainage plan showing:

1. The existing and proposed method of handling storm- water run-off.

2. The direction of flow of the run-off through the use of arrows.

3. The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.

4. Engineering calculations used to determine drainage requirements based upon a 25-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.

D. A utility plan showing provisions for water supply and wastewater disposal including the size and location of all piping, holding tanks, leachfield, etc.

E. A planting schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs, and other plants to be planted on the site.

F. Building plans showing, as a minimum, the first floor plan and all elevations, together with a schedule detailing the type, color, and texture of all exterior surfacing materials of all proposed principal buildings and structures and all accessory buildings and structures.

G. Copies of any proposed or existing easements, covenants and deed restrictions.

H. Copies of all applicable State approvals and permits, provided, however, that the Planning Board may approve site plans subject to the issuance of specified State licenses and permits in cases where it determines that it is not feasible for the applicant to obtain them at the time of Site Plan Review.

7.4.2 The Planning Board may waive any of these requirements when the Board determines that the scale of the project is of such magnitude as to make the information unnecessary.

7.5 CRITERIA AND STANDARDS

7.5.1 The following criteria and standards are to be used by the Planning Board in judging applications for Site Plan Review and shall serve as minimum requirements for approval of a site plan. In all instances, the burden of proof shall be on the applicant to demonstrate compliance with each standard.

A. Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge, or ridges, above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation, buffering landscaping and building siting are potential methods of preserving scenic vistas.

B. Relation of Proposed Buildings to the Environment: Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the scale of the proposed building(s), massing of the structure(s), and such natural features as slope, orientation, soil type, and drainage courses.

C. Vehicular Access: The proposed layout of access points shall be designed so as to avoid unnecessary adverse impacts on existing vehicular and pedestrian traffic patterns. The proposed site layout shall give special consideration to the location, number, and control of access points, adequacy of adjacent

streets, traffic flow, sight distances, turning lanes, pedestrian-vehicle contacts, and existing or proposed traffic signalization.

D. Parking and Circulation: The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall consider general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the arrangement and use of parking areas. These facilities shall be safe and convenient and, insofar as practicable, shall not detract from the proposed buildings and neighboring properties.

E. Surface Water Drainage: Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five (25) year storm frequency.

F. Utilities: The site plan shall show what provisions are being proposed for water supply and wastewater disposal. Whenever feasible, electric, telephone, and other utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.

G. Advertising Features: The size, location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures, or features, shall not detract from the design of proposed buildings and structures and the surrounding properties.

H. Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

I. Exterior Lighting: All exterior lighting shall be designed to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

J. Emergency Vehicle Access: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

K. Landscaping: Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, plants, grading and the use of building and materials in an imaginative manner.

L. Environmental Considerations:

1. Adequate provision shall be made to control noise, vibrations, smoke, heat, glare, fumes, dust, toxic matter, odors and electromagnetic interference generated by proposed uses or activities on the site. As a general standard, these impacts shall not be readily detectable at any point along lot lines so as to produce a public nuisance or hazard.

2. Storage of hazardous materials shall comply with the Casco Hazardous Materials Ordinance.

7.5.2 In addition, the Planning Board, in its review, shall apply the performance standards set forth in Article 5, where applicable. The following performance standards are particularly relevant to the site plan review process: Off-street Parking, Off-street Loading, Access to Property, Buffer Zones and Signs.

7.5.3 Any person aggrieved by a final decision of the Planning Board on a site plan application may appeal that decision within thirty (30) days of the decision to the Zoning Board of Appeals. The review by the Zoning Board of Appeals shall be on an appellate basis and shall be limited to the record developed before the Planning Board. The person submitting the appeal and any opponents to that position of that person may make written and/or oral presentations to the Zoning Board of Appeals about why they feel the decision of the Planning Board was correct or incorrect. The Zoning Board of Appeals shall only reverse the decision of the Planning Board if it determines that the decision contained a procedural error or was clearly contrary to the ordinance. Any appeal from a decision of the Zoning Board of Appeals under this section shall be made to the Superior Court within forty-five (45) days after the date of the decision.

7.6 TIME LIMIT FOR CONSTRUCTION OR CHANGE OF USE

If construction of the approved new structure, building addition or site improvements is not commenced within one (1) year of the date that approval is granted under this Article, or if the applicant does not commence the approved new use, then the Site Plan approval shall become null and void. This one (1) year period for commencement of construction or use shall not be extended or affected in any way by any amendments, changes, erasures, modifications or revisions to the final site plan subsequent to the Planning Board's approval of the plan. The Planning Board shall have the authority to grant extensions of one (1) year increments to this Approval limitation period by approving a waiver if the applicant demonstrates good cause for request for extension. The Planning Board may approve a waiver with conditions where appropriate.

ARTICLE 8

WIRELESS TELECOMMUNICATIONS FACILITIES SITING ARTICLE

8.1 TITLE

Article 8 shall be known and cited as the "Wireless Telecommunications Facilities Siting Article" of Casco, Maine, (hereinafter referred to as Article 8).

8.2 AUTHORITY

This article is adopted pursuant to the enabling provisions of Article 8, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulations Act, Title 30-A M.R.S.A. Section 4312 et seq.

The procedures as outlined in Article 7, Site Plan Review of the Zoning Ordinance of the Town of Casco, Maine shall govern in addition to this Article 8.

8.3 PURPOSE

These standards are designed and intended to balance the interests of the residents of the Town of Casco, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. Beyond the objectives described in Article 1, Section 1.3, and in other sections of the Zoning Ordinance of the Town of Casco, these Wireless Communication Facilities standards are also intended to:

a. Implement a municipal policy concerning the provisions of wireless telecommunications services, and the siting of their facilities;

b. Establish clear guidelines, standards and time frames for the Town to regulate wireless communications facilities;

c. Ensure that all entities providing Wireless Communications Facilities within Casco comply with the ordinances of Casco;

d. Permit the Town of Casco to fairly and responsibly protect public health, safety and welfare;

e. Encourage the siting of Wireless Communications Facilities to co-locate, thus minimizing adverse visual impacts on the community;

f. Support the goals and policies of the Comprehensive Plan, especially the orderly development of the Town with minimal impacts on existing residential uses;

g. Protect Casco's environmental resources and rural character as consistent with the goals and objectives outlined by the Casco Comprehensive Plan.

h. Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes; and

i. Minimize any potential adverse effect of Wireless Communication Facilities on property values.

8.4 APPLICABILITY

This article of the zoning ordinance shall apply to all construction and expansion of wireless telecommunications facilities, except as provided in Section 4.1.

8.4.1 EXEMPTIONS

The following are exempt from the provisions of this article:

a. Emergency Wireless Telecommunications Facility. Wireless communication facilities for emergency communications by public officials.

b. Amateur (Ham) Radio Stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).

c. Parabolic Antennae. Parabolic Antennae less than seven (7) feet in diameter, that are an accessory use of the property.

d. Temporary Wireless Telecommunications Facility. Temporary Wireless Telecommunications Facility, in operation for one maximum period of one hundred eighty (180) days. Such temporary facilities shall be removed prior to 30 days following the maximum period.

e. Antennae as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit, provided that the WCF is not used for commercial purposes.

8.5 CONFLICT AND SEVERABILITY

a. Conflict with Other Ordinances
Whenever a provision of this article conflicts with or is inconsistent with another provision of this article or of any other ordinance, regulation or statute, the more restrictive provision shall apply.

b. Severability
The invalidity of any part of this article shall not invalidate any other part of this article.

8.6 DEFINITIONS

In addition to those terms defined in Article 2 of the Casco Zoning Ordinance, the following terms are applicable for reviewing an application for a wireless communication facility and for ensuring that applicable standards are met.

a. **ATS (Alternative Tower Structure)**: Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, and similar alternative mounting structures that camouflage or conceal the presence of antennae or towers associated with a Wireless Communication Facility.

b. **Antenna/Antenna Array:**

1) A device used in communication that transmits or receives radio or electromagnetic frequency signals.
2) A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy.

These include, but are not limited to, omnidirectional antennae (whip or rod), directional antennae (panel) and parabolic antennae (dish or disc).

c. **Antenna Support Structure:** Any pole, telescoping mast, tower tripod, or other structure that attaches to a tower and supports one or more antenna(ae).

d. **Co-location**: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

e **Equipment Facility:** Any structure used to contain ancillary equipment for a wireless communication facility, including cabinets, shelters, a build-out of an existing structure, pedestals and other similar structures.

f. **NCWCT (Non-Conforming Wireless Communication Tower):** A wireless communication tower existing as of the adoption of these standards (1/8/2000) that does not meet the standards contained herein including, but not limited to, tower height.

g. **FAA:** Federal Aviation Administration, or its lawful successor.

h. **FCC:** Federal Communication Commission, or its lawful successor.

i. **Tower Height:** The vertical distance measured from the mean elevation of a 25' radius of a circle whose center is the base of the tower to the highest point of the tower or ATS, including the base pad, all antennae and other attachments. When towers are mounted upon buildings or other structures, the total vertical height is measured from the ground level as stated above.

j. **Normal Maintenance:** The regular, routine maintenance of a WCF including but not limited to changing light bulbs, plowing and maintaining the existing access road and gate, fence repair and maintenance, maintenance of the buffer, replacing an existing antenna with a functionally equivalent antenna, and changing or repairing electronic components that do not increase the broadcast capacity of the WCF in excess of the exemption standards contained in FCC Office of Engineering and Technology (OET) Bulletin #65. This definition specifically includes painting provided that the painting is done in accordance with the standards established in this article. This definition specifically excludes widening an access road, increasing tower height, replacing light fixtures, and increasing the broadcast capacity of a WCF within the exemption standards contained in FCC OETC Bulletin #65.

k. **Parabolic Antenna:** (Also known as a satellite dish antenna) means an antenna which is bowl shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

l. **Wireless Communications:** Any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including but not limited to telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, radio, television and similar services that currently exist or that may be developed in the future.

m. **WCF (Wireless Communication Facility):** A facility that transmits, receives, distributes, provides or offers wireless communications. This includes the facility's associated antennae, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals, wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features.

n. **Wireless Communication Towers - Co-Located**: A Wireless Telecommunications Tower or ATS supporting one or more antennae/antenna array(s) and owned or used by more than one public or private entity. A Co-Located Tower may include two (2) or more antenna array(s) serving the same company provided that the applicant can demonstrate to the Planning Board that separate levels are a practical necessity.

o. **WCT (Wireless Communication Tower):** A structure designed and constructed specifically to support an antenna array that provides Wireless Communication. A tower may be a monopole, self-supporting (lattice) tower, guy-wire support tower or other similar structure, and includes all supporting lines, cables, wires, and braces.

8.7 REVIEW AND APPROVAL AUTHORITY

Construction, alteration, repair or change on any Wireless Communication Facility shall require written approval from the Casco Code Enforcement Officer (CEO) and/or Planning Board as outlined below:

a. Normal Maintenance, as defined in this Section 6.j., is allowed without approval from the Planning Board.

b. No construction, alteration, repair or change shall occur on any Wireless Communication Facility unless all required permits are obtained including but not limited to any federal or state permits.

c. Planning Board review and approval is required for the following:

1) Any WCF that does not exist as of the adoption of these standards (1/8/2000).

2) Any additional antenna or antenna array(s) or increase in broadcast capacity in excess of the exemption standards contained in FCC OETC Bulletin #65 on the WCF not previously and specifically approved by the Planning Board.

3) Any alteration to an existing NCWCT that requires Planning Board review as established in Section 11 entitled "Alterations to Existing Facilities".

4) Any increase to the tower height not previously and specifically approved by the Planning Board.

d. A building permit, in accordance with the standards established in Section 12 entitled "Building Permit Requirements," must be obtained from the CEO for the following:

1) Construction of a WCF that does not exist as of the adoption of these standards (1/8/2000).

2) Any alteration to an NCWCT except normal maintenance.

3) Any WCF application approved by the Planning Board.

8.8 APPROVAL PROCESS

All persons seeking approval under this article shall submit an application as provided below.

a. The following shall be submitted to the CEO by the applicant:

1) Names, addresses, phone numbers and other means of contacting owner, lessee, companies, and persons that will function as contacts for the required inspections and monitoring of the WCF.

2) The following plans and information:

a) Location map and elevation drawings of the proposed facility and any other proposed structures, including list of the structural materials and the proposed color or colors.
b) Documentation of the applicant's right, title or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
c) Any other information that the CEO determines to be necessary for review of the application.

3) For any permit request involving an existing NCWCT, the applicant shall supply information regarding the estimated construction cost of the tower prior to the proposed alterations and the estimated construction cost of the tower after the proposed alterations. For the purposes of determining the estimated cost for this section, the cost shall be based on a complete rebuild of the existing tower excluding the cost of any electronic equipment and antenna/antenna array(s) (see also Section 11 (b) entitled "Alterations to Existing Non-Conforming WCT's").

b. Submission Requirements for All Applications

1) All relevant submissions, as determined by the CEO or Planning Board, contained in Article 7 of this Ordinance entitled Site Plan Review.

2) A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities that are contracted to locate on the tower must join as applicants.

3) Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or

criteria for the approval, or a statement from the agency that no approval is required.

4) An inventory of all of the provider's existing and approved towers, antennae or sites within the Town of Casco and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant's existing and proposed facilities in Cumberland, Androscoggin, and Oxford counties.

5) Identification of any other telecommunication facilities existing or proposed on the site.

6) Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.

7) An applicant for approval under this Article shall pay all reasonable and customary fees incurred by the Town that are necessary to review the application, including, without limitation, independent engineering, planning, legal or similar professional consulting services. Such review fee shall be assessed for review and shall be payable without regard to consultation results or the outcome of the application review. The review fee shall be paid in full prior to the issuance of any building permit.

8.8.1 <u>REQUIREMENTS FOR TOWER</u>

a. Submission Requirements

1) Evidence that written notice was sent, by pre-paid first class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers that could furnish service to the Town of Casco utilizing existing towers and ATS's and to owners of such towers. This notice shall state the applicant's siting needs and include a request for information of the co-location capabilities of the existing or previously approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a return receipt request that the notices were sent as required.

2) Evidence that existing or previously approved towers and alternative tower structures within the Town of Casco cannot accommodate the communications equipment (antennae, cables, etc.) planned for the proposed tower. Such evidence shall include documentation from a qualified and licensed professional engineer that:

a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering (1) the existing and planned use of those towers and alternative tower structures, and (2) the existing and approved towers cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost;

b Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost;

c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or

d) Other documented reasons make it technically or financially un-feasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.

3) Evidence that the proposed tower cannot be co-located on existing or previously approved tower sites. Evidence should include an assessment of whether such tower sites could be changed to accommodate the proposed tower, and a general description of the projected cost of shared use of the existing or approved tower site.

4) A report from a Registered Professional Engineer that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s), and volume(s) of antennae that it can accommodate and the basis for the calculation of capacity.

5) A letter of intent that commits the tower owner and his or her successors in interest to:

a) respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;

b) negotiate in good faith for shared use by third parties that have received an FCC license or permits; and,

c) allow shared use if an applicant agrees in writing to pay reasonable charges.

6) Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.

7) Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties.

8) Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.

9) Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennae, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

10) Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.

11) An analysis of the visual impact of the proposed facility, including tower and supporting structures, which may include photo montage, field mock up, or other techniques, that identify the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from roads, public areas, private residences, historic resources, including historic districts and structures listed in the National Register of Historic Places, and archaeological resources. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historical Preservation Officer in his/her review capacity for the FCC.

    The overall analysis shall assess the cumulative impacts of the proposed facility and other existing communication facilities in the area.

b. Location

Any Wireless Communication Tower not existing as of the date of adoption of this Article (1/8/2000) shall conform to the following standards:

1) Towers are allowed in the Commercial (C) and Residential (R) zoning districts, and prohibited in all other districts. Antennae may be allowed in other Districts inside existing buildings and structures when they are

not visible on the exterior of the building or structure. The Planning Board shall not have the authority to waive this standard.

2) No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

3) Wireless communication facilities shall not be sited in areas of high visibility as determined by the Planning Board unless the Planning Board finds that no other location is technically feasible. If the facility is to be sited above the ridge line, it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment to the maximum extent possible using available materials, natural buffers, and the tower location site.

c) Tower Height

Any Wireless Communication Tower not existing as of the date of adoption of this Article (1/8/2000) shall conform to the following standards.

1) Only the minimum height necessary to accomplish the technical needs of the applicant shall be approved by the Planning Board.

2) Towers shall not exceed a height of one hundred eighty (180) feet. The Planning Board shall not have the authority to waive this standard.

3) Installing antennae on alternative tower structures is permitted provided that the resulting ATS height does not exceed a maximum height of one hundred and eighty (180) feet and that the tower does not extend more than thirty-five (35) feet higher than the present highest point of the building or structure. The Planning Board shall not have the authority to waive this standard.

d) Space and Bulk Requirements

Any Wireless Communication Facility not existing as of the date of adoption of these standards (1/8/2000) shall conform to the following standards.

1) Mounting and Dimensions. The mass and dimensions of antennae on a tower or alternative tower structure shall be governed by the following criteria:

a) Whip Antennae - They shall not exceed twenty (20) feet in length for an individual antenna, and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.

b) Microwave Dish Antennae - The aggregate diameters of microwave dish antennae mounted within a twenty (20) foot vertical section of a tower may not exceed twenty-four (24) feet, with no single dish being more than eight (8) feet in diameter and five (5) feet in depth, unless otherwise required per the path reliability and/or tower structural studies.

c) Panel Antennae - The horizontal centerline of all panel antennae of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed eight (8) feet in length, nor two (2) feet in width.

d) Panel Antenna Mass Per Array - The mass of antennae, including required antenna support structures, on a tower shall not exceed five hundred (500) cubic feet per antenna array, with no one dimension exceeding fifteen (15) feet per array. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical, or pyramidal geometric shapes encompassing the perimeter of the entire array and all of its parts and attachments.

2) Lot Area: A new wireless communications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district, even if such lot is a lawful, non-conforming lot of record.

3) Access: The Planning Board shall have the authority to review and approve the access to the tower site. If the Planning Board determines that there is or may be future development on the access road to the tower, it shall require a fifty (50) foot Right-of-Way. Road access to the telecommunication site shall be the minimum size necessary to allow safe access.

4) Setbacks:

a) The center of the tower base shall be set back from the property line by a distance of at least one hundred (100 %) percent of the total tower height. This provision shall apply to both leased and owned property. Equipment facilities, and other non-residential structures deemed functionally dependent by the Planning Board

for the WCF, may be permitted within the required setback area if desired by the applicant. If guy wires are used, they shall meet the applicable building setback from the property line.

b) Equipment facilities shall meet the required District setbacks.

c) There shall be no setback requirements for antennae mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

8.8.2 PLANNING BOARD REVIEW

In all cases, the burden of proof shall be on the applicant to demonstrate to the Planning Board that the required standard(s) have been met.

a. Procedure

The applicant shall submit all of the items listed in Section 8.1.a. entitled "Submission Requirements" for all applications to the Casco CEO. The applicant must submit, in writing, request(s) for any waivers to the submission requirements.

b. Once the CEO has determined that the applicant has provided all information required by Subsection a. of this Section, the Planning Board shall review the submitted materials on co-location at the next available regular Planning Board meeting. The Planning Board may request additional information if it finds that the submitted materials are not adequate for review as part of the Co-location Determination process established in Subsection c. below. Once the Planning Board has completed its Co-location Determination in accordance with subsection c and has determined that co-location is not feasible, the applicant shall submit all information required in Section 8 or 8.1 of this Article. The Planning Board shall review this information in accordance with the requirements of Section 8.2.d of this Article.

c. Co-location determination

In accordance with the purposes stated above, Casco's Wireless Communication standards strongly encourage co-location on existing tower structures, on ATS's, on new towers on existing tower sites, or modifying an existing WCT to accommodate additional antenna/antenna array(s) or increased broadcast capacity. Proposals for the siting of WCF's or antennae on existing towers or ATS, or at locations that presently have WCTs are

favored over proposals for construction of new towers on sites where towers do not presently exist.

The Planning Board review process guides WCF applicants toward co-location and requires the applicant to prove, among other factors, that the proposed antennae or facilities can not be accommodated by existing tower structures. The Planning Board shall have the authority to determine whether or not co-location is a reasonable, practical and feasible option based on the following:

1) Required submissions stated above in Section 8.1.a entitled "Submission Requirements" for all applications.

2) The purposes for these WCF standards as stated in Section 3 entitled "Purpose".

3) The Planning Board's interpretation of the information provided by the applicant in submissions 1 through 3 required in Section 8.1.a. entitled "Submission Requirements".

The Planning Board shall determine, by a vote, whether or not co-location will be required. If the Planning Board determines that co-location will not be required, the application shall be considered under Section 8.1.a. entitled "Submission Requirements".

d. Third Party Authority

The Planning Board shall have the authority to require third party review of any of the required submissions, review guidelines, and performance standards provided to the Planning Board at the expense of the applicant to ensure that the requirements of this section and the zoning ordinance are met and maintained. The qualified third party shall, at the request of the Planning Board, verify the accuracy of the information presented by the applicant to the Board. This third party authority shall specifically include verification of the information, facts, and costs associated with determining whether or not co-location is a feasible option.

The Planning Board shall have the authority to choose the third party or parties deemed necessary by the Planning Board to review the application. The Planning Board may require a peer review. If the Planning Board determines that such peer review is insufficient, the Planning Board shall have the authority to require a more comprehensive and independent review. The cost of the peer review or independent review shall be borne by the applicant.

e) Planning Board Review Guidelines

The Planning Board may require that the applicant submit documentation, in writing, that the guidelines established below will be met and maintained. The Planning Board will be guided in its consideration of a WCF application by the following parameters:

1) All standards contained in Article 7 of the Casco Zoning Ordinance on Site Plan Review including but not limited to Criteria and Standards and Performance Standards.

2) All standards contained in Section 9 of the WCF standards entitled "Performance Standards".

3) The height of the proposed tower, alteration or other necessary structure does not exceed that which is essential for its intended use.

4) The proximity of the tower and impact to residential development or zoning districts shall be minimized.

5) The nature of uses on adjacent and nearby properties shall be reviewed and the impact of the WCF minimized.

6) The WCF shall minimize changes to the existing natural topography to the maximum extent feasible and shall take into consideration the surrounding topography.

7) The WCF shall utilize the surrounding tree coverage and foliage as a buffer. Removal of mature trees shall be strongly discouraged.

8) The design of the WCF including the tower, antenna, antenna array(s) and any functionally dependent structures shall have the effect of reducing or eliminating visual obtrusiveness.

9) The WCF shall minimize visual impacts on view sheds, ridge lines, and other areas of impacts by means of tower location, tree and foliage clearing and placement of incidental structures.

10) The proposed WCF facility will not unreasonably interfere with the view from any public park, natural scenic vista, historical building, major view corridor or Designated Scenic Resource.

11) The proposed facility will not be constructed in such a manner as to result in unnecessary height, mass, and guy-wire supports, with documentation having

been provided and reviewed regarding the design capacity and/or the remaining co-location capacity of the tower/facility.

12) Based on information submitted by the applicant, the Planning Board shall ensure that mitigation measures have been utilized to screen antennae and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.

13) Based on information submitted by the applicant, the Planning Board shall ensure that creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.

14) Based on information submitted by the applicant, the Planning Board shall ensure that other technically feasible sites have been investigated and the proposed facility has been located in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas, and open space areas.

15) An inspection schedule acceptable to the Planning Board shall be established.

16) The Planning Board may require a performance guarantee in accordance with Section 10.a of this Article. The applicant shall provide a removal guarantee as required by Section 10.b of this Article.

17) The WCF shall not unreasonably or significantly affect or de-value neighboring property(s).

18) The Planning Board shall consider the vantage points chosen by the applicant as part of the visual analysis required in Section 8.1. "Requirements for Towers". If the Planning Board determines that additional vantage points should be considered, the applicant shall complete the visual analyses for these locations for the Board's consideration.

8.9 PERFORMANCE STANDARDS

All applications requiring Planning Board review shall meet and maintain the following performance standards to the maximum extent possible as determined by the Planning Board.

a. Structural Design Standards

1) Any new single-use tower shall be designed to structurally support a minimum of two (2) additional antenna arrays.

2) Communication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

3) The applicant's engineer shall provide documentation showing that the proposed WCT meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/TIA-222 for Cumberland County relative to wind and ice loads when the tower is fully loaded with antennae, transmitters, and other equipment as described in the submitted plan.

4) For towers or antennas placed on buildings or alternative tower structures, the applicant shall also provide written certification from a structural engineer that the building or ATS itself is structurally capable of safely supporting the tower, antennas, their accompanying equipment and ice and wind loads.

5) A proposal to construct a new co-located WCT at or below the maximum height allowable permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of two (2) antennae arrays for each anticipated co-locating entity Section 8.1.c entitled "Tower Height".

6) Radiation Emission Standards. The design, siting and operation of the tower and any related structures must assure that all potentially hazardous radiation is controlled or contained, and that radiation levels are at safe levels as determined by applicable State and Federal standards.

b. Aesthetics

1) Except where otherwise dictated by Federal or State requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but is not limited to, having a galvanized finish, being painted "flat" blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.

2) Equipment facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.

3) Equipment facilities shall be no taller than one story in height and shall be created to look like a building or facility typically found in the area.

4) If lighting is required by State or Federal regulations, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

5) Antenna arrays and microwave dishes located on an ATS shall be placed in such a manner as to be indistinguishable as possible from the current appearance of the existing structure as viewed from the ground level adjacent to the ATS. If, however, circumstances do not permit such placement, the antenna array and dishes shall be placed and colored to blend into the architectural detail and coloring of the host structure.

6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).

7) Multiple towers proposed on a single lot or parcel shall be clustered as closely together as technically possible.

8) Buffering Requirements: Vegetative buffering must be provided to screen, at ground level, the tower including any accessory buildings and structures from adjacent land uses. The preservation of existing mature vegetation, especially trees, is strongly encouraged by the Planning Board. If existing vegetation at the time of the application does not provide adequate buffering to minimize visual impact of the structure, the Planning Board may require the applicant to provide, at the applicant's expense, a visual impact analysis by a qualified professional. Said professional shall provide a written recommendation to the Planning Board which will be taken into consideration in the approval process.

   All telecommunication facilities shall maintain the required setbacks as undisturbed vegetated buffers, except for the access road. The Planning Board may require additional plantings in the buffer area(s) to enhance the quality and effectiveness of the buffer area to serve as a visual screen. The size and quantity of plantings shall be subject to Planning Board approval.

9) No advertising or signage shall be permitted on any tower or antenna except for safety or other signage that may be required by the F.C.C. Any other signage shall comply with the requirements established in Section 5.2.24 of the Zoning Ordinance.

c. Safety/Security

1) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.

2) Manually operated or motion detecting security lighting shall be permitted.

3) A locked gated chain-link (security) fence at least eight feet in height as measured from the finished grade shall be provided around any tower. Roof-mounted towers shall be exempt.

8.10 ADDITIONAL STANDARDS & CRITERIA

a. Performance Guarantee

Any application that requires Planning Board review and approval may require the posting of a performance guarantee for the development, construction, or modification to the WCF. The Planning Board shall determine whether or not a performance guarantee is required based on the Board's assessment of the potential of the project to cause the Town to incur expenses, such as to stabilize the site if the project is not completed.

The amount of the guarantee shall be sufficient to return the land to a condition as near to the original pre-construction condition as possible as determined by the Planning Board. The amount of the guarantee shall be determined by the Planning Board based on estimates from independent contractors. The type and form of guarantee shall be approved by the Board of Selectmen. The guarantee shall be released only as authorized by the Planning Board.

b. Guarantee for Removal of Abandoned Wireless Communication Facilities

The applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond, or an escrow account, for the benefit of the Town equal to one hundred twenty-five (125%) percent of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Estimates of demolition and removal costs shall be provided by an independent contractor, and shall not be based on services being provided by town employees and town equipment.

The amount of the guarantee shall be approved by the Planning Board, and shall be sufficient to return the land to a condition as near to the original pre-construction condition as possible as determined by the Planning Board. Estimated removal costs shall include all above ground structures, equipment, foundations, guy anchors, utilities, access roads or driveways specifically constructed to service the tower, structures, equipment or utilities, and the land returned to a condition as near to the original pre-construction condition as possible.

The type and form of the guarantee shall be approved by the Board of Selectmen. The Board of Selectmen shall have the authority to require either a certified check payable to the Town of Casco, a savings account passbook issued in the name of the Town, or a faithful performance bond running to the Town of Casco and issued by a surety company authorized to do business in Maine and acceptable to the Board of Selectmen.

All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty day (30) prior notice of cancellation, or renewal, be sent by certified mail to the Town of Casco. The performance guarantee covering such removal shall be for a minimum term of five (5) years. It shall contain a mechanism satisfactory to the Planning Board for review of the cost of removal of the structure every five (5) years, and a mechanism for increasing the amount of the guarantee, should the revised cost estimate so necessitate.

c. Removal and Storage of Materials

1) All used structural and electronic components shall be removed within six months and properly disposed of once they have exceeded their useful life and are no longer in use. This standard includes, but is not limited to, removing used guy wires, used fence parts, and structural components for towers.

2) Outside storage of materials shall not be permitted except as specifically approved by the Planning Board.

d. Time Schedule

The WCF must be completed for operational use by the end of a twelve (12) month period after final approval.

8.11 ALTERATIONS TO EXISTING FACILITIES

a. Alterations to New or Existing Conforming Wireless Communication Towers.

Normal maintenance and repairs of any Conforming Wireless Communications Tower and its related buildings may be performed without a permit from the CEO.

Planning Board review and approval in accordance with the standards established in Section 8.2 entitled "Planning Board Review" shall be required if any of the following changes are proposed:

1) Any increase in the number or size of antenna(s)/antenna array(s) or broadcast capacity in excess of the exemption standards contained in FCC OET Bulletin #65.

2) Any increase in tower height.

3) Any change to tower lighting or existing buffering.

4) Any change to the access road or the size (square feet or volume) of any structure on site.

b. Alterations to Existing Non-Conforming Wireless Communication Tower.

Any change to a Non-conforming Wireless Communication Tower shall comply with the following standards:

1) The Normal Maintenance of Wireless Communication Towers existing as of the adoption of these standards (1/8/2000) shall be permitted provided that all applicable standards are met.

2) Any change except Normal Maintenance shall require a permit from the CEO. This includes, but is not limited to, the replacement of any structural or functional component on, or attached to, a WCF.

3) Planning Board review is required as established in Section 8.2 entitled "Planning Board Review" for any of the following alterations:

a) An increase in height;

b) Any change to tower lighting, or existing buffering;

c) Any change to the access road, or the size (square feet or volume) of any structure on site.

4) If an applicant requests a permit from the CEO that has the effect of altering, repairing, maintaining, or changing the WCT so that it exceeds fifty (50) percent of the original construction cost of the tower during the past ten (10) years, then Planning Board review in accordance with the procedure established in Section 8.2 entitled "Planning Board Review" shall be required.

5) If Planning Board review is required as established above due to the 50% standard, the Planning Board shall have the authority to allow an existing tower to be altered, repaired, replaced or rebuilt provided that the following conditions are met as determined by the Planning Board:

a) The Planning Board shall not have the authority to allow an increase to the existing tower's non-conformity,

b) The burden of proof shall be on the applicant to demonstrate to the Planning Board that it is not technically feasible to provide wireless communication service in accordance with the standards contained in: Section 8.1 Requirements Section for Towers, 8.2 Planning Board Review and Section 9 Performance Standards. If the Planning Board determines that there is no technically feasible option of providing wireless communication service without allowing proposed change to the Non-Conforming Tower to be permitted, the Planning Board shall allow only the minimum amount of non-conformity necessary to permit the Wireless Communication Service provider to provide the service to customers.

6) If an applicant proposes to increase the number or size of antenna(s)antenna array(s), add antenna(ae)/antenna array(s), or increase broadcast capacity (in excess of the exemption standards contained in FCC OET Bulletin #65) to an existing Non-Conforming Wireless Communication Tower, Planning Board review and approval shall be required in accordance with the following guidelines:

a) The applicant shall submit evidence to the Planning Board indicating whether or not the 50% standard established in Section 11.b.4 will be met as a result of the proposed change. If the CEO determines that the 50% standard will be exceeded as a result of the proposed change, the applicable review process shall be required.

b) If the CEO determines that the 50% standard will not be exceeded as a result of the proposed change, the applicant shall provide the Planning Board with the following information:

i) Submission requirements set forth in Section 8.1.a. Subsections 1-3 of this Article.

ii) Submission requirements contained in Section 8.1. entitled "Submission Requirements" - numbers 6, 7, 9, and 11.

c) The Planning Board shall review the information submitted by the applicant and review the application in accordance with the guidelines established in Section 8.2. entitled "Planning Board Review Guidelines".

d) The applicant shall design the proposed changes to meet the standards contained in this Section to the maximum extent feasible. This specifically includes the Standards established in Section 8.1.d.1.

entitled "Mounting and Dimensions" and Section 9 entitled "Performance Standards". The Planning Board shall have the authority to determine whether or not the standards contained in Section 9 have been met to the maximum extent feasible.

e) The Planning Board shall have the authority to require the establishment of or revision to a performance bond(s) as established in Section 10.a. and 10.b. entitled "Performance Guarantee" and "Guarantee for Removal of Abandoned Wireless Communication Facilities".

8.12 BUILDING PERMIT REQUIREMENTS

The CEO shall ensure that the following requirements are met prior to the issuance of a Building Permit for a WCF.

a The CEO shall not issue a permit for the construction of a new Wireless Communication Facility, or any change to an existing Wireless Communication Facility that requires Planning Board review until the Planning Board has approved the facility and all applicable conditions have been met.

b. The CEO shall not issue a building permit for a WCF unless all required permits are obtained and filed with the Town including, but not limited to, any applicable Federal or State permits or licenses.

c. In the event that an applicant proposes to add capacity, the CEO may issue a permit for additional antenna(ae), antenna array(s) or broadcast capacity if the facility has been previously and specifically approved by the Planning Board for the requested changes. The Planning Board approval must specifically state that this capacity is allowed and establish a time period during which the CEO may issue a permit for the additional capacity. Any increase in broadcast capacity in excess of the exemption standards contained in FCC OET Bulletin #65 must be previously and specifically approved by the Planning Board.

d. The CEO shall have the authority to use professional and technical services to review proposed plans and to inspect the construction of an approved project. The applicant shall pay all costs incurred for these review and inspection services.

e. If inspections and/or proof of insurance are required by the Planning Board, all necessary forms and inspection schedule(s) shall be submitted.

f. If the Planning Board requires a performance guarantee and/or abandonment/removal bond for the proposed WCF, the amount and type of the bond(s) as required by the Planning Board shall be received and found acceptable by the CEO prior to the CEO taking action on any building permit application.

g. For any NCWCT, the CEO shall keep records of the repairs made to each tower to determine whether or not Planning Board review is required as established in section 11.b entitled "Alterations to existing Non-Conforming WCT's". In order to ensure that the information provided by the applicant for this standard is accurate, the CEO shall have the authority to require third party review of the information submitted by the applicant, as authorized in Section 8.2.d. entitled "Third Party Authority".

8.13 INSPECTIONS

a. Inspections of towers by either a Registered Professional Engineer in the State of Maine, or a qualified third party mutually agreed upon by the applicant and the CEO/Town Engineer shall be performed to assess structural integrity. Such inspections shall be performed as follows:

1) Monopole towers - at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

2) Self-supporting towers - at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.

3) Guyed towers - at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.

b. The inspection report shall be submitted to the CEO or designee Town Engineer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, or upon recommendation by the CEO, the designee Town Engineer may require repair or demolition of the tower.

c. The cost of such inspections, reports, repairs or demolition required under this Section shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days, or less, as required by the CEO or designee Town Engineer for safety reasons.

d. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

8.14 REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES

a. The owner of a WCF shall notify the Code Enforcement Officer of the date of cessation of use of the facility or any component(s) thereof within one month from

the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.

b. Any WCF or component thereof that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned WCF or component thereof shall remove it within ninety (90) days of receipt of notice from the CEO of determination of abandonment.

   If the owner fails to remove the abandoned WCF or component thereof as required by the town, the Town shall utilize the removal guarantee and shall cause the removal of the abandoned equipment and any required site restoration.

c. The applicant shall be required to post a performance guarantee in accordance with standards established in Section 10 entitled "Additional Standards & Criteria".

d. If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.

e. If all antennae above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within six (6) months.

f. The replacement of all or portions of a WCF previously removed requires a new site plan approval as established in Section 8.2. entitled "Planning Board Review".

8.15 WAIVER PROVISION

The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Article. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with Federal and State law and with the purpose of this Ordinance.

8.16 APPEALS

Appeals shall be in accordance with the standards established in the Zoning Ordinance, Section 6.3.

8.17 EFFECTIVE DATE

This Article becomes effective on 1/8/2000.

ARTICLE 9

SHORELAND ZONING

9.1 Purposes

The purposes of this Article are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect 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.

9.2 Authority

This Article has been prepared in accordance with the provisions of Title 38 sections 435-449 and Title 30A section 3001of the Maine Revised Statutes Annotated (M.R.S.A.).

9.3 Shoreland Districts and Zoning Map

9.3.1 Shoreland Districts The Shoreland Districts, as established by this Ordinance in Article 4, Section 1, are:

(A)	Resource Protection	(RP)
(B)	Limited Residential/Recreational	(LRR)
(C)	Limited Commercial/Residential	(LCR)
(D)	Stream Protection	(SP)
(E)	Watershed	(WS)

9.3.2 Official Shoreland Zoning Map The areas to which this Article is applicable are hereby divided into the above districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Article.

9.3.3 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.

9.3.4 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.

9.3.5 **Changes to the Official Shoreland Zoning Map** If amendments, in accordance with Section 9.10, 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.

9.4 Interpretation of District Boundaries

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

9.5 Applicability

This Article applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 130 feet, horizontal distance, of the normal high-water line of a stream.

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

9.6 Effective Date and Repeal of Formerly Adopted Ordinance

9.6.1 This Article, which was adopted by the municipal legislative body on June 10, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Article, or Article Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Article or Article Amendment, within forty-five (45) days of his/her receipt of the Article, or Article Amendment, it shall be automatically approved.

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

9.6.2 Section 9.13.14 is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 9.13.14-1 shall become effective. Until such time as Section 9.13.14 is repealed, Section 9.13.14-1 is not in effect.

9.7 Availability

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

9.8 Severability

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

9.9 Conflicts

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

9.10 Amendments

This Article may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the 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.

9.11 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.

9.12 Non-conformance

9.12.1 Purpose

It is the intent of this Article to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Article or

amendments thereto shall be allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided in this Article, a non-conforming condition shall not be permitted to become more non-conforming.

9.12.2 General

(A) 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 Article.

(B) Repair and Maintenance. This Article 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.

9.12.3 Non-conforming Structures

(A) 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.

Further Limitations:

(1) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a waterbody or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 9.12.3(C), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date. Further, no less than 30% expansion of the nonconforming structure or portion of such structure shall occur without the issuance of a Shoreland Permit by the Code Enforcement Officer; provided however, that the expansion shall not create further nonconformity with the water setback requirement. The Board of Appeals has jurisdiction to grant a variance from this paragraph.

(2) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must

be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 9.12.3(B) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 9.12.3(A)(1) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

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

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

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

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

must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

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

(C) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Article. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 9.12.3(A) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 9.12.3(B) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 9.12.3(B) above, the physical condition and type of foundation present, if any.

(D) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after

receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

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

9.12.4 Non-conforming Uses

(A) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 9.12.3(A)(1) above.

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

(C) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed for nonconforming structures in Section 9.12.3(D) above.

9.12.5 Non-conforming Lots

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

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

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

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

9.13 Land Use Standards All land use activities within the shoreland zone shall conform with the following provisions, and with the Performance Standards in Article 5 of this Ordinance if applicable. The stricter of the two standards shall apply.

9.13.1 Minimum Lot Standards

(A) Area Requirements within The Shoreland Zone	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1) Residential per dwelling unit	80,000	200
(2) Governmental, Institutional, Commercial or Industrial per principal structure	80,000	300
(3) Public and Private Recreational Facilities	80,000	200

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

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

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

(E) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

9.13.2 Principal and Accessory Structures

(A) 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 classified GPA and rivers that flow to great ponds classified GPA; and one hundred thirty (130) 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 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.

(B) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential Recreational, Limited Commercial Residential, 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.

(C) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. If the Town of Casco participates in the National Flood Insurance Program and has adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

(D) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.

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

(F) 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.

(G) 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 code enforcement officer 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.

(H) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement. An exception is allowed for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, are no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species as defined by the Maine Department of Environmental Protection may be used to establish the buffer area; Non native and invasive plantings are prohibited.

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland:

(v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

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

9.13.3 <u>Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland</u>

(A) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(B) The location shall not interfere with existing developed or natural beach areas.

(C) The facility shall be located so as to minimize adverse effects on fisheries.

(D) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.

(E) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

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

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

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

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

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

(B) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and one hundred thirty (130) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

9.13.5 **Individual Private Campsites** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

(A) One campsite per lot existing on the effective date of this Article, or eighty thousand (80,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

(B) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and one hundred thirty (130) feet,

horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(C) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

(D) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

(E) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

(F) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

9.13.6 **Commercial and Industrial Uses** The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

(A) Auto washing facilities

(B) Auto or other vehicle service and/or repair operations, including body shops

(C) Chemical and bacteriological laboratories

(D) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

(E) Commercial painting, wood preserving, and furniture stripping

(F) Dry cleaning establishments

(G) Electronic circuit assembly

(H) Laundromats, unless connected to a sanitary sewer

(I) Metal plating, finishing, or polishing

(J) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

(K) Photographic processing

(L) Printing

9.13.7 <u>Parking Areas</u>

(A) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

(B) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

(C) In determining the appropriate size of proposed parking facilities, the following shall apply:

(1) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(2) Internal travel aisles: Approximately twenty (20) feet wide.

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

(A) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and one hundred thirty (130) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of

settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. A bond of an appropriate amount must be recommended by the Planning Board and approved by the Selectmen.

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

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 9.13.8(A) except for that portion of the road or driveway necessary for direct access to the structure.

(B) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.

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

(D) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 9.13.16.

(E) Road and driveway grades shall be no greater than nine (9) percent except for short segments of less than two hundred (200) feet.

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

of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

Grade (Percent)	**Spacing (Feet)**
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

(2) Drainage dips may be used in place of ditch relief culverts only where the grade is nine (9) percent or less.

(3) On sections having slopes greater than nine (9) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

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

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

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

(A) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

(B) Residential name signs shall be allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed six (6) square feet in total area.

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

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

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

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

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

9.13.10 Storm Water Runoff

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

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

9.13.11 Septic Waste Disposal

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

NOTE 1: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

NOTE 2: The language of this section (9.13.11) has been changed from what was adopted on June 10, 2009 at the Casco Town Meeting per Department of Environmental Protection draft

conditional approval order number 61-09 dated July 14, 2009. This letter is on file at the Town Office where it is available on request to the public.

9.13.12 <u>Essential Services</u>

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

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

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

9.13.13 <u>Agriculture</u>

(A) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(B) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within one hundred thirty (130) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(C) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Article.

<u>NOTE</u>: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

(D) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within one hundred thirty (130) feet, horizontal distance, from other water bodies; nor within

one hundred thirty (130) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

(E) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within one hundred thirty (130) feet, horizontal distance, of other water bodies; nor within one hundred thirty (130) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

9.13.14 <u>Timber Harvesting</u>

(A) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(1) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

(a) The ground is frozen;
(b) There is no resultant soil disturbance;
(c) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
(d) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
(e) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

(2) Beyond the 75 foot strip referred to in Section 9.13.14(A)(1) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 ½ feet above ground level be reduced to less than 30 square feet per acre.

(B) Except in areas as described in Section 9.13.14(A) above, timber harvesting shall conform with the following provisions:

(1) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:

(a) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

(b) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

(2) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

(3) Timber harvesting equipment shall not use stream channels as travel routes except when:

(a) Surface waters are frozen; and

(b) The activity will not result in any ground disturbance.

(4) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(5) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream.

Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(6) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

9.13.14-1. <u>Timber Harvesting – Statewide Standards [Effective on effective date established in Section 9.6.2]</u>

(A) <u>Shoreline integrity and sedimentation</u>. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

(B) <u>Slash treatment</u>. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 9.13.14-1(B) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(1) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(2) Adjacent to great ponds, rivers and wetlands:

(a) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(b) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(C) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

(1) Option 1 (40% volume removal), as follows:

(a) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

(b) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(c) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(2) Option 2 (60 square foot basal area retention), as follows:

(a) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

(b) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(c)Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great

pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(3) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(D) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(1) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(2) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(3) Setbacks:

(a) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(b) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(E) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 9.13.14-1(G) of this rule.

(1) Land management roads and associated ditches, excavation, and fill must be set back at least:

(a) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or wetland;

(b) 50 feet, horizontal distance, from the normal high-water line of streams; and

(c) 25 feet, horizontal distance, from the normal high-water line of tributary streams

(2) The minimum 100 foot setback specified in Section 9.13.14-1(E)(1)(a) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 9.13.14-1(E)(1)(b) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(3) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(4) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

(5) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 9.13.14-1(G). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(6) Road closeout and discontinuance. Maintenance of the water control installations required in Section 9.13.14-1(E)(5) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

(7) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 9.13.14-1. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

(8) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 9.13.14-1(E)(1) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief

culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(9) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

(F) Crossings of Waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

(1) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 9.13.14-1: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

(2) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 9.13.14-1. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 9.13.14-1.

(3) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on aterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

(4) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

(5) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

(a) a map showing the location of all proposed permanent crossings;
(b) the GPS location of all proposed permanent crossings;
(c) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
(d) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(6) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 9.13.14-1(F)(7) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

(a) concentrated water runoff does not enter the stream or tributary stream;
(b) sedimentation of surface waters is reasonably avoided;
(c) there is no substantial disturbance of the bank, or stream or tributary stream channel;
(d) fish passage is not impeded; and,
(e) water flow is not unreasonably impeded.

Subject to Section 9.13.14-1(F)(6)(a-e) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(7) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

(a) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 ½ times the cross-sectional area of the river, stream, or tributary stream channel.

(b) Temporary bridge and culvert sizes may be smaller than provided in Section 9.13.14-1(F)(7)(a) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;

4. using road dips in conjunction with culverts.

(c) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(d) River, stream and tributary stream crossings allowed under Section 9.13.14-1, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(e) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(8) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(a) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 9.13.14-1(F)(9) below.

(b) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

(c) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(9) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

(a) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

(b) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

(c) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3 ½ times the cross-sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(G) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 9.13.14-1, but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	**25**

10	**45**
20	**65**
30	**85**
40	**105**
50	**125**
60	**145**
70	**165**

9.13.15 <u>Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting</u>

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

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

(B) Except in areas as described in Section 9.13.15(A), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and one hundred thirty (130) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

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

(2) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this Section 9.13.15(B)(2) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

<u>Diameter of Tree at 4-1/2 feet Above</u>	<u>Points</u>

Ground Level (inches)	
2 - < 4 in.	1
4 – <8 in.	2
8-< 12 in.	4
12 in. or greater	8

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

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

(4x1)+(2x2) + (3x4) + (2x8) = 36 points

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

The following shall govern in applying this point system:

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

For the purposes of Section 9.13.15(B)(2) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

(3) In order to protect water quality and wildlife habitat, existing vegetation under three(3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 9.13.15 paragraphs (B) and (B)(1) above.

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

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

Section 9.13.15(B) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

(C) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and one hundred thirty (130) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

(D) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Article.

(E) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

9.13.16 Erosion and Sedimentation Control

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

(1) Mulching and revegetation of disturbed soil.

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

(3) Permanent stabilization structures such as retaining walls or rip-rap.

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

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

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

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

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

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

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

(F) The Planning Board may require the plan to be reviewed by CCSWCD or an appropriate professional engineer at the expense of the applicant.

9.13.17 Soils

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

9.13.18 Water Quality

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

9.13.19 Archaeological Site

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

permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

9.13.20 Beach Construction

Beach construction on any great pond shall require a permit from the Maine Department of Environmental Protection. Beach construction on, or alteration of any river, stream, or brook also shall require approval form the Maine Department of Environmental Protection, as required by law.

9.13.21 Shorefront Common Areas

(A) Shorefront common areas shall contain a minimum of two (2) acres for every twenty (20) residential units or for every forty (40) lodging units having access to or use of it.

(B) The shorefront common area shall have a minimum of two hundred (200) feet of shoreland frontage, plus twenty (20) front feet for each residential dwelling unit, or five (5) feet for every lodging unit that has access to the common area and for each right of use granted to the common area.

(C) Use of common areas within a subdivision shall be limited to residential dwelling units contained within contiguous property not separated from the shorefront area by a public roadway that was established prior to the establishment of the common area.

9.14. Administration

9.14.1 Administering Bodies and Agents

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

(B) Board of Appeals.
A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

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

9.14.2 Permits Required.

After the effective date of this Article, 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 Article shall have a copy of the permit on site while the work authorized by the permit is performed.

(A) A permit is not required for the replacement of an existing road culvert as long as:

(1) The replacement culvert is not more than 25% longer than the culvert being replaced;

(2) The replacement culvert is not longer than 75 feet; and

(3) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

(B) 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.

(C) Any permit required by this Article shall be in addition to any other permit required by other law or ordinance.

9.14.3 Permit Application

(A) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Town of Casco, to the appropriate official as indicated in Table 1: Shoreland Use Table.

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

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

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

9.14.4 <u>Procedure for Administering Permits.</u>

Within 35 days of the date of receiving a written application at a Planning Board meeting, the Planning Board or Code Enforcement Officer, as indicated in Table 1: Shoreland Use Table, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held provided, however, that the applicant and the Planning Board may agree in writing to an extension of the 35 day period. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Article.

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

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

(1) Will maintain safe and healthful conditions;

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

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

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

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

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

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

(8) Is in conformance with the provisions of Section 9.13, Land Use Standards, of this Article.

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

9.14.5 Expiration of Permit.

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

9.14.6 Installation of Public Utility Service.

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

9.14.7 Appeals

(A) Powers and Duties of the Board of Appeals.

The Board of Appeals shall have the following powers:

(1) Administrative Appeals: To hear and decide appeals, where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Article.

(2) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Article.

(B) Variance Appeals.

Variances may be granted only under the following conditions:

(1) Variances may be granted only from dimensional standards including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(2) Variances shall not be granted for establishment of any uses otherwise prohibited by this Article.

(C) The Board shall not grant a variance unless it finds that:

(1) The proposed structure or use would meet the provisions of Section 9.13 except for the specific provision which has created the non-conformity and from which relief is sought; and

(2) The strict application of the terms of this Article would result in undue hardship

(D) The term "undue hardship" shall mean:

(1) That the land in question cannot yield a reasonable return unless a variance is granted;

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

(3) That the granting of a variance will not alter the essential character of the locality; and

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

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

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

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

(H) Appeal Procedure

(1) Making an Appeal

(a) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(b) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

i. A concise written statement indicating what relief is requested and why it should be granted.

ii. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(c) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(d) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

(2) Decision by Board of Appeals

(a) A majority of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(b) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Article 9, or to affect any variation in the application of this Article from its stated terms. The Board may reverse the

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

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

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

(e) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

(3) Appeal to Superior Court.

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

(4) Reconsideration.

The Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection. If the Board of Appeals votes to reconsider a decision, the reconsidered decision must be made to Superior Court within fifteen (15) days after the decision on reconsideration.

(5) Time Limit Affects

Variances granted under this section shall expire if the work or change involved is not commenced within one (1) year from the date on which the variance is granted, or if the work or change is not substantially completed within eighteen (18) months of the date on which such variance is granted.

9.14.8 Enforcement

(A) Nuisances.

Any violation of this Article shall be deemed to be a nuisance.

(B) Code Enforcement Officer

(1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Article. If the Code Enforcement Officer shall find that any provision of this Article 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.

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

(3) 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 annual 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.

(C) 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 Article 9 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.

(D) Fines.

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Article shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, subsection 4452.

9.15 Establishment of Districts

9.15.1 Resource Protection District (RP)

(A) Description

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 and Watershed Districts, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial/Residential District need not be included within the Resource Protection District.

(1) Areas within 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 May 1, 2006. 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 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 20% or greater.

(4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater 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) Other important wildlife habitat.

(7) Natural sites of significant scenic or esthetic value.

(8) Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development.

(9) Other significant areas which should be included in this district to fulfill the the purposes of this Section 9.15.1 including, but not limited to, existing public access areas and certain significant archeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

(B) Shoreland Provisions

All Shoreland District provisions as established in Article 9 of this Ordinance shall be applicable in the Resource Protection District.

(C) Permitted Uses

See Table 1: Shoreland Use Table

(D) Dimensional Standards

No buildings or dwellings permitted. Structures related to permitted uses shall meet minimum setbacks and other requirements of Limited Residential/Recreational District.

9.15.2 Limited Residential/Recreational District (LRR)

(A) Description

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

(B) Shoreland Provisions

All Shoreland District provisions as established in Article 9 of this Ordinance shall be applicable in the Limited Residential/Recreational District.

(C) Permitted Uses

See Table 1: Shoreland Use Table

(D) Dimensional Standards

(1) Minimum lot size:	80,000 square feet
(2) Minimum land area per dwelling unit (for duplex, multiplex and Open Space Subdivisions):	80,000 s.f. of net residential density
(3) Minimum road frontage:	200 feet
(4) Minimum water frontage	200 feet
(5) Minimum setbacks:	
Front:	50 feet
Side (if not water frontage):	25 feet
Rear (if not water frontage):	25 feet
From high water mark:	100 feet measured horizontally
(6) Maximum building coverage:	20 percent
(7) Maximum building height:	35 feet

9.15.3 Limited Commercial/Residential District (LCR)

(A) Description

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

(B) Shoreland Provisions

All Shoreland District provisions as established in Article 9 of this Ordinance shall be applicable in the Limited Commercial/Residential District.

(C) Permitted Uses

See Table 1: Shoreland Use Table

(D) Dimensional Standards

(1) Minimum lot size:	
(a) One-family dwelling:	80,000 square feet (exclusive of residential subdivisions of 20 lots or more)
(b) Commercial Use:	80,000 square feet
(2) Minimum land area per dwelling unit (for duplex and multiplex):	80,000 s.f. of net residential density
(3) Maximum impervious surface:	20 percent
(4) Minimum road frontage:	200 feet
(5) Minimum water frontage	200 feet Residential 300 feet Commercial
(6) Minimum setbacks:	
Front:	50 feet
Side:	25 feet
Rear:	25 feet
From high water mark:	100 feet measured horizontally

9.15.4 Stream Protection District (SP)

(A) Description

The Stream Protection District includes all land areas within one hundred thirty (130) feet, horizontal distance, of the normal high-water line of a stream. Where the Stream Protection District goes through an RP zone, the RP criteria will apply. The SP District shall apply in LRR, LCR, and WS.

(B) Shoreland Provisions

All Shoreland District provisions as established in Article 9 of this Ordinance shall be applicable in the Stream Protection District.

(C) Permitted Uses

See Table 1: Shoreland Use Table

(D) Dimensional Standards

(1) None – no structures permitted

(2) Areas within the Stream Protection District composed of buildable land, as defined herein, may be included in determining the net residential area of continuous land under the same ownership that lies outside the Stream Protection District.

9.15.5 Watershed District (WS)

(A) Intent

The purpose of these standards is to further the maintenance and healthful conditions, prevent and control water pollution, control building sites, placement of structures and land uses, and conserve shore cover, visual as well as actual points of access to inland waters and natural beauty, and protect water quality. 30-A M.R.S.A. 4352.

(B) Shoreland Provisions

(1) All Shoreland District provisions as established in Article 9 of this Ordinance shall be applicable in the Watershed District.

(2) All nonresidential uses are prohibited within two hundred fifty (250) feet of the normal high water line of Coffee Pond.

(C) Permitted uses.

See Table 1: Shoreland Use Table

(D) Dimensional Standards

(1) Minimum lot size:	80,000 square feet
(2) Minimum land area per dwelling unit (for duplex, multiplex and Open Space Subdivisions):	80,000 s.f. of net residential density
(3) Minimum road frontage:	200 feet
(4) Minimum water frontage	200 feet
(5) Minimum setbacks:	
Front:	50 feet
Side (if not water frontage):	25 feet
Rear (if not water frontage):	25 feet
From normal high water mark:	
for all non-residential uses:	250 feet
(6) Maximum building coverage:	20 percent
(7) Maximum building height:	35 feet

Table 1: Shoreland Use Table

All land use activities, as indicated herein shall conform with all of the applicable land use standards in Section 13 of this Article. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Y (Yes) - Allowed (no permit required but the use must comply with all applicable land use standards)
N (No) - Prohibited
PB - Allowed with permit issued by the Planning Board.
CEO - Allowed with permit issued by the Code Enforcement Officer

Abbreviations:

RP - Resource Protection
LRR - Limited Residential/Recreational
LCR - Limited Commercial/Residential
SP - Stream Protection
WS - Watershed

LAND USES	DISTRICTS SP	RP	LRR	LCR	WS
1. Non intensive recreational uses not requiring structures such as hunting, fishing, and hiking	Y	Y	Y	Y	Y
2. Motorized vehicular traffic on existing roads and trails	Y	Y	Y	Y	Y
3. Forest management activities except for timber harvesting and land management roads	Y	Y	Y	Y	Y
4. Timber harvesting	CEO	CEO[1]	CEO	CEO	CEO[2]
5. Clearing or removal of vegetation for Activities other than timber harvesting	CEO	CEO[3]	CEO	CEO	CEO
6. Fire prevention activities	Y	Y	Y	Y	Y
7. Wildlife management practices	Y	Y	Y	Y	Y
8. Soil and water conservation practices	Y	Y	Y	Y	Y
9. Mineral exploration	N	N	N	N	PB
10. Mineral extraction including sand and gravel extraction	N	N	N	N	PB
11. Surveying and resource analysis	Y	Y	Y	Y	Y
12. Emergency operations-CEO must be notified within 24 hours	Y	Y	Y	Y	Y
13. Agriculture	PB	N	Y	Y	PB
14. Aquaculture	PB	PB	PB	Y	PB

[1]In RP not permitted within 75 feet of the normal high water line of great ponds, except to remove safety hazards (with CEO approval).

[2]CEO may, at the expense of the applicant, require a soil erosion control plan approved by a recognized authority.

[3]In RP not permitted within 100 feet of the normal high water line of great ponds, except to remove safety hazards

		SP	RP	LRR	LCR	WS
15.	Principal structures and uses					
	a. One and two family residential including driveways	CEO	N	CEO	CEO	CEO
	b. Multi-unit residential	N	N	PB	PB	PB
	c. Commercial	N	N	N	PB	PB[4]
	d. Industrial	N	N	N	N	N
	e. Governmental and Institutional	N	N	N	N	N
	f. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB[5]	PB	CEO	CEO	CEO
16.	Structures accessory to allowed uses	PB[6]	PB	CEO	CEO	CEO
17.	Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
	a. temporary:	CEO	CEO	CEO	CEO	CEO
	b. permanent:	PB	N	PB	PB	PB
18.	Conversions of seasonal residences to year round residences (with licensed plumbing inspector)	Y	Y	Y	Y	Y
19.	Home occupations	PB	N	PB	CEO	CEO
20.	Private sewage disposal systems for allowed uses	CEO	CEO	CEO	CEO	CEO
21.	Essential services					
	a. Roadside distribution lines (34.5kV and lower)	CEO[7]	CEO	[8]CEO[8]	CEO[8]	CEO[8]
	b. Non-roadside or cross-country distribution lines involving 10 poles or less in the shoreland zone	PB[8]	PB[8]	CEO	CEO	PB
	c. Non-roadside or cross-country distribution lines involving 11 or more poles in the shoreland zone	PB[8]	PB[8]	PB	PB	PB
	d. Other essential services	PB[8]	PB[8]	PB	PB	PB

[4]No commercial development within 250' of the shoreline. Beyond that, all uses that require site plan review in Residential Zone are allowed.

[5]See footnote 2.

[6]See footnote 2.

[7]See further restrictions in Article 9 Section 13.12.

		SP	RP	LRR	LCR	WS
22.	Service drops, as defined, to allowed uses	CEO	CEO	Y	Y	Y
23.	Public and private recreational areas involving minimal structural development	N	N[8]	PB	CEO	PB
24.	Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25.	Campgrounds	N	N	PB	PB	PB
26.	Road construction[9]	PB	N	PB	PB	PB
27.	Land Management Roads	CEO	CEO	CEO	CEO	CEO
28.	Parking facilities	N	N	PB	PB	PB
29.	Marinas	N	N	N	N	PB
30.	Filling and earthmoving of less than 10 cubic yards	CEO	CEO	Y	Y	CEO
31.	Filling and earthmoving of greater than 10 cubic yards	PB[10]	PB[11]	CEO[12]	CEO[13]	CEO[14]
32.	Signs	CEO	CEO	CEO	CEO	CEO

[8]May be allowed if Planning Board deems they are creating minimal destruction to the environment.

[11]General Road maintenance does not need Planning Board or CEO approval. For road construction CEO has authority to refer applicant to the Planning Board.

[12] See further restrictions in Article 9 section 13.16.

[13] See further restrictions in Article 9 section 13.16.

[14] See further restrictions in Article 9 section 13.16.

[15] See further restrictions in Article 9 section 13.16.

[14] See further restrictions in Article 9 section 13.16.

INDEX

-A-

abandoned
towers....125
abandonment
nonconforming to permitted use....29
nonconforming, nonresidential use....29
access to property....55
accessory buildings....55
accessory structure
reduced setback....42
side setback....41
activity - temporary
permit....81
administration
appeals....86
board of appeals....86
building permits....84
code enforcement officer....85
fines 86
legal actions....86
permits....84
planning board....94,161
administrative appeal
zoning board hearing....87
advertising features - site plan....94
affordable housing
density bonus....43
agricultural activity....144
soil tillage....144
agriculture
townwide standards....56
alteration
nonconforming use....29
alterations
non-conforming towers....122
towers....121
amendment
of districts or district boundaries....40
zoning ordinance....31
animal husbandry
townwide standards....56
appeal 82,125
administrative-to zoning board of appeals....86
placement of property in aquifer protection district....51
procedure....89,165
reconsideration of....91,167

appeals

conditions attached to appeals by ZBA.....89
miscellaneous.....89
towers.....159
variance.....87,164
variance-undue hardship criteria.....87,165
appeals board
composition of.....86
powers and duties.....86
application
building permit.....84
fee: site plan review.....85
permit.....84,94
site plan review.....94
approval process
towers.....107
aquifer protection district
appeal of property placed in.....52
aquifer protection overlay district
standards.....51
archaeological sites and land use activity.....160

-B-

beach construction - shoreland protection.....160
board of appeals.....86,164
powers and duties.....86,164
boundaries
zoning district.....40
boundary lines
appeals to zoning board of appeal.....86
buffer
great ponds, etc.....156
buffer zone
townwide standards.....57
buffering
towers.....117
building
restrictions on.....28
building permit.....84
application.....84
planning board site review.....94
towers.....107,124

-C-

campgrounds
shoreland zoning.....138
townwide standards.....67

campsite
individual private.....138

sewage disposal plan.....139
certificate of occupancy.....85
change
districts, boundaries and zoning map.....39
of nonconforming use.....29
of official shoreland zoning map.....129
change of use
nonconforming structure: shoreland district.....133
shoreland district.....134
changes and amendments to ordinance.....31,130
chimney regulations
chimney.....83
clearing
for development.....156
for recreational vehicle or shelter.....138
resource protection area.....156
resource protection district.....138
shoreland protection 156
code enforcement officer.....85,161
duties.....85,167
code violation-fines.....86
commercial and industrial uses
in shoreland zone.....139
commercial district
standards.....45
common areas
shorefront.....161
conditions
attached to appeals.....89
contiguous lots
built lots.....135
vacant or partially built: shoreland zone.....135
continuance:.....29
contract zone
application procedure.....32
deviation from zoning ordinance.....32
contract zoning.....32
amends Casco Zoning Ordinance.....37
purpose for 32
contract zoning agreement
effective date.....38
violation and termination of agreement.....38
conversion of seasonal to year-round use.....75
corner clearances
townwide standards.....58
criteria
site plan review.....97
curb cut
second; nonresidential uses.....42
curb cuts 47

-D-

definitions
towers....103
density bonus for affordable housing....43
developer
performance guarantees....91
development
clearing of vegetation 156
performance guarantees....91
disposal system - shoreland protection....75
district
amendment of, or amended boundaries....39
aquifer protection overlay: standards....51
aquifer protection-appeal of property placement....52
commercial: standards....45
limited commercial/residential, in shoreland zone....171
limited residential/recreational, in shoreland zone....170
resort commercial overlay: standards....53
resource protection-essential services limited....144
resource protection, in shoreland zone....169
shoreland: land use standards....135
standards....40
stream protection, in shoreland zone....173
streams and wetlands: standards....49
village: standards....40
watershed, in shoreland zone....173
district boundaries
appealing....86,129
zoning districts....40
districts
within shoreland zoning....39,128
zoning map: shoreland 128
drainage of surface water - site plan....98
drainage system
shoreland zone....140
driveway
resource protection district....141
shoreland zone....140

-E-

emergency vehicle
access on site plan....101
enforcement
of ordinance....85
sign ordinance....75
enlargment of structures
shoreland district....31

entrance/exit
nonresidential uses....42

environment
site plan considerations.....99
site plan review.....97
erosion control.....58,159
erosion, sedimentation control.....58,159
essential services.....144
permission for.....144
establishment of districts: shoreland zone.....169
excavation 25
excavation, land movement, etc.
plan review by planning board.....63
excavation, removal, filling land.....63
exemptions
towers.....104
expansion
foundation: shoreland zone.....131
nonconforming structure.....30
nonconforming structure: shoreland district.....131
nonconforming use in shoreland district.....134
of nonconforming use.....30,89
toward water body, stream, wetland.....11,131
extension of nonconforming use.....30

-F-

fees
building permit.....84
home occupation.....59
signs 81
filling 28,58,63,159,177
fines
code violation.....86,168
flood
standards for structures in shoreland zone.....136
foundation
enlargement considered as expansion: rules.....30

-G-

general restrictions
erecting, moving, altering a building.....28
lot changes.....28
lot in more than one zoning district.....28
more than one dwelling unit on single parcel.....28
more than one structure on a single lot.....28
grading of earth - site plan review.....58,159
guarantee
release of performance guarantee.....92,120
guarantees-performance.....91,120

-H,I,J,K-

height
towers.....104,109
home occupations
townwide standards.....59
improvements-inspection of.....92
industrial - light.....61
inspection of required improvements.....92
inspections
towers.....121
junk yards 61
kennel 12,56

-L-

land use
archaeological site relation.....160
requirements: shoreland district.....39
soil suitability.....160
standards: shoreland zone.....135
land use table.....128
landscaping - site plan.....99
legal action
code violations.....86,168
lighting
home occupations.....59
site plan proposal.....94
limited commercial/residential district
shoreland zone.....171
limited residential/recreational district
shoreland zone.....170
livestock grazing.....145
loading
off-Street.....67
location
towers.....103
lot
contiguous: shoreland district.....134
minimum standards: shoreland zone.....171
nonconforming: shoreland district.....131
size changes.....28
two or more uses or structures on one lot.....135
lots
combining of nonconforming.....31
nonconforming.....31

-M-

maintenance
towers.....106
maintenance of property.....70

manufactured housing.....61
manufactured housing parks.....62
manure rules.....56,144
map
zoning map.....39
marina
provision for waste disposal, etc.....75
marinas
shoreland protection.....177
mineral exploration.....63
multiple structures on one parcel.....28
multiple uses or structures
on single lot of record: shoreland zone.....135
multiplex PRD standards.....72

-N-

net residential area
defined 65
non-conforming
towers.....120
nonconformance.....29
continuance:.....29
general provisions.....29
shoreland district.....130
signs 111
transfer of ownership.....29
vested rights.....29
nonconforming
use 26
nonconforming lot
shoreland district.....131
nonconforming lots.....31
combining contiguous lots.....31
nonconforming structure
change of use in shoreland district.....133
defined.....30
destroyed or demolished.....30
permit for expansion.....131
reconstruction or replacement: shoreland district.....133
shoreland district.....131
nonconforming use
abandonment and permitted use later.....29
change of use: shoreland district.....133
change to another nonconforming use.....30
defined.....30,134
expansion.....30,134
expansion of in shoreland district.....134
extension.....30
repairs and alterations.....29
resumption of in shoreland district.....134
shoreland district.....134
nonresidential uses

entrance/exit limitations.....42,47
nuclear facilities.....67
nuisance
enforcement of.....167
home occupations.....60

-O-

occupancy certificate.....85
off-Street loading.....67
off-street parking.....67
official shoreland zoning map
certification.....128
changes.....129
official zoning map.....39
shoreland.....128
open space 69
PRD open space standards.....70
ordinance
changes and amendments.....31,129,130
code violations.....86
enforcement of.....167
ownership and maintenance of property.....69

-P-

parking
off-Street.....67
shoreland zone.....140
site plan proposal.....97
paving- site plan review.....95
performance guarantee
release of.....92,120
towers.....117
performance standards.....120
road construction.....74
towers.....117
permit
application.....84,94
application-building permit.....84
building.....84
expansion of nonconforming structure.....131
expiration.....84,164
fee schedule.....85
home occupation.....60,176
land use in shoreland.....161
procedure.....162
shoreland.....161
sign 75
temporary activity.....81
temporary structure.....72
time limit.....84,164

pets
standards....56
piers, docks, etc.
shoreland protection....137
piers,docks, wharfs, etc....137
plan review - excavation, etc....63
planned residential development
general requirements....70
location of buildings....73
multiplex PRD standards....72
single-family....72
utilities....73
planned residential space
open space standards....70
planning board
site plan review....94
subdivision review....95
planning board review....50
towers....114
towers: guidelines....116
powers-zoning board of appeals....86,164
PRD (Planned Residential Development)....70
preservation of landscape - site plan 97
principal uses or structures
on single lot of record....135
procedure
for administering permits 84,162
for appeal to zoning board....86,89
prohibited signs....77
property
access....55
public hearing
site plan review....94
public utility service installation....164

-R-

reconstruction
shoreland district....133
recreational vehicle
location....57
on-site duration....139
release of performance guarantee....92

relocation:
shoreland district: nonconforming structure....132
removal
abandoned towers....125
repair and maintenance
shoreland district....131
repairs
nonconforming use....29
replacement

nonconforming structure: shoreland district.....134
requirements
towers.....109
towers: subission requirements.....109
requirements: building permit
towers.....124
residential district
planned residential development.....70
site plan review.....46
standards.....43
residential use
extensions of nonconforming residential use.....30
resort commercial overlay district
standards.....53
resource protection district
description of.....169
essential services limitation.....144
roads and driveways.....140
timber harvesting.....147
restrictions
general.....28
resumption of nonconforming use
shoreland district.....134
review and approval
towers.....107
road
construction standards.....74
resource protection district.....140
shoreland zone.....140
ruins 109

-S-

sanitation
marina provision for.....75
standards.....75
selective cutting.....145,156,158
septic waste.....143
setback
reduced, for accessory structure.....42,44
sewage disposal plan
for campsite.....139
shorefront 161
shoreland district
30% expansion rule.....131
addition, enlargement of structures.....31
change of use.....131
change of use: nonconforming structure.....131
expansion nonconforming structure.....30
expansion of non-conforming uses.....30
expansion: nonconforming use.....134
nonconformance.....131
nonconforming lot.....134

nonconforming structures.....131
nonconforming use.....134
reconstruction, replacement of nonconforming structure.....133
relocation of nonconforming structure.....132
repair and maintenance.....131
repair of nonconforming structure.....29
resumption of nonconforming use.....134
Shoreland District.....39,128,169
standards.....128
total area occupied by all structures on one lot.....136
transfer of ownership.....131
shoreland permit.....84
shoreland protection
beach construction.....160
clearing.....156
conversion of structure to year round use.....75
disposal system location.....75
marinas.....137
piers, docks, wharves, etc.....137
shorefront , common areas.....161
timber harvesting.....156
shoreland zone
clearing of vegetation.....156
commercial and industrial uses.....139
contiguous lots: vacant or partially built.....135
drainage system.....141
establishment of districts.....39,128
land use permit.....84
land use standards.....135
limited commercial/residential district.....171
limited residential/recreation district 170
minimum lot standards.....135
nonconforming structure permit.....84
parking areas.....140
piers,docks, etc.....137
principal and accessory structures.....136
resource protection district description.....169
roads and driveways.....140
stream protection district.....172
two or more uses or structures on single lot.....135
variances.....164
watershed district.....173

shoreland zoning
map: interpretation of district boundaries.....129
sub-district listing.....39,128
signs
definitions.....75
permits, fees.....81
prohibited.....77
shoreland zone.....142
site plan.....94
standards.....75,79

supporting structure standards.....80
signs: nonconformance.....77
signs: permit not required.....78
single-family planned residential development.....72
site plan
advertising, signs, etc.....94
drainage.....98
emergency vehicle access.....101
environmental considerations.....101
landscaping:.....101
lighting.....100
parking.....100
utilities:.....100
vehicular access.....99
site plan review.....95
2500 square foot rule.....94
activities requiring review.....96
application.....94
application fee.....99
criteria and standards.....99
enlargement of nonresidential building.....94
information required by applicant.....97
new construction: total floor area rule.....95
paving, stripping, grading, earth removal 94
planning board - building permit.....95
public hearing.....96
requirement: village district.....41
residential district.....43
resort commercial overlay district.....53
streams and wetland protection district.....49
skid trail 146,149,154
slash
resource protection district.....169
slopes - dwelling construction.....57
soils
and land use.....135
suitable to intended use.....58
standards
access to property.....55
accessory buildings.....55
agriculture.....56
animal husbandry.....56
aquifer protection overlay district.....52
buffer zone.....57
campgrounds.....57,138
commercial district.....47
corner clearances.....58
erosion and sedimentation control.....58,159
excavation, removal, filling of land.....63
flood: for shoreland zone structures.....136
home occupations.....59
junk yard.....61
kennel.....56

light industrial use.....61
lot standards in shoreland zone.....135
manufactured housing.....61
manufactured housing parks.....62
mineral exploration.....63
multiplex planned residential development.....72
open space.....69
open space PRD.....73
ownership and maintenance of open space.....70
parking off-Street.....67
pets 56
residential district.....44
resort commercial overlay district.....53
road construction.....74,140
ruins 74
sanitary provisions.....75,143
shoreland district.....128
shoreland: land use standards.....135
sign; supporting structures.....79,80
signs 75,142
single-family PRD.....72
site plan review.....99
streams and wetland protection district.....50
structures in shoreland zone.....136
towers.....111,117,120
townwide.....55
steep slopes and dwellings.....81
storm water runoff.....143
stream crossings.....146,149,152
stream protection district
essential services limited.....144
shoreland zone.....172
streams and wetlands protection district
site plan review.....50
standards.....50
stripping of land - site plan review.....95
structure
conversion to year round use.....75
temporary.....82
structures
on steep slopes.....81
principal and accessory-shoreland zone.....136
two or more structures on single lot.....135,136
subdivision
inspection of required improvements.....92
performance guarantees.....91
review by planning board.....95
submission requirements
towers.....108
supporting structure
signs 79,80
surface water drainage - site plan.....100

-T-

table of land uses.....174
temporary activity - permit.....81
temporary structures.....82
timber harvesting
    resource protection district.....145
    shoreland protection.....145
time limit-building permit
    valid 84,164
total area
    all structures on a lot in shoreland zone.....136
tower provisions.....103
    applicability.....104
    authority.....103
    exemptions.....104
towers
    alterations: existing facilities.....121
    appeals.....126
    approval process.....108
    buffering.....119
    building permit.....107,124
    definitions.....105
    height.....106,112
    inspections.....125
    location.....111
    maintenance, normal.....106,107
    non-conforming 105,108,113,122,125
    Performance guarantee.....120
    performance standards.....117
    planning board review.....114
    planning board review: guidelines.....116
    removal of abandoned facilities.....125
    requirements.....108
    review and approval.....107
    standards.....111,116,117,120
    Third Party Authority -.....115
    waiver provision.....126
transfer of ownership
    nonconforming lots, structures.....29
    shoreland district.....131

-U-

undue hardship
    criteria for variance appeal.....87,165
uses
    commercial and industrial in shoreland zone.....176
    two or more principle uses on single lot.....135
utilities
    installation in new structure.....84
    planned residential development.....73

site plan.....100

-V-

valid building permit.....84
variance appeals.....87,164
variances
shoreland zone.....164
vehicle access - site plan.....99
vested rights.....29
village district
density bonus for affordable housing.....43
planned residential development.....70
site plan review.....41
standards.....40
violations of ordinance.....86,167

-W-

waiver provision
towers.....126
water quality
preservation 160
protection.....82
watershed district
shoreland zone.....173

-Z-

zoning board of appeals
appeal procedure.....89
appointment to and composition of.....86
conditions attached to appeals.....89
meetings.....89
miscellaneous appeals.....89
powers.....86
shoreland zone variances.....164
zoning district
boundaries.....40
boundary.....28
establishment of.....39
listing of.....39
zoning map
district or boundary changes.....39
official.....39
official shoreland zoning map.....128
zoning ordinance
amendment.....31
authority for.....1
effective date.....1
jurisdiction.....1

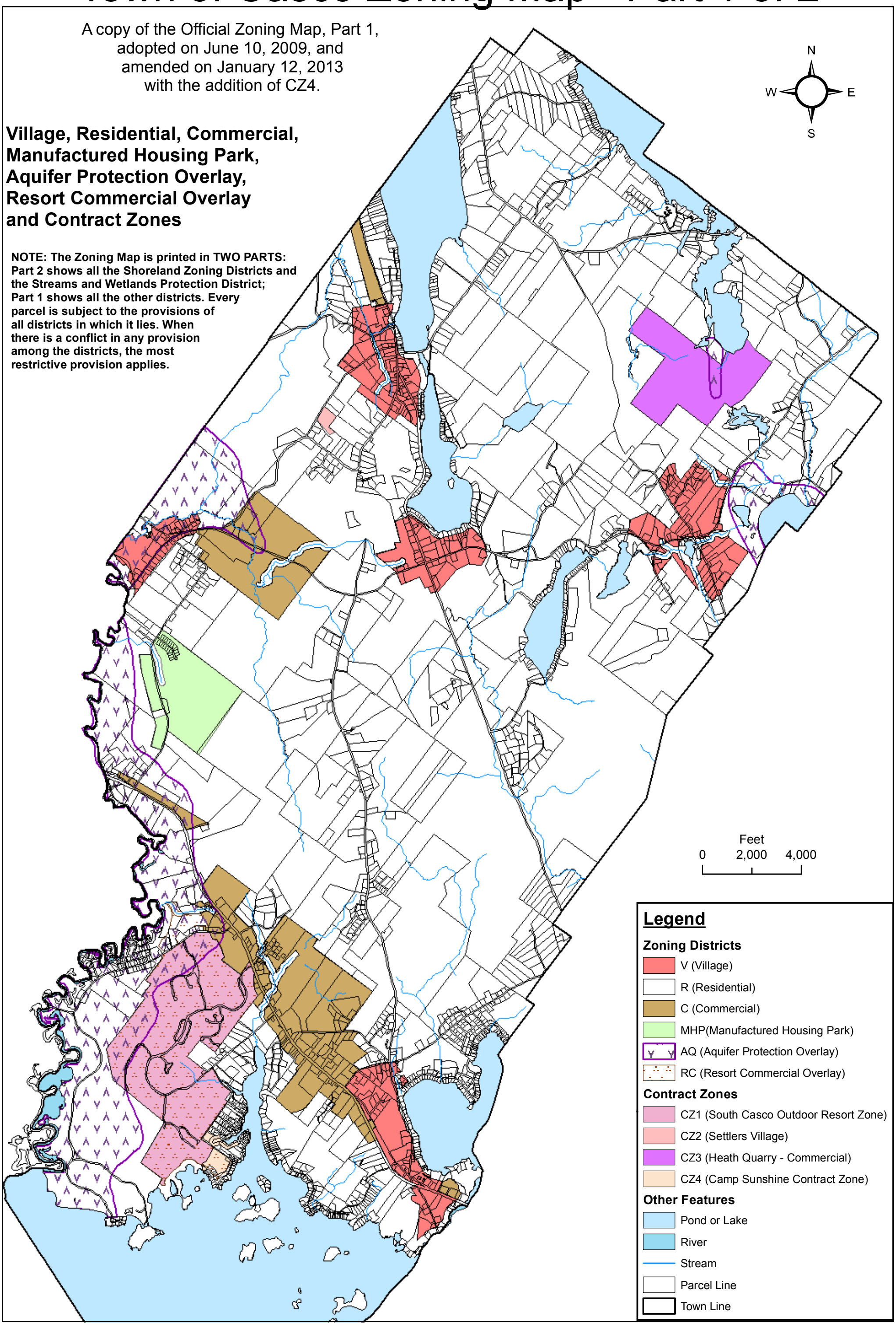
purpose.....1

Town of Casco Zoning Map - Part 1 of 2

A copy of the Official Zoning Map, Part 1, adopted on June 10, 2009, and amended on January 12, 2013 with the addition of CZ4.

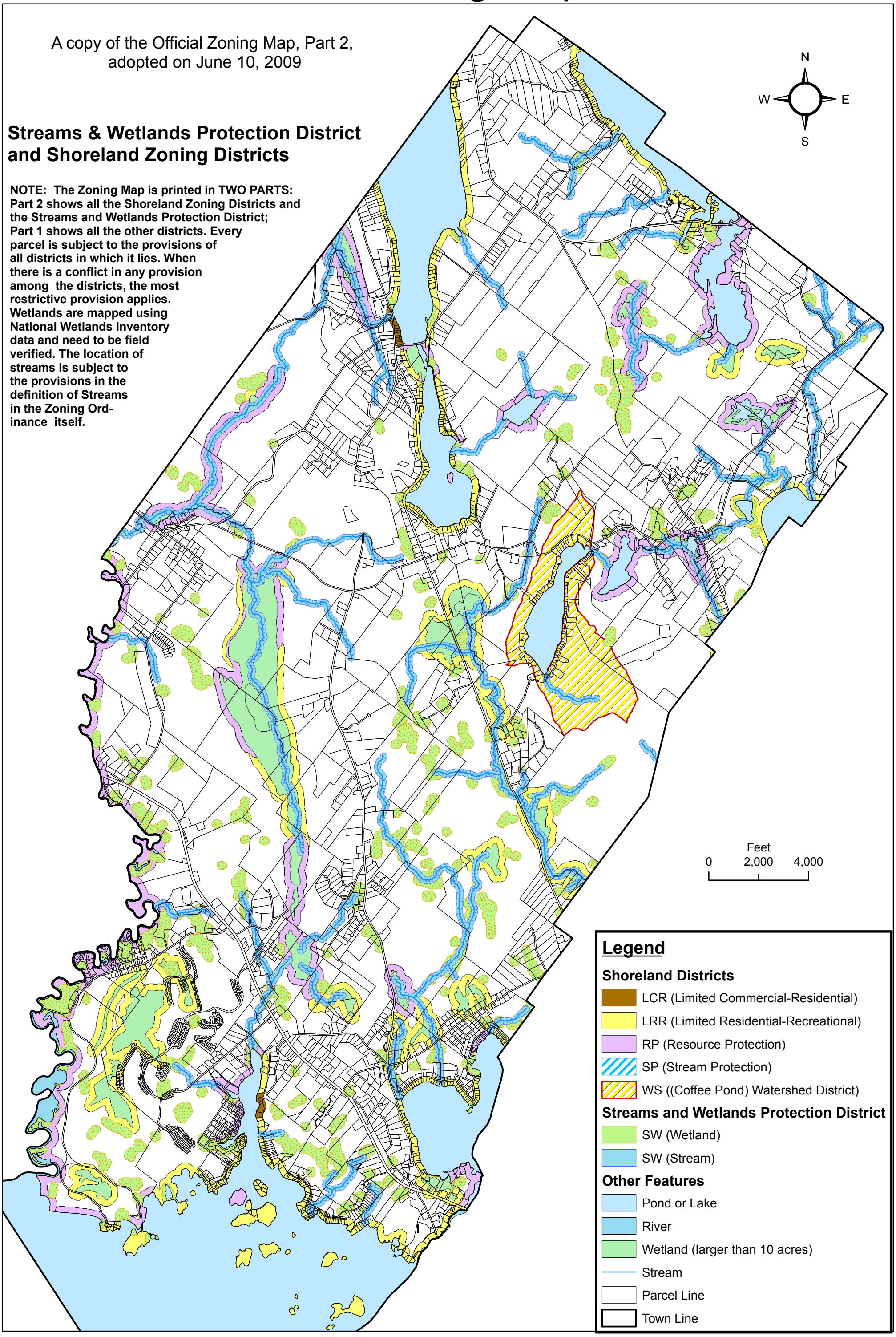
Village, Residential, Commercial, Manufactured Housing Park, Aquifer Protection Overlay, Resort Commercial Overlay and Contract Zones

NOTE: The Zoning Map is printed in TWO PARTS: Part 2 shows all the Shoreland Zoning Districts and the Streams and Wetlands Protection District; Part 1 shows all the other districts. Every parcel is subject to the provisions of all districts in which it lies. When there is a conflict in any provision among the districts, the most restrictive provision applies.



Town of Casco Zoning Map - Part 2 of 2

A copy of the Official Zoning Map, Part 2,
adopted on June 10, 2009

Streams & Wetlands Protection District and Shoreland Zoning Districts

NOTE: The Zoning Map is printed in TWO PARTS: Part 2 shows all the Shoreland Zoning Districts and the Streams and Wetlands Protection District; Part 1 shows all the other districts. Every parcel is subject to the provisions of all districts in which it lies. When there is a conflict in any provision among the districts, the most restrictive provision applies. Wetlands are mapped using National Wetlands inventory data and need to be field verified. The location of streams is subject to the provisions in the definition of Streams in the Zoning Ordinance itself.